

Alaska Medical Center, LLC

October 23, 2015

Alexandria Hicks, Coordinator
Certificate of Need Program
Department of Health and Social Services
Division of Health Care Services
3601 C Street, Suite 978
Anchorage, AK 99503



RE: Request for Determination
Alaska Medical Center, LLC

Dear Ms. Hicks:

Alaska Medical Center, LLC ("AMC"), an Alaska limited liability company, requests a determination whether a Certificate of Need will be required to establish a multi-specialty ambulatory surgery center. The ASC will be located in space currently occupied under an existing lease by Alaska Urological Institute, P.C., and currently used for in-office urological procedures. The space is located at the southwest corner of the ground floor in the building located at 188 W. Northern Lights Blvd., in Anchorage. Alaska Urological Institute, P.C.'s in-office procedure rooms have been at this location since March 2012, and have unused capacity.

The estimated total project cost is \$1,372,705.92 as delineated below with cost estimates and calculations included with this submittal.

AMC will sublease space from Alaska Urological Institute, P.C. The space to be subleased consists of 8,161 square feet with estimated usage of 65% of the space five (5) days per week. The sublease will be for a term of two (2) years. The space rental rate will be \$16,338.32 per month. The total space rental cost is estimated to be \$392,119.68 determined as follows: square footage (8,161) multiplied by estimated usage (.65) multiplied by the current rental rate per square foot (\$3.08) multiplied by twenty four (24) months equals \$392,119.68. A copy of the proposed sublease between AMC and Alaska Urological Institute, P.C., is included with this submittal.

AMC will lease medical and other equipment owned by Alaska Urological Institute, P.C., and currently located in the subleased space for a term of two (2) years. The total rental cost of the equipment is estimated to be \$599,919.84. This amount is determined from the original cost of the equipment (\$1,308,646) amortized over five (5) years at the rate of 5.5%. A five (5) year amortization period is applied because it reflects the useful life of medical equipment for tax purposes. This produces a monthly rental rate of \$24,996.66. A copy of the proposed equipment rental agreement including equipment list, acquisition price, and equipment age is also included with this submittal.

The combined total of space and equipment costs is estimated to be \$992,039.52.

Alaska Medical Center, LLC

The rental cost of AMC's use of existing tenant improvements that were installed by Alaska Urological Institute, P.C., as part of its in-office procedure suites, is estimated to be \$380,666.40. This amount is determined by using the original tenant improvement cost of \$2,986,439 for the subleased space multiplied by AMC's estimated usage (65%) amortized over a fifteen (15) year life at a 5.5% rate. A fifteen (15) year amortization period is applied because it relates to the weighted average of the tax life of the various tenant improvements for tax purposes. This produces a monthly sublease amount of \$15,861.10 for tenant improvements.

The combined total of rental cost of space ($\$16,338.32 \times 24 = \$392,119.68$), rental cost of equipment ($\$24,996.66 \times 24 = \$599,919.84$) and rental cost of tenant improvements ($\$15,861.10 \times 24 = \$380,666.40$) is estimated to be \$1,372,705.92.

The space sublease and equipment lease will not commence until a determination is made as to whether a Certificate of Need is required for this proposed ambulatory surgery center. We believe a Certificate of Need is not required because estimated costs do not exceed the current \$1,500,000 threshold under AS 18.07.031.

Thank you for your consideration of this request. Please let me know if you have any questions or need any further information.

Sincerely yours,

ALASKA MEDICAL CENTER, LLC



Attachments:

Sublease
Equipment Rental Agreement

OPERATING LEASE (EQUIPMENT)

This OPERATING LEASE ("Lease") is made and entered into this ___ day of _____, 201_ ("Effective Date"), by and between Alaska Urological Institute P.C., an Alaska professional corporation ("Lessor") and Alaska Medical Center, LLC an Alaska limited liability company ("Lessee").

RECITALS

WHEREAS, Lessor is the owner of certain medical and related equipment located in the SW corner of the ground floor of the building located at 188 W. Northern Lights Blvd., Anchorage, Alaska, 99503, and

WHEREAS, Lessor desires to lease the medical and related equipment to Lessee and Lessee desires to lease said equipment from Lessor pursuant to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. LEASE OF EQUIPMENT. Lessor does hereby lease to Lessee and Lessee does hereby lease from Lessor the medical and related equipment located in the SW corner of the ground floor of the building located at 188 W. Northern Lights Blvd., Anchorage, Alaska, 99503, and more particularly described in Schedule 1 attached hereto ("Equipment").

2. TERM. The term of this Lease shall be for a period of two (2) years commencing on the Effective Date and expiring on the ___ day of _____, 201_ (the "Expiration Date") unless sooner terminated as provided herein (the "Term").

3. OPTION TO EXTEND TERM. So long as Lessee is not in default under the terms of this Lease, Lessor will grant Lessee two (2) options to extend this Lease for a period of one (1) to five (5) years each. No later than two hundred ten (210) days prior to the Expiration Date or expiration of the first option term, if applicable, Lessee shall notify Lessor in writing of its intent to extend the Term for an additional one (1) to five (5) years. Should Lessee fail to timely exercise its option to extend, such option shall expire.

4. RENT.

a. Rent. Lessee shall pay Lessor as Rent for the Equipment the sum of \$24,996.66 per month.

b. Payment of Rent. Payment of Rent shall be made in monthly installments payable in advance on the first day of each calendar month during the Term from and after the Effective Date. All Rent shall be paid to Lessor without deduction or offset. Rent not paid on or before the 10th day of the month in which it is due is delinquent and a late fee in the amount of ten percent (10%) of Rent then due shall be due and payable in addition to the Rent. Acceptance of a late fee by Lessor shall not constitute a waiver of Lessee's default with respect to such overdue amount or prevent Lessor from exercising any right and remedy available at law or under this Lease.

c. Interest. Rent and other sums not paid when due shall bear interest from the date due until paid at the rate of one percent (1%) per month or the maximum interest rate permitted under Alaska law whichever is greater.

d. Rent During Extended Term. Rent during any extended term shall be determined by good faith negotiation between the parties, but in no event shall it be less than the amount of Rent paid each month by Lessee during the initial term.

5. LIMITATION ON WARRANTY. LESSEE HAS INSPECTED THE EQUIPMENT PRIOR TO ENTERING INTO THIS LEASE. LESSEE AGREES THAT LESSOR HAS NOT MADE ANY, AND MAKES NO, REPRESENTATION OR WARRANTY, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, OF ANY KIND AS TO FITNESS, QUALITY, DESIGN, CONDITION, CAPACITY, SUITABILITY, DURABILITY, OPERATION, MERCHANTABILITY, PERFORMANCE, FITNESS FOR ANY PARTICULAR PURPOSE OR AS TO THE MATERIAL OR WORKMANSHIP OF ANY ITEM OF EQUIPMENT. AS BETWEEN LESSEE AND LESSOR, LESSEE LEASES, THE EQUIPMENT "AS IS", "WHERE IS" AND "WITH ALL FAULTS."

6. TITLE TO EQUIPMENT. Title to the Equipment shall remain vested in Lessor free and clear of any right, title or interest of Lessee. Upon request, Lessee shall execute and deliver to Lessor such documents as Lessor may reasonably request to evidence that legal title is vested in Lessor.

7. PERSONAL PROPERTY. The Equipment is and shall remain personal property and will not be deemed to be affixed or attached to real estate or any building. Lessee shall not create, incur, assume or permit any mortgage, pledge, lien, security interest, charge or other encumbrance of any nature to exist on the Equipment or enter into any agreement to sublet, sell, or assign the Equipment or this Lease without the prior written consent of Lessor.

8. MAINTENANCE AND OPERATION. Lessee shall, at its sole expense: (a) repair and maintain the Equipment in good condition and working order and supply and install all replacement parts or other devices to so maintain the Equipment; (b) use and operate the Equipment in a careful manner in the normal course of its operations and only for the purposes for which it was designed in accordance with the manufacturer's warranty requirements; and (c) comply with all laws and regulations relating to the

Equipment. Lessor shall have no obligation to maintain or service the Equipment. Lessee will not make any alterations, additions or improvements ("Improvements") to any Equipment without Lessor's prior written consent unless the Improvements may be readily removed without damage to the operation, value, or utility of the Equipment, but any such Improvements not removed prior to the expiration or termination of this Lease shall automatically become part of the Equipment.

9. RIGHT OF INSPECTION. Lessor shall have the right to enter Lessee's business premises at all reasonable times following prior notice to Lessee to inspect the Equipment and determine whether Lessee is in compliance with its obligations under this Lease. Lessor agrees to exercise its right of entry in such manner as to minimize any inconvenience to Lessee or interference with Lessee's business and to not compromise the privacy of Lessee's patients.

10. RISK OF LOSS.

a. Lessee bears the entire risk of loss, theft, damage or destruction of the Equipment from any reason whatsoever. No casualty loss to the Equipment shall relieve Lessee from its obligation to make Rent or other payments or to perform other obligations under this Lease.

b. If a casualty loss occurs to the Equipment, Lessee shall immediately notify Lessor of the same and shall, unless otherwise directed by Lessor, immediately repair the same to substantially the same condition as existed prior to the loss, at Lessee's sole expense.

11. INSURANCE. Lessee shall, at its sole cost and expense, obtain and maintain in full force and effect during the term of his Lease property insurance covering and insuring all Equipment against loss from earthquake, fire, sprinkler leakage, vandalism, malicious mischief and flood. Said insurance shall be in an amount not less than one hundred percent (100%) of the full replacement value, without deduction for depreciation.

a. Standards. All policies of insurance to be obtained by Lessee shall be written in a form reasonably satisfactory to Lessor and in compliance with Alaska law and shall be placed with insurance companies holding a General Policyholders Rating of "A" and Financial Rating of "X" or better, as set forth in the most current issue of Best's Insurance Guide. Prior to the Effective Date, and thereafter within thirty (30) days prior to the expiration of each policy, Lessee shall furnish to Lessor a certificate of insurance issued by the insurance carrier of each policy of insurance carried by Lessee pursuant to this Lease providing that such policies shall not be cancelable or subject to reduction of coverage or other modification except after thirty (30) days prior written notice to Lessor.

12. ASSIGNMENT.

a. Lessee shall not assign, transfer, pledge, hypothecate, nor grant any lien on, nor otherwise dispose of any of its rights or obligations under this Lease, or the Equipment or any interest in this Lease or the Equipment without Lessor's prior written consent. Any such purported transfer, assignment or other action without Lessor's prior written consent shall be void *ab initio*. No assignment or sublease shall relieve Lessee of its obligations under this Lease and Lessee shall remain primarily liable therefore.

b. Lessor may assign its rights, title, and interest in this Lease and the Equipment and any proceeds thereof and may grant or assign a security interest in this Lease and the Equipment, in whole or in part. In the event of any such grant or assignment by Lessor, the right of the grantee or assignee to receive Rent and other payments under this Lease as well as any other right of the grantee or assignee shall not be subject to any defense, set-off or counterclaim which Lessee may have against Lessor.

13. EVENTS OF DEFAULT. "Event of Default" means the occurrence of any one or more of the following events: (a) Lessee fails to make any Rent or other payment as it becomes due under this Lease and any such failure continues for ten (10) days; (b) Lessee fails to perform or observe any covenant, condition, or agreement to be performed or observed by it under this Lease and such failure is not cured within thirty (30) days after receipt of written notice thereof; (c) any statement, representation, or warranty made by Lessee in this Lease or pursuant to its terms proves at any time to have been false, misleading, or erroneous in any material respect; (d) Lessee is dissolved, ceases to exist, or sells, transfers or otherwise disposes of (or attempts to sell, transfer, or otherwise dispose of) substantially all of its assets; (e) Lessee applies for or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or a substantial part of its assets, or a petition for relief is filed by Lessee under any federal or state bankruptcy, insolvency or similar law, or a petition in a proceeding under any federal or state bankruptcy, insolvency or similar law is filed against Lessee and is not dismissed within sixty (60) days thereafter; (f) Lessee becomes insolvent, makes an assignment for the benefit of creditors, enters into or petitions for a creditor's arrangement or is generally not paying, or admits in writing its inability to pay, its debts as they become due or a receiver shall be appointed for any of Lessee's property; or (g) actual or attempted sale, lease, encumbrance, levy, attachment, or seizure of any of the Equipment.

14. REMEDIES. If any Event of Default occurs then Lessor may, at its option, exercise any one or more of the following remedies:

a. Declare immediately due and payable all Rent and other payments due under this Lease and all remaining future Rent and other payments due under this Lease, and all interest, taxes, late charges and other amounts due and payable together with interest thereon;

b. Require Lessee to promptly return all Equipment to Lessor (and Lessee agrees that it shall so return the Equipment) or Lessor may, at its option, enter upon Lessee's business or other premises where the Equipment is located and repossess the Equipment without demand or notice, without any court order or other process of law and without liability for any damage occasioned by such repossession;

c. Terminate, cancel or rescind this Lease as to any and all related Equipment;

d. Exercise any other right, remedy or privilege which may be available under applicable law or, by appropriate court action at law or in equity, Lessor may enforce any of Lessee's obligations under this Lease; and/or

e. Require Lessee to pay (and Lessee agrees that it shall pay) all out of pocket costs and expenses incurred by Lessor as a result (directly or indirectly) of the Event of Default and/or of Lessor's actions under this section, including, without limitation, all attorney fees and expenses and all costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of the Equipment.

No remedy is exclusive. Each remedy is cumulative and in addition to any other remedy available to Lessor. Lessor's exercise of one or more remedies shall not preclude its exercise of any other remedy. No delay or failure on the part of Lessor to exercise any remedy shall operate as a waiver thereof, nor shall any single or partial exercise of a remedy preclude any other exercise thereof or the exercise of any other remedy.

15. RETURN OF EQUIPMENT. At the expiration or termination of this Lease, Lessee shall, at its sole expense and risk, immediately return the Equipment (together with maintenance records and operating manuals relating thereto) to Lessor at any location in Anchorage selected by Lessor. Such Equipment shall be in the same condition as when received by Lessee, reasonable wear and tear resulting from normal and proper use excepted, shall be in good operating order, and shall be free and clear of any liens. Until the Equipment is returned to Lessor, all terms of this Lease shall remain in full force and effect including, without limitation, Lessee's obligation to pay Rent and to insure the Equipment. Lessee agrees to execute and deliver to Lessor all documents reasonably requested by Lessor to evidence the transfer of possession of the Equipment to Lessor and to evidence the termination of Lessee's possessory interest in the Equipment and this Lease.

16. LAW GOVERNING. This Lease shall be governed in all respects by the laws of Alaska. Any action to interpret or enforce any provision of this Lease shall be filed in the District or Superior Court for the State of Alaska, Third Judicial District, at Anchorage.

17. NOTICES. All notices and demands required under this Lease shall be in writing and delivered to the intended party at its address below. Notice shall be deemed

sufficiently given or made (a) upon receipt if delivered by hand, or (b) on the third business day after the day of deposit in the United States mail, sent certified, postage prepaid with return receipt requested.

TO LESSEE:

Alaska Medical Center, LLC

At Premises

Attention:

Telephone: _____

Facsimile: _____

E-mail: _____

TO LESSOR:

Alaska Urological Institute, P.C.

188 W. Northern Lights Blvd., Suite 800

Anchorage, Alaska 99503

Attention: Tina Presley

Telephone: (907) 276-2844

E-mail: TPresley@akmed.com

18. SECTION HEADINGS. All section headings contained herein are for convenience of reference only and do not define or limit the scope of any provision of any Lease.

19. EXECUTION IN COUNTERPARTS. This Lease may be executed in several counterparts, each of which shall be deemed an original, but all of which shall be deemed one instrument.

20. ENTIRE AGREEMENT; WRITTEN AMENDMENTS. This Lease, together with the exhibits, schedules and addenda attached thereto and made a part hereof constitute the entire agreement between the parties with respect to the subject matter contained therein, and shall not be modified, amended, altered, or changed except by a writing signed by the parties. Any provision of any Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

Alaska Medical Center, LLC

Alaska Urological Institute, P.C.

By: _____

Title: _____

By: _____

Title: _____

SCHEDULE 1

Description	Cost / Other Basis	Date Acq.
Laptop Cart	601.98	10/9/2012
Litho Coupling	5,000.00	6/27/2002
Electrosurgical Generator	5,850.00	6/21/2006
Autoclave-Brecht	8,270.00	7/15/2006
Defibulator	4,064.25	8/2/2006
Versapulse Holmium Laser	135,194.41	6/9/2009
Autoclave	4,477.88	1/22/2010
Infusion Pump	3,695.00	1/22/2010
Micro Surgery Instrumnet (2)	500.00	6/21/2012
C-ARM	113,250.00	12/18/2012
Stryker Endoscopy	226,249.56	3/8/2013
Cystoscope	2,534.54	3/8/2013
Wheel Chairs (2)	1,091.84	3/21/2013
Surgical Viewing Monitor	21,744.05	4/11/2013
Freezer	2,687.93	5/24/2013
XRAY Equipment, Vests	3,914.96	7/25/2013
Microscope	13,000.00	9/6/2013
Video Ureterscope	26,403.23	2/27/2014
Flat Shelf Cart - gray	316.50	3/20/2002
Ice & Water Dispenser	5,874.71	10/25/2012
(2) Surgical Scrub Sinks	8,995.52	10/11/2012
(2) Anesthesia Machines	56,706.02	12/21/2012
Lighting for Procedure Room	6,669.22	12/28/2012
Surgical Warming Cabinets	17,765.00	12/28/2012
LARNGOSCOPE SET; VACUUM FOR UNIT	4,009.93	1/25/2013
OR TABLE ACCESSORIES, VIDEO MONITORS	60,224.64	1/28/2013
OR Table	24,411.52	1/28/2013
WASHER/STERILIZER	155,817.87	1/28/2013
CHEMICAL SERILANT	28,349.36	1/28/2013
STRYKER ENDOSCOPY	137,356.26	1/28/2013
MATERIAL MGMT, STERILE STORAGE	12,563.58	2/13/2013
LARNGOSCOPE SET; VACUUM FOR UNIT	18,164.00	2/13/2013
OPERATING ACCESSORIES	26,161.60	2/13/2013
WASHER PARTS	2,243.03	3/21/2013
5-LEG IV STAND	879.95	3/27/2013
ELECTROSURGICAL PENCIL W/HOLSTER	499.29	4/18/2013
UNIV Desk	685.79	4/18/2013
Other Procedure Room Equipment	271.46	4/18/2013
Storage Container (#2)	982.49	4/18/2013
lights	11,965.00	5/7/2013
Surgical Instruments	877.95	5/23/2013
WATER DEIONIZER; INV#91744	10,000.00	5/23/2013
UTILITY & INSTRUMENT TABLES, BASINS &	9,346.71	5/28/2013
PROCEDURE TABLE ACCESSORIES	660.00	5/28/2013
PROBES, LAPTOP, SURGICAL SUPPLIES	15,000.00	6/3/2013
4 Tables	9,748.03	6/3/2013
PROBES, LAPTOP, SURGICAL SUPPLIES	374.00	6/3/2013
CYLINDER CARTS	1,099.80	6/7/2013
lights	426.40	6/14/2013
ACCESSORY CONTRO LINEARY STY	1,829.88	6/19/2013
OPERATING TRAYS	18,184.02	6/19/2013
SURGICAL EQUIPMENT	6,226.16	6/30/2013
LIGHTS & SAFETY GLASSES	8,643.20	6/30/2013
INVUSION IV PUMP	24,720.00	6/30/2013
CYSTO SET (2)	1,110.11	6/30/2013
CABINET WALL PT ROOM	1,994.45	6/30/2013
(6) LINEN CHROM HAMPERS	1,909.35	6/30/2013
(2) COVER CART	427.65	6/30/2013
(4) CART CASE SPACE SAVER	11,781.21	6/30/2013
shelving units	1,902.94	7/15/2013
CART 30" CABINET	1,051.09	7/28/2013
GLIDE SCOPE AND ACCESSORIES	21,891.10	8/5/2013

1,308,646.42

SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT ("Sublease") is made and entered into this ___ day of _____ 201_ ("Effective Date") by and between Alaska Urological Institute, P.C., an Alaska professional corporation ("Landlord") and Alaska Medical Center, LLC, an Alaska limited liability company ("Tenant").

RECITALS

WHEREAS, Landlord is Lessee under a Medical Office Lease Agreement, as amended, for certain space in the building located at 188 W. Northern Lights Blvd., Anchorage, Alaska, 99503 (the "Lease"), and

WHEREAS, Landlord desires to sublease the premises subject to the Lease to Tenant and Tenant desires to sublease said premises from Landlord pursuant to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Sublease.** Landlord does hereby sublease to Tenant and Tenant does hereby sublease from Landlord the following described premises:

Approximately sixty-five percent (65%) of that portion of the SW corner of the ground floor in the building located at 188 West Northern Lights Boulevard, Anchorage, Alaska, 99503 consisting of approximately 8,161 square feet, together with the fixtures, personal property, and appurtenances located therein (the "Premises"), excluding medical equipment subject to a separate Operating Lease.

Except as provided herein, this Sublease is subject to all terms and conditions of the Lease as though fully incorporated herein. Tenant acknowledges receipt of a copy of the Lease. Tenant shall use the Premises in accordance with the terms of the Lease and shall not do or omit to do anything which will breach any of its terms. If the Lease expires or is terminated for any reason, this Sublease shall terminate simultaneously and any unearned Rent paid in advance shall be refunded to Tenant, if such termination is not the result of a breach by Tenant of this Sublease.

2. **Term.** The Term of this Sublease shall be for a period of two (2) years commencing on the Effective Date and expiring on the ___ day of _____, 201_ (the "Expiration Date"), unless sooner terminated as provided herein (the "Term").

3. **Option to Extend Term.** So long as Tenant is not in default under the terms of this Sublease, Landlord will grant Tenant two (2) options to extend this Sublease for a period of one (1) to five (5) years each, but in no event longer than the initial or extended term of the Lease. No later than two hundred ten (210) days prior to

the Expiration Date or expiration of the first option term, if applicable, Tenant shall notify Landlord in writing of its intent to extend the Term for an additional one (1) to five (5) years. Should Tenant fail to timely exercise its option to extend, such option shall expire.

4. **Rent.**

a. **Rent.** Tenant shall pay Landlord as Rent for the Premises the sum of \$16,338.32 per month. Tenant shall pay Landlord as Additional Rent for tenant improvements already constructed by Landlord and located in the Premises the sum of \$15,861.10 per month.

b. **Payment of Rent.** Payment of Rent and Additional Rent (collectively "Rent") shall be made in monthly installments payable in advance on the first day of each calendar month during the Term from and after the Effective Date. All rent shall be paid to Landlord without deduction or offset. Rent not paid on or before the 10th day of the month in which it is due is delinquent and a late fee in the amount of ten percent (10%) of Rent then due shall be due and payable in addition to the Rent. Acceptance of a late fee by Landlord shall not constitute a waiver of Tenant's default with respect to such overdue amount or prevent Landlord from exercising any of the other rights and remedies available at law or under this Sublease.

c. **Interest.** Rent and other sums not paid when due shall bear interest from the date due until paid at the rate of one percent (1%) per month or the maximum interest rate permitted under Alaska law whichever is greater.

d. **Rent During Extended Term.** Rent during any extended term shall be determined by good faith negotiation between the parties, but in no event shall said Rent for the Premises exceed the amount of Rent paid by Landlord for the Premises under the Lease.

5. **Security Deposit.** No security deposit or personal guaranty is collected or required at this time.

6. **Alterations.** The Premises are delivered "AS IS". Tenant shall not make any alterations, additions, or improvements ("Alterations") to the Premises without the prior written consent of Landlord, which shall not be unreasonably delayed or withheld. All alterations shall be made at the sole cost and expense of Tenant, shall not be removed or altered by Tenant without the prior written consent of Landlord, and shall become the property of Landlord and remain in and be surrendered with the Premises at the expiration or termination of this Sublease. Landlord may by written notice to Tenant at the expiration or termination of the Sublease require Tenant, at Tenant's sole cost and expense, to remove all alterations and repair any damage resulting from such removal. Notwithstanding the foregoing, Tenant may remove its trade fixtures, provided that Tenant repairs any damage caused by such removal and that such removal and repair is completed before the expiration or termination of this Sublease.

7. **Use and Compliance with Laws.** Tenant shall use the Premises for an ambulatory surgery center and related uses and for no other business or purpose without obtaining the prior written consent of Landlord. Tenant, at its sole cost and expense, shall comply with all laws, statutes, ordinances, regulations, and other governmental requirements, including all environmental laws and regulations, whether in effect at the Effective Date or thereafter, in performing or observing its obligations under this Sublease. Tenant shall comply with all laws relating to storage, use and disposal of toxic and hazardous materials including goods, equipment, and medical waste ("Toxic Material").

8. **Indemnity.** Tenant shall defend, indemnify and hold Landlord and its shareholders, directors, officers, and agents harmless from and against all claims for liability and damages, including reasonable attorney fees and costs arising out of Tenant's occupancy and use of the Premises; Tenant's failure to observe or comply with the provisions of this Sublease; and Tenant's removal, clean-up, and restoration work and use of materials necessary to return the Premises to the condition prior to the placing or arrival of any Toxic Materials on the Premises or use thereof by Tenant. Tenant's obligations hereunder shall survive the expiration or termination of this Sublease.

9. **Signs.** Tenant shall not install any sign within the building or on the exterior of the building or visible from the exterior of the building without the prior written approval of Landlord. Under no circumstances shall Tenant be permitted to install any exterior signs on or about the building that are in violation of the Anchorage sign ordinances or regulations.

10. **Maintenance and Repair.** Tenant shall, at its sole cost and expense, keep the Premises in good condition and repair, reasonable wear and tear excepted. Unless otherwise agreed in writing, Tenant shall be responsible for all repairs to and maintenance of the lighting, electrical system, and plumbing systems within the Premises. Tenant shall, upon expiration or termination of this Sublease, surrender the Premises to Landlord in the same condition as when received, except for ordinary wear and tear and the addition of Tenant Improvements that Tenant is not required to remove under the terms of this Sublease. Landlord shall have no obligation to alter, remodel, improve, repair, maintain, decorate, or paint the Premises, or any part thereof, and Tenant acknowledges that Landlord has made no representations to Tenant respecting the condition of the Premises, except as specifically set forth in this Sublease.

11. **Utilities and Services.**

a. **Utilities and Janitorial Services.** Tenant shall pay for all utilities (including electric power, telephone, internet, and refuse removal) that are provided to the Premises. Tenant shall furnish and pay for janitorial services for the Premises. Landlord shall fairly estimate Tenant's share of such utility expenses and invoice Tenant accordingly. Tenant shall promptly reimburse Landlord for its usage of such utility services upon receipt of each invoice for such services. Tenant shall not be entitled to

any reduction or abatement of Rent by reason of any interruption of utility service unless such interruption is the result of Landlord's wrongful act or omission.

b. Common Areas. Tenant shall have non-exclusive access to and use of Common Areas twenty four (24) hours per day, seven (7) days per week. Common Areas shall include loading and unloading areas, elevators, stairs, landscaped areas, lobbies, and restrooms not encompassed within any leased premises or space.

12. Insurance and Indemnity.

a. Casualty Insurance. Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect during the term of this Sublease "all risk" property, fire, and extended coverage insurance, with such coverage as Landlord may request including, without limitation, coverage against earthquake, sprinkler leakage, vandalism, malicious mischief and flood. Said insurance shall be upon all property owned or leased by Tenant and located or installed on the Premises including furniture, fittings, installations, and fixtures in an amount not less than one hundred percent (100%) of the full replacement value, without deduction for depreciation.

b. Liability Insurance. Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect during the term of this Sublease comprehensive general liability insurance insuring Tenant against all liability arising out of this Sublease and Tenant's use, occupancy or maintenance of the Premises and Common Areas. Said insurance shall be in the amount of Two Million Dollars (\$2,000,000) in the event of personal injury to any number of persons or of damage to property arising out of any one occurrence. Such insurance shall be primary and noncontributing with any insurance which may be carried by Landlord, shall name Landlord as an additional insured, and shall contain a provision that Landlord, although named as an insured, shall nevertheless be entitled to recover under the policy for any loss, injury or damage to Landlord, its agents or employees, or the property of such persons by reason of the negligence of Tenant.

c. Standards. All policies of insurance to be obtained by Tenant shall be written in a form reasonably satisfactory to Landlord and in compliance with Alaska law and shall be placed with insurance companies holding a General Policyholders Rating of "A" and Financial Rating of "X" or better, as set forth in the most current issue of Best's Insurance Guide. Prior to the Effective Date, and thereafter within thirty (30) days prior to the expiration of each policy, Tenant shall furnish to Landlord a certificate of insurance issued by the insurance carrier of each policy of insurance carried by Tenant pursuant to this Sublease providing that such policies shall not be cancelable or subject to reduction of coverage or other modification except after thirty (30) days prior written notice to Landlord.

d. Subrogation. All policies of insurance obtained by Tenant shall include a clause or endorsement denying the insurer any rights of subrogation against Landlord. Tenant hereby waives any rights of recovery against Landlord for injury or

loss due to hazards covered by insurance containing such a waiver of subrogation clause or endorsement to the extent of the injury or loss covered thereby.

e. Indemnification. Tenant shall indemnify, defend and hold Landlord, and Landlord's shareholders, directors, officers and agents harmless from and against: (i) all claims for liability, damages, attorney fees, and other legal costs arising from Tenant's or Tenant's officers, employees, agents, servants, subtenants, concessionaires, licensees, contractors or invitees use, maintenance, occupation, or operation of the Premises, except to the extent caused by or contributed to by Landlord's negligence; and (ii) any and all attorney fees and other legal costs incurred in the defense of any action arising out of the foregoing or in discharging the Premises or the building or any part thereof from any and all liens, charges or judgments which may accrue or be placed thereon by reason of any act or omission of Tenant, except to the extent caused by or contributed to by Landlord's negligence. Tenant's obligations pursuant to the foregoing indemnity shall survive the expiration or termination of this Sublease.

13. Assignment and Subletting. Tenant shall not assign, mortgage, pledge or otherwise transfer this Sublease or any interest hereunder, by operation of law or otherwise, without the prior written consent of Landlord which may be withheld in Landlord's sole and absolute discretion.

14. Events of Default; Landlord's Remedies.

a. Events of Default. The occurrence of any of the following shall constitute a material default by Tenant: (i) failure to pay Rent when due, if the failure continues for a period of ten (10) calendar days; (ii) vacation or abandonment of the Premises; (iii) failure to perform of any of Tenant's covenants, agreements or obligations hereunder (other than default in the payment of Rent), if the failure continues for a period of thirty (30) calendar days after written notice thereof, unless Tenant has commenced in good faith efforts to cure the failure; (iv) a general assignment for the benefit of creditors; (v) filing of a voluntary petition by Tenant, or the filing of an involuntary petition by any of Tenant's creditors, seeking the rehabilitation, liquidation or reorganization of Tenant under any law relating to bankruptcy, insolvency or other relief; (vi) appointment of a receiver or other custodian to take possession of substantially all of Tenant's assets; (vii) Tenant becomes insolvent; (ix) a judicial decree or order directing the winding up or dissolution of Tenant or the liquidation of substantially all of its assets; (x) Tenant taking any action to dissolve or wind up of its affairs or cease or suspend its use of the Premises; or (xi) attachment, execution or other judicial seizure of substantially all of Tenant's assets or this leasehold.

b. Landlord's Remedies. In the event of Tenant's default, Landlord shall have the following remedies which shall be cumulative and in addition to any other remedy permitted by law.

(1) If Tenant vacates or abandons the Premises, this Sublease shall continue in effect unless Landlord gives written notice of termination and no

surrender of the Premises shall be valid absent Landlord's written notice accepting the surrender.

(2) Landlord shall have the right to terminate this Sublease by written notice to Tenant.

(3) Landlord may re-enter the Premises upon surrender by Tenant or remove Tenant and any person occupying the Premises, repossess and enjoy the Premises or re-let the same on such terms and conditions as Landlord, in its sole discretion, may determine, and remove all personal property from the Premises.

(4) Landlord may commence an action to recover all unpaid Rent and other sums due or not yet due under this Sublease together with interest, costs, and reasonable attorney fees.

(5) Landlord may re-enter and re-let the Premises or any part of it for the account of and in the name of Tenant. Landlord may receive and collect all rents and apply them: (i) first, to the payment of reasonable expenses including attorney fees and brokerage commission fees incurred in recovering possession, placing the Premises in good condition, and preparing or altering the Premises for reletting; (ii) second, to the reasonable expense of securing new tenants; (iii) third, to the fulfillment of Tenant's obligations and covenants to the end of the Term and any extension(s) thereof; and (iv) fourth, to Landlord's uses and purposes. Any re-letting may be for the remainder of the Term or for a longer or shorter period. Landlord may execute any leases either in its name or in Tenant's name and shall be entitled to all rents from the use, occupation, or occupancy of the Premises. Tenant shall, nevertheless, pay to Landlord on the due dates specified in this Sublease, the equivalent of all sums required of Tenant, plus Landlord's expenses. No act by or on behalf of the Landlord under this provision shall constitute a termination of this Sublease unless Landlord gives Tenant written notice of termination.

(6) Landlord may distrain for Rent and other sums due and may, at its election, use Tenant's property located on the Premises without compensation, without liability for use or damage, or store them for the account of and at the cost of Tenant. Landlord may not distrain the medical records of Tenant or Tenant's patients.

(7) Landlord may maintain Tenant's right to possession, in which case this Sublease shall continue in effect whether or not Tenant has vacated or abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Sublease, including the right to recover Rent and other sums due, damages from Tenant's default or breach, and any other sum or payment that may become due, and to specifically enforce Tenant's obligations and obtain injunctive relief against further defaults and breaches.

c. Additional Remedies. Landlord shall have the right to remedy any default of Tenant, to maintain or improve the Premises without terminating this

Sublease, and to incur expenses on behalf of Tenant in seeking a subtenant or assignee including, without limitation, broker commissions and attorney fees.

15. **Landlord's Right of Entry.** Landlord shall have the right to enter the Premises at all reasonable times following prior notice to Tenant for any purpose including, without limitation, the following: (i) to determine whether Tenant is in compliance with its obligations under this Sublease; (ii) to do necessary maintenance and to repair or restore the Premises or other portions of the building; (iii) to post or serve any notices, and (iv) to show the Premises. Landlord agrees to exercise its right of entry in such manner as to minimize any inconvenience to Tenant or interference with Tenant's business and to not compromise the privacy of Tenant's patients.

16. **Subordination; Estoppel.**

a. **Subordination and Attornment.** This Sublease shall be subordinate to any encumbrance now of record or recorded after the date of this Sublease affecting the Premises, building, other improvements, and the land on which the building is located. Such subordination shall not allow for Tenant to be dispossessed of the Premises before the expiration of the Term or any extended term so long as: (1) Tenant is not in material breach of this sublease, and (2) Tenant agrees to attorn to Landlord's and underlying landlord's lenders or to any successor of Landlord or underlying landlord.

b. **Estoppel Certificate.** Within ten (10) days after request, Tenant shall deliver an estoppel certificate to Landlord. Tenant's failure to do so shall constitute a material default giving Landlord the rights and remedies provided upon default. Further, Tenant's failure to deliver the estoppel certificate shall be conclusive that: (i) this Sublease is in full force and effect, without modification except as may be represented by Landlord; (ii) there are no uncured defaults in Landlord's performance and Tenant has no right of offset, counterclaim or deduction against Rent or other payments due hereunder; and (iii) no more than one month's Rent has been paid in advance.

17. **Sale of Landlord's Interest.** In the event of any assignment of this Sublease by Landlord, Landlord shall be and is hereby relieved of any and all liability and obligations contained in or derived from this Sublease arising out of any act, occurrence or omission relating to the Premises or this Sublease occurring after the consummation of such assignment, provided the assignee shall expressly assume all of the covenants and obligations of Landlord under this Sublease.

18. **Financial Statements.** Within ten (10) days after request, Tenant shall deliver to Landlord such financial information of Tenant as may be required by Landlord, Landlord's lender, the underlying landlord, or assignee. Landlord agrees that such information, if confidential, shall be held in confidence and disclosed only to the parties set forth above or their accountants and attorneys. If Tenant is in default, Landlord may request updated financial statements and Tenant shall deliver its current financial statements to Landlord within three (3) business days of Landlord's request.

19. **Surrender of Premises.** Upon the expiration or termination of this Sublease, Tenant shall surrender the Premises to Landlord in good order, condition and repair, reasonable wear and tear excepted. Tenant shall not commit or allow any waste or damage to be committed on any portion of the Premises. All property that Tenant is required to surrender shall become Landlord's property upon the expiration or termination of this Sublease. Landlord may cause any of Tenant's property that is not removed from the Premises within thirty (30) days after the expiration or termination of this Sublease to be removed from the Premises and stored at Tenant's expense or, at Landlord's election, said property shall belong to Landlord without the payment of any consideration, subject to the rights of any person holding a perfected security interest therein.

20. **Holding Over.** Should Tenant hold over the Premises or any portion thereof after the expiration or termination of this Sublease, such holding over shall constitute and be construed as a tenancy from month to month only at a monthly Rent equal to one hundred and fifty percent (150%) of the Rent in effect during the last month prior to the holding over. Nothing in this Section shall be construed as Landlord's consent for Tenant to hold over.

21. **Arbitration.** Any dispute relating to this Sublease, its enforcement or interpretation (other than forcible entry and unlawful detainer proceedings, or actions to obtain equitable remedies to prevent or lessen threatened harm) shall be resolved by binding arbitration in Anchorage, Alaska, in accordance with the Revised Uniform Arbitration Act, AS 09.43.300 et seq., before a single arbitrator. The award rendered by the arbitrator shall be binding on all parties and judgment upon the award may be entered in any court having jurisdiction thereof.

22. **Attorney Fees and Costs.** The prevailing party in any dispute with respect to the enforcement or interpretation of this Sublease shall be entitled to recover from the other party reasonable costs and expenses of arbitration or litigation including, without limitation, reasonable attorney fees.

23. **Notices.** Any notice required under this Sublease shall be delivered either by: (i) personal delivery; (ii) postage prepaid, return receipt requested certified mail; or (iii) telecopy or other facsimile transmission at the address set forth below or at such other address as the intended recipient previously shall have designated by written notice to the other party:

If to Landlord, to:

Alaska Urological Institute, P.C.
188 W. Northern Lights Blvd., Suite 800
Anchorage, Alaska 99503
Fax No.: (907) _____

If to Tenant, to:

Alaska Medical Services, LLC

Fax No.: (907) 276-2844

Notice by certified mail shall be effective on the date it is officially recorded as delivered to the intended recipient by return receipt or equivalent and, in the absence of such record of delivery, the effective date shall be presumed to have been the third (3rd) business day after notice was deposited in the mail. All notices personally delivered or sent by telecopy shall be deemed to have been received by the addressee on the date of personal delivery or on the date sent, respectively. Notices not given in writing shall be effective only if acknowledged in writing by a duly authorized representative of the party to which it was given.

24. **Successors Bound.** This Sublease and its covenants and conditions shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, executors, and assigns.

25. **Authority.** The individual(s) executing this Sublease on behalf of Landlord and Tenant warrant and represent that he or she is duly authorized to execute this Sublease on behalf of Landlord and Tenant and bind them to its terms.

26. **Severability.** If any provision of this Sublease or the application thereof shall be held to be invalid, void or unenforceable, in whole or part, the remaining provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

27. **Entire Agreement.** This Sublease contains the entire agreement between the parties regarding the subject matter set forth herein. This Sublease may not be modified or altered by any prior or contemporaneous oral or written understanding between the parties. No subsequent amendment, modification, change, or addition to this Sublease shall be binding upon Landlord or Tenant unless in writing and signed by the parties.

28. **Governing Law.** This Sublease shall be governed by and construed in accordance with the laws of the State of Alaska.

IN WITNESS WHEREOF, the parties hereto duly executed this Sublease as of the date first written above.

LANDLORD: Alaska Urological Institute, P.C. **TENANT:** Alaska Medical Center, LLC

By: _____

By: _____

Its: _____

Its: _____

Dated: _____

Dated: _____