

OFFICE SPACE LEASE AND SUBLEASE AGREEMENT

THIS OFFICE SPACE LEASE AND SUBLEASE AGREEMENT (Hereinafter the "Lease") is made on the last signature date set forth below by and between JONAS RIDGE, LLC, an Alaska limited liability company ("Lessor") whose address is 203 Pioneer Street, Suite 2, Homer, AK 99603, and the KENAI PENINSULA BOROUGH, an Alaska municipal corporation ("KPB" or "Sublessor") whose address is 144 N. Binkley Street, Soldotna, AK 99669, on behalf of SOUTH KENAI PENINSULA HOSPITAL SERVICE AREA ("SKPHSA"), together with SOUTH PENINSULA HOSPITAL, INC. ("SPHI" or "Sublessee"), an Alaska nonprofit corporation whose address is 4300 Bartlett Street, Homer, Alaska 99603.

WHEREAS, SPHI is the lessee and operator of South Peninsula Hospital and other facilities and programs in the South Kenai Peninsula Hospital Service Area under an Operating Agreement with Kenai Peninsula Borough; and

WHEREAS, SPHI is in need of additional office space in Homer, Alaska for administrative operational purposes for some of its departments, including home health care and community education; and

WHEREAS, JONAS RIDGE, LLC owns a professional office building on land located on W. Pioneer Avenue in Homer Alaska, and the building ("Lessor's Building") contains suitable office space, facilities, and parking for lease and use by SPHI for administrative operational purposes for its departments; and

WHEREAS, pursuant to this Lease, SPHI agrees to sublease the premises subject to this lease from the KPB, with consent of the Lessor, and to assume, pay and perform all obligations of the KPB; and

WHEREAS, for purposes of performance and interpretation the term Lessee shall be interpreted to include SPHI;

NOW, THEREFORE, for and in consideration of the rental herein reserved, and of the covenants, conditions, agreements, and stipulations of the Lessee hereinafter expressed, the parties agree as follows:

1. Leased Premises. Lessor hereby leases to the KPB and consents to the KPB subleasing to Sublessee, SPHI, the following described Leased Premises::

- a. Being the offices designated for Lessee's administrative operational purposes for some of its departments, including home health care and community education, containing approximately 4,400 square feet, and located in the Lessor's Building, hereinafter referred to as either "Leased Premises" or "SPH Administrative Offices," with the following legal description:

Tract A, Chamberlain and Watson Plat of Tract A, Plat No. 75-63,
Homer Recording District, Third Judicial District, State of Alaska
203 W. Pioneer Avenue, Homer, AK 99603

- b. Together with the right to use in common with Lessor, its employees, invitees,

and patients, and Lessor's other tenants and their employees, invitees, and patients, the patient waiting room or area, the restrooms and break room, and the parking areas provided by the Lessor, its successors, or assigns, in the designated areas for the parking of automobiles, which are contiguous to the building in which the leased premises are located; provided that the Lessor retains the right to make reasonable rules and regulations with reference to the use of said parking area, including the right to provide for certain reserved parking as, from time to time, determined by the Lessor, and particularly provided that employees, agents, and principals of Lessee shall park in designated areas so as to assure Lessor's other tenants and Lessor's customers and visitors convenient and proximate parking contiguous to the building or buildings in which its tenants are located.

2. Term.

- a. The term of this Lease shall be for 24 months (two years) commencing on July 1, 2021, and terminating on June 30, 2023. Provided that this Lease is in full force and effect and Lessee and Sublessee are not in default hereunder, Lessee and Sublessee shall have the right and option to renew this Lease for three (3) successive Terms, commencing July 1, 2023, with each individual term being for a period of one year, and under the same terms, conditions, and provisions herein for the original term of the Lease, except for Rent. The renewal options to be effective must be exercised by the Lessee and/or Sublessee by written notice to Lessor in the form and manner provided in §17 at lease six months prior to the commencement of the renewal term.
- b. Any holding over after the expiration of the term of this Lease, without a signed lease agreement, shall be construed to be a tenancy from month-to-month, at a monthly rental at one hundred twenty percent (120%) greater than the monthly rental applicable to the rent due for the last month under this Lease Agreement, and may not exceed six (6) months' holdover period without execution of an extension, renewal, or replacement lease agreement.
- c. During the final four (4) months of this Lease term, Lessor shall be permitted to show prospective tenants the leased premises upon giving Lessee twenty-four (24) hours' notice.

3. Rent.

- a. Lessee hereby covenants and agrees to pay to the Lessor at Lessor's office address, or at such other place as the Lessor may from time to time designate in writing, as rental for said premises during the term of this Lease, an annual rental of \$81,600.00 payable monthly in advance for the entire term of this Lease, in the amount of \$6,800.00 per month. The annual and monthly rental payment is calculated at \$2.00 per square foot for 3,400 square feet and no additional cost for 1,000 square feet, which is consistent with fair market value, considering the age and condition of the Lessor's Building and rental market conditions in Homer, Alaska.
- b. First month's applicable rent for the month of July 2021 shall be paid upon execution of this Lease. Thereafter, all monthly rental payments shall be due and payable in advance on the first day of each month. Lessee shall ensure that rental payments shall be received by Lessor at Lessor's address no later than the tenth (10th) day of each month.

- c. Time is of the essence with regard to the payment of rents and any other performance by Lessee. Any failure by Lessee to make a timely rental payment shall constitute a material default under this Lease as provided in Section 12 below.
 - d. Compliance with Anti-Kickback and Stark II Requirements. The purpose of this Lease is to provide Lessee with suitable office space, facilities, and parking for lease and use by SPH, Inc. for administrative operational purposes for its departments. The volume or value of any business generated between these parties was not considered, and is not a factor, in determining the fair market value of the annual rental of leased premises for the term of this Lease. Nothing in this Agreement shall be construed to require Lessor, any Physician or any other health care provider retained or employed by Lessor, or who leases space from Lessor, to refer patients to SPH, Inc. or to utilize SPH, Inc. to provide inpatient, outpatient or other services to patients, or otherwise generate business for SPH, Inc., or for SPH, Inc. to refer patients to or generate business for Lessor or any Physician or any other health care provider retained or employed by Lessor, or who leases space from Lessor. Notwithstanding any unanticipated effect of any of the provisions herein, the parties intend to comply with 42 U.S.C. §1320a-7b(b), commonly known as the federal Anti-Kickback Statute, 42 U.S.C §1395nn, commonly known as Stark II, Stark III ("Stark Laws"), and any federal or state law provision governing fraud and abuse or self-referrals under the Medicare or Medicaid programs, or any other federal or state health care program, as such provisions may be amended from time to time. The parties intend that this Lease comply with the conditions for meeting the Anti-Kickback Statute "space rental" safe harbor set forth in 42 C.F.R. § 1001.952(b), and comply with the requirements of the "rental of office space" exception to the Stark Laws at 42 CFR §411.357(a), as such regulations may be amended. This Lease shall be construed in a manner consistent with compliance with such statutes and regulations, and the parties agree to take such actions as are necessary to construe and administer this Lease consistent with compliance. In the event any court or administrative agency of competent jurisdiction determines that this Lease violates any of such statutes or regulations, then the parties agree to take such actions as are necessary to amend this Lease for compliance with the applicable statutes or regulations, as provided herein.
4. Security Deposit. The Lessee shall deposit with the Lessor on or before July 1, 2021, the sum of \$1,000 in cash as security for the payment of the rent provided herein and for the observance and performance by the Lessee of all of the terms, provisions, and conditions of this Lease on its part to be kept and performed; and further to indemnify the Lessor for any loss, costs, fees, and expenses which the Lessor may incur by reason of any default by the Lessee. The Lessor shall repay to the Lessee the security deposit or any balance thereof upon the termination or expiration of the term of this Lease or any extension thereof, either (1) by crediting the same on account of payment of the rent for the last month of the Lease or additional term, as the case may be, or (2) refunding the security deposit to Lessee, net or less any loss, costs, fees, and expenses which the Lessor may incur by reason of any default by the Lessee. In the event of any failure in the payment of rent or other sum, or of any default by the Lessee in the performance of the terms, provisions, and conditions of this Lease, the Lessor shall have the right to apply the security deposit against any loss, costs, fees, and expenses caused thereby. The security deposit shall bear no interest.

5. Use. The premises shall be used exclusively for Lessee's business purpose of SPH Administrative Offices. Lessee shall not use said premises or any part thereof for any illegal purpose. Lessee agrees to conform to municipal and state statutes or codes, ordinances, and regulations concerning the use and occupation of said premises.
6. Renovations, Alterations and Changes by Lessee; Repairs and Maintenance.
 - a. The Lessee shall not make any renovations, changes, alterations, additions, or improvements to the leased premises and the Lessor's Building without the written consent of the Lessor.
 - b. The Lessor shall make all necessary repairs to the interior of the leased premises, including door, windows and plate glass (if any) and the fixtures therein or used in connection therewith, including the maintenance of all fixtures located within the leased premises, which repairs shall be in quality and class equal to the original work, in order to maintain said premises, and fixtures, in good condition and repair; provided, however, that the Lessee shall be responsible for any painting, carpeting, or any other repair that is due to Lessee's later neglect or omission.
 - c. The Lessee is not responsible or liable to maintain the structural condition of the leased premises or the Lessor's Building, including roof, walls, and foundation, and is not responsible or liable for major repairs to the electrical, plumbing and heating systems. The Lessor shall maintain the structural condition of the leased premises and the Lessor's Building; however, all repairs to the plumbing and heating lines necessitated by the action of the Lessee or the Lessee's agents or employees shall be at the expense of the Lessee.
 - d. The Lessee shall be responsible for maintenance, repair, and replacement of all equipment and furniture installed or placed by Lessee for Lessee's use in the leased premises. Lessor is not responsible for damage to, or for maintenance, repair, or replacement of any equipment and furniture installed or placed by Lessee for Lessee's use in the leased premises.
 - e. The Lessee shall keep the leased premises in a clean and sanitary condition; shall properly use and operate all electrical, gas, heating, and plumbing facilities, fixtures and appliances; and except as permitted in §6(a) above with the Lessor's written consent, the Lessee shall not intentionally or negligently destroy, deface, damage, or remove any part of the premises, their appurtenances, facilities, equipment, furnishings, and appliances, nor permit anyone else to do so.
7. Utilities. Lessee agrees to be responsible for and to pay for the Lessee's share of the cost of electric light, heat, power, fuel, water and sewer and other utility service (prorated and charged monthly), commencing July 1, 2021. Lessor remains responsible for and liable to pay for all other costs. Lessor shall be responsible for all lot maintenance, landscaping, lawn maintenance, including snow removal and ice sanding, at Lessor's expense.
8. Janitorial Services. Lessee agrees to keep all rubbish and garbage in containers while on the leased premises and shall dispose of all of such rubbish and garbage in the dumpster or other containers provided by Lessor. The Lessee shall perform and provide for all of Lessee's janitorial services required inside of the leased premises; however, Lessee agrees to use the

janitorial service used or suggested by Lessor for such period of time if the cost of such services is reasonable and its services are of reasonable quality.

9. Damages to Property or Premises.

- a. Limitations on Lessor's Liability. The Lessor and its agents shall not be liable in damages, by abatement in rent or otherwise, for any damage either to the person or the property of the Lessee, or for the loss of or damage to any property of the Lessee by theft or from any other cause whatsoever, whether similar or dissimilar to the foregoing. The Lessor or its agents shall not be liable for any injury or damage to persons or property, or loss or interruption to business resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, snow, or leaks from any part of the building, or from the pipes, appliances, or plumbing works, or from the roof, street, or subsurface, or from any other place, or by dampness, or by any cause of whatsoever nature; nor shall the Lessor or its agents be liable for any damage caused by other tenants or persons in said building, or caused by operations in construction of any private or public or quasi-public work. None of the limitations of the liability of Lessor or its agents provided for in this subsection (a) shall apply if such loss, injury, or damages are proximately caused by the gross negligence or breach by the Lessor its agents, employees, or independent contractor.
- b. Lessee's Liability (or Damage to Lessor's Property). The Lessee shall be liable for any damage to the building or property therein which may be caused by its act or negligence, or the acts of its agents, employees, or customers, and the Lessor may, at its option, repair such damage. The Lessee shall thereupon reimburse and compensate the Lessor as additional rent, within fifteen (15) days after rendition of a statement by the Lessor, for the total cost of such repair and damage.

10. Insurance.

- a. Lessee's Insurance. Lessee agrees to obtain, carry and maintain premises liability insurance covering claims against Lessee by persons on the premises, and property damage and fire and casualty insurance for Lessee's business personal property and contents, during the entire term of this Lease and any renewal, at Lessee's sole cost and expense. Lessee agrees to provide proof of such insurance at the request of Lessor. Lessee is not responsible to provide insurance coverage for claims against Lessor, or for loss or destruction of the building due to fire or other casualty.
- b. Lessor's Insurance. During the entire term of this Lease and any renewal, Lessor, at its sole cost and expense, agrees to keep the building and improvements (including the leased premises) insured against loss or damage by fire or other casualty insurable under standard fire and extended coverage insurance in an amount equal to the full current replacement cost of said building(s). Lessor also agrees to obtain, carry and maintain premises liability insurance covering claims against Lessor by persons on the premises, at Lessor's sole expense. Lessee is not responsible to provide insurance coverage for claims against Lessee.

11. Taxes. Lessee is responsible only for payment of taxes, if any, on Lessee's business

operations. Lessee is not responsible for payment of real property taxes on the premises, or for any other tax related to either Lessor's businesses or property.

12. Default. If the Lessee is in default in the payment of rent or any part thereof for more than ten (10) days after it is due, or if there shall be default in the performance of any other covenant, agreement, condition, rule, or regulation herein contained or thereafter established on the part of the Lessee for more than sixty (60) days after written notice of such default by the Lessee, this Lease (if Lessee so elects) shall thereon be terminated, and the Lessee shall have the right to re-enter or possess and remove therefrom the Lessee or other occupants thereof, and their effects, without being liable to any prosecution therefore; or, if such cannot be done peaceably, Lessee shall be entitled to possession upon entry of an order for eviction by the court. Lessee will be liable for all costs incurred by Lessor including actual attorney's fees.
13. Sublease to SPHI. Lessor hereby approves subletting this lease to SOUTH PENINSULA HOSPITAL, INC. ("Sublessee" or "SPHI") under the terms and conditions of the Operating Agreement between Lessee and Sublessee, as may be amended from time to time. The Lessee hereby sublets the entire Leased Premises to the Sublessee. The Sublessee hereby assumes all of the Lessee's rights, responsibilities and obligations under this Lease. In this Lease, unless context specifically obligates the KPB's performance, the term Lessee shall mean SPHI and the terms "Lessee" and "Sublessee" shall be considered interchangeable.
14. Assignment and Additional Subletting. Except as previously approved herein at paragraph 13, the Sublessee shall not assign, mortgage, encumber or otherwise transfer this Lease or its interests hereunder, in whole or in part, or sublet the Leased Premises in whole or in part, without the prior written consent of Lessor and Lessee as to both the terms of such assignment or sublease and the identity of such assignee or Sublessee, which will not be unreasonably withheld. In the event Lessor consents to any such transaction, Sublessee shall remain fully liable to perform all the obligations of Lessee under this Lease, including but not limited to payment of Rent, unless the Lessor has also consented in writing to the release of Sublessee or Lessee from this Lease.
15. Signs. The Lessee shall be able to install and maintain reasonable signage for Lessee's business in the Lessor's Building with the consent of Lessor, which consent shall not be unreasonably withheld.
16. Quiet Enjoyment. The Lessor covenants and agrees with the Lessee that upon the Lessee paying the said rent and performing all the covenants and conditions on the Lessee's part to be observed and performed, the Lessee shall and may peaceably and quietly have, hold, and enjoy the premises hereby leased, for the entire term; subject, however, to the terms of this Lease and any mortgage or other deed of trust now or hereafter created by the Lessor.
17. Surrender of Premises. Upon the expiration of or prior termination of this Lease, the Lessee shall remove all property of the Lessee from the leased premises, except plumbing and other fixtures and leasehold renovations, alterations, and improvements which may have been installed by the Lessee and, except as otherwise provided in this Lease, surrender the leased premises to the Lessor "broom clean" in as good order and condition as they were upon Lessee commencing business, or were placed by Lessee thereafter, ordinary wear and tear and damage by fire excepted. Any property left on the premises after the expiration or other termination of this Lease may be disposed of by Lessor in any manner and without any

liability to the Lessee.

18. Notices. All notices required under the terms of this Lease or by law shall be in writing, shall contain a clear and concise statement setting forth the reasons therefore, and shall be sent by certified mail, return receipt requested, to the appropriate party, or shall be delivered personally, at the following addresses:

To Lessor:

Dr. M. Todd Boling
JONAS RIDGE, LLC
362 Tyee Street
Soldotna, AK 99669

To Lessee:

Planning Director
Kenai Peninsula Borough
144 N. Binkley Street
Soldotna, AK 99669

Attn: Chief Executive Officer
South Peninsula Hospital, Inc.
4300 Bartlett Street
Homer, AK 99603

In the event that a properly sent notice is returned undelivered, the notice shall nonetheless be effective.

19. Miscellaneous Provisions.

a. Entire Agreement.

- 1) This Lease constitutes the whole agreement between the parties as to the Lessee's lease and use of the SPH Administrative Offices for Lessee's business operations in the Lessor's Building. No warranties, agreements or representations have been made or shall be binding upon either party unless set forth in this Lease.
- 2) No oral statements or prior written material not specifically incorporated herein shall be recognized unless incorporated herein by amendment(s) or other addenda to either Agreement, such amendment(s) or addenda to become effective on the date stipulated in such amendment(s) or addenda. Both parties specifically acknowledge that in entering into and executing this Lease, they rely solely upon the representations and agreements contained in this Lease, and no others.

b. Assignment and Delegation. Neither this Lease, nor any interest, rights or duties herein, may be assigned, transferred, delegated or conveyed by either party, either voluntarily, or involuntarily, by operation of law, or otherwise, without the written consent of the other party during the term of this Lease.

c. Binding Effect. This Lease shall be binding upon and inure to the benefit of the respective successors, heirs, assigns, or personal representatives of the parties hereto, but nothing contained in this paragraph shall be construed as a consent by either party to any specific assignment, delegation, sale, transfer or conveyance.

d. Applicable Law. This Lease is made under and shall be interpreted and construed in accordance with the laws of the State of Alaska.

e. Waiver of Breach. The waiver by either party of a breach or violation of any provision

of this Lease shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof.

- f. Severability. In the event any provision of this Lease is held to be unenforceable for any reason, such lack of enforceability shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms or as otherwise may be provided by law or equity.
- g. Headings. The headings contained in this Lease are for reference purposes only and shall not affect in any way the meaning or interpretation of this Lease.
- h. Amendments. This Lease may be amended by mutual agreement of both parties in writing.
- i. Agreement Not To Be Construed Against Drafter. Both parties to this Lease have had a full opportunity to obtain legal advice concerning this Lease or have declined to obtain such advice. The fact that this Lease may be drafted by an attorney for one of the parties or by one of the parties is a matter of convenience to all parties. Accordingly, the parties agree that the rule of construction that an instrument or document is to be construed and interpreted most strictly against the drafter of the instrument or document shall not apply in the construction or interpretation of this Lease.
- j. Memorandum of Lease. The parties agree that they will not record this Lease at full length, but may record a Memorandum of Lease, which Memorandum shall not disclose any financial terms.
- k. Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

SO AGREED.

DATED this _____ day of _____, 2021

JONAS RIDGE, LLC
LESSOR

By: Dr. M. Todd Boling, Owner

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2021, by Dr. M. Todd Boling, owner of JONAS RIDGE, LLC, on behalf of the company.

Notary Public in and for State of Alaska
My Commission Expires: _____

SO AGREED.

DATED this _____ day of _____, 2021

KENAI PENINSULA BOROUGH
LESSEE,

By: Charlie Pierce, Mayor

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Charlie Pierce, Mayor of the KENAI PENINSULA BOROUGH, an Alaska municipal corporation, for and on behalf of the corporation.

Notary Public in and for State of Alaska
My Commission Expires: _____

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Johni Blankenship
Borough Clerk

Colette Thompson
Borough Attorney

SO AGREED.

DATED this _____ day of _____, 2021

SOUTH PENINSULA HOSPITAL, INC.
SUBLESSEE,

By: Ryan Smith, Chief Executive Officer

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Ryan Smith, Chief Executive Officer of SOUTH PENINSULA HOSPITAL, INC., an Alaska nonprofit corporation, on behalf of the corporation.

Notary Public in and for State of Alaska
My Commission Expires: _____