

CONSTRUCTION AGREEMENT

by and between

PENINSULA HEALTHCARE DISTRICT,

a political subdivision of the

State of California

and

MILLS-PENINSULA HEALTH SERVICES,

a California nonprofit public benefit corporation

CONSTRUCTION AGREEMENT
TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I CONSTRUCTION OF NEW FACILITY	2
1.01. Demolition of Existing Buildings and Improvements on Merged Front Parcel.....	2
1.02. Plans for the New Facility and Improvements.....	2
1.03. District and MPHS Secondary Approvals	2
A. Material Reduction.....	3
B. No Secondary Approval.....	3
1.04. Demolition and Construction Contracts.....	3
1.05. Construction of Improvements	3
1.06. Notice to District.....	4
1.07. Compliance With Law and Standards.....	4
1.08. District Cooperation.....	4
1.09. Guaranty of Construction Obligations	4
ARTICLE II DEMOLITION OF EXISTING HOSPITAL.....	4
2.01. Notice to District.....	4
2.02. Demolition	5
2.03. Compliance With Law and Standards.....	5
2.04. Notice re District's 4.15 Acre Parcel and Punch List.....	5
ARTICLE III INDEMNITY AND INSURANCE	5
3.01. Indemnity by MPHS	5
3.02. Indemnity by District	6
3.03. Survival of Indemnities.....	7
3.04. Insurance	7
3.05. Self-Insurance	9
ARTICLE IV DEFAULT AND REMEDIES.....	9
4.01. Breach and Default by MPHS.....	9
4.02. District's Remedies for MPHS' Breach.....	10
4.03. District's Right to Cure	10
4.04. Default by District.....	10
4.05. MPHS' Remedies for District's Breach.....	11
4.06. Force Majeure	11
4.07. Exclusive Remedies	11
4.08. Waiver of Breach	11
4.09. Protection of District Against Cost or Claim.....	11
A. MPHS Obligations	11
B. District's Right to Discharge Lien.....	11
ARTICLE V TERM; TERMINATION OF AGREEMENT.....	12
5.01. Term.....	12
5.02. Termination by Any Party	12

5.03.	Simultaneous Termination	12
5.04.	Termination by MPHS	12
5.05.	Continuation of Construction Ground Lease Upon Termination	13
ARTICLE VI MISCELLANEOUS		13
6.01.	Recitals and Headings	13
6.02.	Entire Agreement	13
6.03.	Third Persons	13
6.04.	Representations to Survive	13
6.05.	Notices	13
6.06.	Counterparts	15
6.07.	Binding	15
6.08.	Good Faith	15
6.09.	Governing Law and Forum Selection	15
6.10.	Severability	15
6.11.	Dispute Resolution	15
6.12.	Cost of Transaction	15
6.13.	Confidentiality	15
6.14.	Force Majeure	16
6.15.	Construction	16
6.16.	Correction of Technical Errors	16
6.17.	Non-Material Amendments	16
6.18.	Time is of Essence	17
6.19.	Cooperation	17
6.20.	Schedules and Exhibits	17
Exhibit A	Site Plan for New Facility Site	
Exhibit B	Form of Guaranty Agreement	

CONSTRUCTION AGREEMENT

This Construction Agreement ("**Agreement**"), which the parties executed on _____, 2005, and the Effective Date of which shall be the effective date of the Master Agreement as determined under Section 4.01 of the Master Agreement (as defined below), is entered into by and between Peninsula Healthcare District, a political subdivision of the State of California ("**District**"), and Mills-Peninsula Health Services, a California nonprofit public benefit corporation ("**MPHS**").

Recitals

A. The District and MPHS entered into that certain Restructured Relationship Pre-Closing Agreement of even date herewith ("**Pre-Closing Agreement**"). The parties also have entered into that certain Master Agreement of even date herewith ("**Master Agreement**"), concurrently effective as of the Effective Date hereunder. All capitalized terms used in this Agreement, unless defined herein, shall have the meaning set forth in the Master Agreement. Pursuant to the terms and conditions of the Master Agreement, the parties have negotiated the terms and conditions of this Agreement and of the other Definitive Agreements, all of which the parties shall execute concurrently with this Agreement. Upon the Closing, the Definitive Agreements shall document and govern the parties' Restructured Relationship as provided in the Master Agreement.

B. For the various reasons recited in the Master Agreement, District and MPHS will establish the Restructured Relationship, effective as of the Effective Date hereof, pursuant to which MPHS shall develop, construct, and operate a new general acute care hospital ("**New Facility**"), and the appurtenant parking facility and parking areas, a medical office building, helipad and other related improvements and landscaping (the "**Related Improvements**"). The New Facility and the Related Improvements may be collectively referred to herein as the "**Improvements.**" Both District and MPHS have concluded that construction of a new facility (rather than substantial reconstruction of the Existing Hospital) is the most efficient and economical method to achieve timely compliance with the seismic standards for acute care hospital under Senate Bill 1953, which are codified in California Health and Safety Code Sections 130000 through 130070 et seq., and Section 18938 (the "**Seismic Standards**").

C. The parties' Restructured Relationship, as set forth in this Agreement and in the other Definitive Agreements, generally provides for MPHS' development and construction of the Improvements upon roughly twenty-one (21) acres of the Fully Merged Parcel as described in **Exhibit A** ("**New Facility Site**") during the term of the Construction Ground Lease, and its operation of the New Facility for the fifty (50)-year initial term and possible twenty-five (25)-year extended term of the Ground Lease. MPHS will lease from District, first under the Construction Ground Lease, and then, effective as of the Start Service Date, under the Ground Lease, the entire Fully Merged Parcel, the Marco Polo Lot and the Davis Drive Access (as described in **Exhibit A**); provided, however, that after MPHS demolishes the Existing Hospital and performs certain other items with respect thereto as set forth in this Agreement, the parties will record the Phase 3 Map and MPHS will release from the Ground Lease that certain 4.15 acres of the Final Merged Parcel ("**District's 4.15 Acre Parcel**") and the Marco Polo Lot, both of which shall comprise portions of the District Controlled Land.

D. Under the terms of this Agreement, MPHS will design and build the Improvements on the New Facility Site. MPHS shall build the Improvements at no cost to District and in substantial conformity and compliance with the EIR, the Regulatory Approvals, and the AA Plans, and shall build the New Facility (exclusive of the medical office building and Related Improvements) in conformity with the Seismic Standards. MPHS shall own and operate the Improvements during the term of the Ground Lease.

E. MPHS will pay for the development, entitlement, permitting, and construction of the Improvements at no cost to District in accordance with the terms of this Agreement and the other Definitive Agreements.

F. Sutter Health will guaranty MPHS' performance of its obligations under this Agreement to construct the Improvements, to demolish the Existing Hospital, and to prepare the District's 4.15 Acre Parcel, pursuant to a Guaranty Agreement ("**Guaranty Agreement**") in the form of Exhibit K to the Master Agreement.

G. MPHS will conduct the demolition of the Existing Hospital and the preparation of the District's 4.15 Acre Parcel after the Start Service Date of the New Facility in accordance with this Agreement. MPHS will pay for the demolition of Existing Hospital and the preparation of the District's 4.15 Acre Parcel.

H. The parties desire to enter into this Agreement as part of the restructuring of their relationship and to implement as of the Closing certain provisions of the Pre-Closing Agreement and Master Agreement and to establish certain rights and obligations with respect to the construction of the Improvements and the demolition of the Existing Hospital.

Agreement

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

ARTICLE I CONSTRUCTION OF NEW FACILITY

1.01. Demolition of Existing Buildings and Improvements on Merged Front Parcel. If not previously performed pursuant to the terms of the Pre-Closing Agreement, MPHS, at its sole cost and expense, shall demolish all of the existing buildings and improvements on that portion of the Merged Front Parcel upon which MPHS will construct the parking facility.

1.02. Plans for the New Facility and Improvements. The plans and specifications for the Improvements are generally contained in the EIR, the Regulatory Approvals, and the AA Plans. MPHS shall keep the District informed of the status and progress of MPHS' pursuit of final approval of the Regulatory Approvals and any material changes or modifications of any of the Regulatory Approvals or the AA Plans.

1.03. District and MPHS Secondary Approvals. If, after the Effective Date, the City or any other governmental agency exclusive of the District with jurisdiction over any of the Regulatory Approvals requires, or if MPHS requests, any material change to the EIR, the Regulatory Approvals, or the Improvements, and any such change would result in either

(i) Improvements that are materially different than provided for in the EIR or the Conditional Use Permit, or (ii) a "**Material Reduction**" (as defined below), then each of the parties shall not be bound by any such change(s) until each party's Board of Directors has approved such change(s) (the "**Secondary Approval**"). The District may not unreasonably withhold or condition its Secondary Approval of any change requested by MPHS, and neither party may unreasonably withhold or condition its Secondary Approval of any change required by any governmental agency. The parties intend that the Improvements, especially the New Facility, be sized in a manner consistent with projected needs and uses within the community and good business practices. The parties intend that a Material Reduction be permitted if regulatory changes, market conditions or community health care need warrant such changes, or such changes are necessary to obtain required regulatory permits or approvals. Any changes to the EIR, the Regulatory Approvals, or the Improvements that do not result in either (a) a New Facility or other Improvements that are materially different than provided for in the EIR or the Conditional Use Permit, or (b) a Material Reduction, shall not require either party's Secondary Approval. If either party's Board of Directors fails to approve or disapprove any change that requires such party's Secondary Approval hereunder within sixty (60) days after such party's Board of Directors is presented with the change, such party's Board of Directors shall be deemed to have provided Secondary Approval of such change. However, in no event shall a reduction that exceeds fifty percent (50%) in the number of beds of the New Facility be permitted without the District's express Secondary Approval.

A. Material Reduction. As used in this Agreement, "**Material Reduction**" is any reduction in the size of the New Facility that reduces the total square footage of the New Facility or the number of beds therein by an amount greater than fifteen percent (15%).

B. No Secondary Approval. If either party does not provide its Secondary Approval and such approval was not unreasonably withheld or conditioned, then this Agreement shall terminate without default or breach by either party upon notice by one party to the other of its decision to terminate this Agreement and the parties shall not have any further obligations to one another hereunder (except for those obligations of the parties that survive termination of this Agreement). Should this Agreement be terminated under this Section 1.03.B, then the District shall have the remedies set forth under Section 5.02.A.3 of the Master Agreement and MPHS shall have the remedies set forth under Section 5.04.A.2 of the Master Agreement.

1.04. Demolition and Construction Contracts. MPHS shall enter into such demolition and construction contracts as MPHS deems appropriate for the demolition of the existing buildings and construction of the Improvements. MPHS shall use commercially reasonable efforts to cause each of such contracts to include insurance provisions from the contractor and all subcontractors that meet the insurance requirements set forth in Section 3.04 of this Agreement, including without limitation that naming of the District as an additional insured under all such contractors' and subcontractors' policies.

1.05. Construction of Improvements. MPHS shall use its commercially reasonable efforts to cause the construction of the Improvements to be conducted and the Improvements to be constructed and completed in conformance with the EIR, the Regulatory Approvals, the AA Plans, and any other plans and specifications relevant thereto and ready for occupancy in accordance with the times specified in this Section 1.05. Subject to obtaining Regulatory

Approvals, MPHS shall use its commercially reasonable efforts consistent with Sutter Health's ability to meet its financial obligations to complete the Improvements by the date legally required by Seismic Standards. Notwithstanding the foregoing, MPHS shall use its commercially reasonable efforts to substantially complete construction of the Improvements (other than those Improvements that are to be constructed on the Existing Hospital Site) by no later than December 31, 2013.

1.06. Notice to District. MPHS shall give District ten (10) days prior notice before the start of construction on the Improvements, or of any distinct component thereof for which MPHS shall use a different general contractor, or of the demolition of the Existing Hospital, or of the start of construction on the Improvements on the Existing Hospital Site, to allow District to post any notices of non-responsibility that District desires to post.

1.07. Compliance With Law and Standards. The New Facility shall be constructed, all work on the Premises shall be performed, and all other Improvements on the Premises shall be constructed in accordance with all valid laws, codes, ordinances, rules, regulations, and orders of all federal, state, county, or local governmental agencies or entities having jurisdiction over the Premises, including, with regard to the New Facility, the Seismic Standards. Work performed on the Premises under this Agreement shall be done in a good workmanlike manner.

1.08. District Cooperation. District, subject to its reasonable review and approval thereof with respect to any material amendments or changes to the Conditional Use Permit, the EIR or the AA Plans, which review and approval the District shall not unreasonably withhold, condition, or delay, agrees to execute any documents, petitions, applications, and authorizations that may be necessary or appropriate to obtain all Regulatory Approvals and all other authorizations, permits, and consents as needed for MPHS to perform the construction and demolition; provided, however, that any such authorizations, permits, or consents shall be obtained at the sole cost and expense of MPHS and MPHS agrees to protect and save District and the property of District, including the Premises, free and harmless from any such cost and expense.

1.09. Guaranty of Construction Obligations. Sutter Health shall guarantee the obligation of MPHS under this Agreement to construct the Improvements, to demolish the Existing Hospital, and to prepare the District's 4.15 Acre Parcel pursuant to a Guaranty Agreement substantially in the form attached hereto as **Exhibit B**.

ARTICLE II DEMOLITION OF EXISTING HOSPITAL

2.01. Notice to District. After the Start Service Date and after MPHS has moved all operations of Existing Hospital into the New Facility, which MPHS covenants to complete within six (6) months after the Start Service Date, MPHS shall give District notice of the date on which MPHS is prepared to commence to demolish Existing Hospital, which date shall be no later than six (6) months after the date of MPHS' notice to the District. District shall give MPHS notice of its acknowledgement of such date. The date determined by MPHS and provided to the District shall be the "**Demolition Start Date.**"

2.02. Demolition. On the Demolition Start Date, MPHS shall commence, and thereafter shall use commercially reasonable efforts to complete, demolition of the Existing Hospital and preparation of the District's 4.15 Acre Site within one (1) year after the Start Service Date, but not later than within two (2) years after the Start Service Date. MPHS anticipates that such demolition and preparation of the District's 4.15 Acre Site shall be completed within one (1) to two (2) years after the Start Service Date depending upon issues that may arise during demolition. MPHS may prepare or leave that portion of the Existing Hospital Site that will remain in MPHS' Leasehold Estate under the Ground Lease after the Phase 3 Map is recorded and the District's 4.15 Acre Site is removed from MPHS' Leasehold Estate in whatever state or condition that MPHS deems appropriate for its completion of the construction of the post-demolition Improvements thereon. MPHS shall leave, and shall clean and prepare at no cost to the District, the District's 4.15 Acre Parcel in the condition required under the Regulatory Approvals, including without limitation Condition #86 to the Conditional Use Permit or any successor thereto to which the District consents.

2.03. Compliance With Law and Standards. The demolition of Existing Hospital and the preparation of the District's 4.15 Acre Parcel shall be conducted in accordance with all Regulatory Approvals and all valid laws, building codes, ordinances, regulations, and orders of all federal, state, county, or local governmental agencies or entities having jurisdiction over such work.

2.04. Notice re District's 4.15 Acre Parcel and Punch List. When MPHS has substantially completed the preparation of the District's 4.15 Acre Site and is ready to record the Phase 3 Map therefor and return such parcel and the Marco Polo Lot to the District's possession and control, MPHS shall provide the District with written notice thereof. Within a reasonable time after the District receives such notice from MPHS, MPHS and the District shall jointly conduct a walk-through inspection of the District's 4.15 Acre Site and the Marco Polo Lot and shall negotiate in good faith to agree upon: (i) what work, if any, MPHS must perform or items MPHS must complete to place the District's 4.15 Acre Site into the condition required under this Agreement and the Marco Polo Lot to the condition it was in prior to the commencement of the Construction Ground Lease (all such work or items shall be "**MPHS' Punch List Work**"); and (ii) the schedule for MPHS to complete MPHS' Punch List Work. If the parties cannot agree upon any of the items set forth in the preceding sentence within five (5) business days after the walk-through inspection, either party may demand by written notice to the other party that the parties submit any disputed item to the dispute resolution process set forth in the Master Agreement. Upon MPHS' completion of MPHS' Punch List Work (and the District's approval thereof after additional inspection(s)), the parties shall execute a document (the "**Punch List Confirmation**") that confirms that MPHS has completed all of MPHS' Punch List Work and that the parties have recorded the Phase 3 Map.

ARTICLE III INDEMNITY AND INSURANCE

3.01. Indemnity by MPHS. MPHS shall defend, indemnify, and hold District and District's property, including the Premises, free and harmless from any and all liability, claims, loss, damages, expenses, injury, demand, action, cause of action, legal or administrative proceeding, penalty, fine, lien, judgment, cost, or expense whatsoever of any kind or character to

any person or property (collectively, a "**Claim**") caused by, related to, or arising out of or from MPHS' construction of the Improvements, demolition of the Existing Hospital, the preparation of the District's 4.15 Acre Site and any obligation of MPHS related thereto under this Agreement, except to the extent such Claim is caused by the negligence or willful misconduct of District. Without limiting the scope of the foregoing, MPHS' obligations under this Section 3.01 shall specifically include any Claim by reason of any of the following:

A. The death or injury of any person, including without limitation MPHS or the District, or any person who is an employee, agent, contractor, or invitee of MPHS or the District, or by reason of the damage to or destruction of any property, including without limitation property owned by MPHS or the District, or any person who is an employee, agent, contractor, or invitee of MPHS or the District, caused or allegedly caused by either (i) the condition of the Premises or some building or improvement on the Premises during the course of construction or demolition, or (ii) some act or omission on the Premises of MPHS or any person in, on, or about the Premises, with or without the permission and consent of MPHS, during the course of construction or demolition;

B. Any work performed on the Premises or materials furnished to the Premises at the insistence or request of MPHS or any person or entity acting for or on behalf of MPHS during the course of construction or demolition; or

C. MPHS' failure to perform any of its obligations under any provision of this Agreement, or to comply with any requirement of law or any requirement imposed on MPHS or the Premises by the Regulatory Approvals or any duly authorized governmental agency or political subdivision during the course of construction or demolition.

3.02. Indemnity by District. District shall defend, indemnify, and hold MPHS and MPHS' property, including the Premises and Improvements now or hereafter on the Premises, free and harmless from any and all Claims to the extent caused by the negligence or willful misconduct of District, its employees, contractors, invitees, or agents with respect activities of District, its employees, contractors, agents, or invitees on the Premises. Without limiting the scope of the foregoing, the District's obligations under this Section 3.02 shall specifically include any Claim arising by reason of any of the following:

A. The death or injury of any person, including MPHS or the District, or any person who is an employee, contractor, agent, or invitee of MPHS or the District, or by reason of the damage to or destruction of any property, including without limitation property owned by MPHS or the District, or any person who is an employee, agent, contractor, or invitee of MPHS or the District, to the extent caused by the negligence or willful misconduct of District, its employees, contractors, invitees, or agents;

B. Any work performed on the Premises at the instance or request of District or any person or entity acting for or on behalf of District to the extent such Claim is caused by the negligence or willful misconduct of District, its employees, contractors, invitees, or agents with respect thereto; or

C. District's failure to perform any of its obligations under any provision of this Agreement or to comply with any requirement of law or any requirement imposed on District by any duly authorized governmental agency or political subdivision to the extent such Claim is caused thereby.

3.03. Survival of Indemnities. The defense, indemnity, and hold-harmless obligations of District and MPHS under this Article shall survive the expiration or sooner termination of this Agreement and shall be binding on the parties until the last to occur of (i) such date as any action against any indemnified party hereunder is absolutely barred by the applicable statute of limitations, (ii) such date as any claim or action for which indemnification may be claimed hereunder is fully and finally resolved and, if applicable, any compromise thereof or judgment or award thereof is paid in full by indemnifying party, and (iii) the indemnifying party has fully reimbursed the indemnified party for any amounts paid by the indemnified party for which the indemnifying party has the obligation to indemnify the indemnified party.

3.04. Insurance. MPHS shall, at its sole cost and expense, maintain in full force and effect during the term of this Agreement with companies acceptable to the District (or through any allowed self-insurance under Section 3.05 below), insurance coverage of types and with coverage limitations standard during construction and demolition activities of the type contemplated by this Agreement.

A. Without limiting the foregoing, MPHS shall maintain, or as indicated below shall cause its contractors to maintain, in full force and effect during the term of this Agreement the following insurance:

1. MPHS shall cause its contractors to maintain Workers' Compensation Insurance, including Employer's Liability for all persons who will be carrying out any work required under or relating to the Premises regardless of any ability under state law to reject workers' compensation coverage. MPHS shall indemnify and hold harmless District and District's officers, employees, agents and representatives, for and from any liens filed with respect to any claim of any third party under such insurance. Such insurance shall be in strict accordance with the requirements of the most current and applicable workers' compensation insurance laws in effect from time to time. If any class of employees engaged in any work or improvement is not protected by any workers' compensation statute, MPHS shall provide special insurance for the protection of such employees not otherwise protected, which is similar to the coverage required hereunder.

2. Comprehensive or Commercial General Liability Insurance on a "claims made" basis for bodily injury and property damage.

3. Owned, hired and non-owned automobile liability insurance covering all use of all automobiles, trucks and other motor vehicles utilized by or on behalf of MPHS in connection with the Premises.

4. Upon commencement of construction on or about the Premises, a standard "all risk" Builders Risk Policy or other policy form not to exceed \$500 million per

location, which policy shall remain in full force and effect until the date of the filing of a Notice of Completion for the Improvements.

B. Except as provided in Section 3.05 with regard to MPHS's self insurance, District shall be included as an additional insured under each of the coverages specified in this Section 3.04.

C. Each insurance policy required under this Section 3.04 shall:

1. Except as otherwise approved in writing by the District (and subject to MPHS' right to self-insure as set forth in Section 3.05), be issued by insurance carriers licensed and approved to do business in California, having a general policyholders rating of not less than an "A" and financial rating of not less than 7 in the most current Best's Insurance Report;

2. If obtainable at no additional cost (and which MPHS shall use commercially reasonable efforts to obtain), contain a provision that the policy shall not be subject to cancellation without at least thirty (30) days prior written notice be given to the District by registered mail; provided, MPHS must provide not less than thirty (30) days prior written notice to the District of any material alteration of any policy;

3. Provide that such policy or policies and the coverage evidenced thereby are primary and any insurance maintained by District is noncontributing with such primary coverage; and

4. Contain severability of interest and cross liability clauses.

D. As evidence of specified insurance coverage, MPHS shall deliver certificates issued by MPHS' insurance carrier(s) showing such policies in force for the specified period. District may examine copies of policies at the offices of Sutter Health Risk Management, provided that District has entered into a confidentiality agreement satisfactory to MPHS. If available, MPHS shall deliver evidence of any renewal insurance to the District not less than thirty (30) days prior to the expiration date on the term of the policy or as much before the expiration date as is possible, using commercially reasonable efforts therefor. Each policy and certificate shall be subject to reasonable approval by the District.

E. If MPHS fails to obtain and deliver to the District evidence of the insurance required to be maintained by MPHS under this Section 3.04, or, once acquired, should any policy expire or be cancelled before the expiration of this Agreement or such later period as MPHS is required to carry such insurance as set forth herein, and MPHS fails immediately to procure other insurance as specified, the District shall have the right, but no obligation, to procure such insurance or any portion thereof and to charge MPHS one hundred ten percent (110%) of the cost to the District of procuring such insurance and such amount shall be due and payable to the District within the earlier of (i) ten (10) days of a request therefor by the District or (ii) the next rental payment due under the Ground Lease.

F. MPHS shall not permit any architect, engineer, contractor or subcontractor to commence work on or relating to the Premises until such parties have complied with any

insurance standards that MPHS customarily requires of its architects, engineers, contractors, and subcontractors and shall use commercially reasonable efforts to require that the District be named as an additional insured under all such policies. MPHS shall also include the District in any indemnity provisions with such parties for defense and indemnification to the same extent MPHS is defended and indemnified.

3.05. Self-Insurance. MPHS may fulfill any or all of its insurance obligations under this Agreement by self-insurance provided and funded by MPHS, Sutter Health or any affiliate of Sutter Health (collectively, "**Authorized Entity**"). An Authorized Entity shall have the right to provide and fund self-insurance for any of the required insurance so long as the Authorized Entity notifies District in writing of the insurance coverages which MPHS elects to so self-insure, such self insurance generally fulfills all of the requirements for the insurance coverages set forth in Section 3.04 above (except for the requirement that the District be named as an additional insured) and submits to the District reasonably satisfactory evidence of a funded self-insurance program. If the Authorized Entity elects to so self-insure, then with respect to any claims which may result from incidents occurring during the term of this Agreement, such self-insurance obligation shall survive the expiration or earlier termination of this Agreement to the same extent as the insurance required under this Agreement would survive.

ARTICLE IV DEFAULT AND REMEDIES

4.01. Breach and Default by MPHS. Each of the following shall constitute a material default by MPHS of this Agreement. If any such default shall continue for sixty (60) days after written notice thereof from District to MPHS, then such default shall constitute an MPHS Default as defined under the Master Agreement; provided, however, as to any MPHS default or breach that MPHS is capable of curing, such material default or breach shall be deemed an MPHS Default hereunder only if MPHS fails to cure such default or breach within sixty (60) days after MPHS receives written notice thereof from the District, unless such breach or default cannot despite reasonable diligence by MPHS be cured within such sixty (60) days, in which case, such breach or default shall not be deemed an MPHS Default if MPHS commences to cure the breach or default promptly upon MPHS' receipt of the District's written notice thereof and MPHS thereafter diligently pursues and continues such cure until completed.

A. Failure to use its commercially reasonable efforts to substantially complete the Improvements so that the Start Service Date can occur on or before the time period provided in Section 1.05. This event shall be subject to the sixty (60)-day notice and cure provisions above.

B. MPHS shall be in material default in any of its other promises, covenants, obligations, or agreements contained in this Agreement. This event shall be subject to the sixty (60)-day notice and cure provisions above.

C. MPHS' express written repudiation of its obligation to construct the New Facility. This event shall not be subject to the sixty (60)-day notice and cure provisions above.

4.02. District's Remedies for MPHS' Breach. Upon any MPHS Default of this Agreement by MPHS, as determined under Section 4.01, that occurs before the Start Service Date, Section 5.02.A of the Master Agreement shall govern the parties' respective rights and obligations with respect to such default, including, without limitation, the remedies, and the limits thereon, that the District may pursue for such type of default, except that the District shall also have all of the rights set forth in Section 4.03 of this Agreement. Upon any MPHS Default of this Agreement by MPHS, as determined under Section 4.01, that occurs after the Start Service Date, Section 5.02.B.1 of the Master Agreement shall govern the parties' respective rights and obligations with respect to such default, including, without limitation, the remedies, and the limits thereon, that the District may pursue for such type of default, except that the District shall also have all of the rights set forth in Section 4.03 of this Agreement.

4.03. District's Right to Cure. The District may, after expiration of the applicable time for curing a particular Event of Default, or before the expiration of that time in the event of an emergency, at its election, but is not obligated to, make any payment required of MPHS under this Agreement or under any note or other document pertaining to the financing of the Improvements or the New Facility on the Premises, or to perform or comply with any covenant or condition imposed on MPHS under this Agreement or any such note or document. MPHS shall reimburse the District for the amount paid by the District, plus the reasonable cost and expenses of any such performance or compliance, within ten (10) days after MPHS receives a written invoice from the District therefor, which invoice shall include a reasonable detailing of the amounts paid by the District and the reasonable cost and expenses of any such performance or compliance. If MPHS objects to any invoiced amount or any portion thereof, MPHS must notify the District of its objection in writing within the 10-day period following MPHS' receipt of the District's invoice. If MPHS timely objects in writing to the District, MPHS shall promptly pay the portion, if any, of the invoice to which MPHS does not object and, if the parties cannot resolve their dispute over the remaining portion of the invoice within ten (10) days after the date of MPHS' written objection thereto, the parties shall submit the dispute to the dispute resolution process set forth in Section 6.05 of this Agreement. Any amount for which MPHS must reimburse the District under this Section 4.03 (including any reimbursement due to the District from MPHS after any dispute resolution) that MPHS does not remit to the District within the 10-day time limit shall bear interest on such sum at the rate then currently assessed by the Internal Revenue Service on tax deficiencies from the date of the District's payment, performance, or compliance through the date of MPHS' reimbursement. No such act by the District shall constitute a waiver of default or of any remedy for default or render District liable for any loss or damage resulting from any such act.

4.04. Default by District. Each of the following shall constitute a material default by District of this Agreement. If any such default shall continue for sixty (60) days after written notice thereof from MPHS to the District, then such default shall constitute a District Default as defined in the Master Agreement; provided, however, as to any District default or breach that the District is capable of curing, such material default or breach shall be deemed a District Default hereunder only if the District fails to cure such default or breach within sixty (60) days after the District receives written notice thereof from the MPHS, unless such breach or default cannot despite reasonable diligence by the District be cured within such sixty (60) days, in which case, such breach or default shall not be deemed a District Default if the District commences to cure

the breach or default promptly upon the District's receipt of MPHS' written notice thereof and the District thereafter diligently pursues and continues such cure until completed.

A. District shall be in material default in any of its promises, covenants, obligations, or agreements contained in this Agreement. This event shall be subject to the sixty (60)-day notice and cure provisions above.

B. District materially interferes with MPHS in the performance of its obligations under this Agreement. This event shall be subject to the sixty (60)-day notice and cure provisions above.

4.05. MPHS' Remedies for District's Breach. Upon any District Default of this Agreement by the District, as determined under Section 4.04, whether it occurs before or after the Start Service Date, Section 5.04.A of the Master Agreement shall govern the parties' respective rights and obligations with respect to such default, including, without limitation, the remedies, and the limits thereon, that MPHS may pursue for such type of default.

4.06. Force Majeure. The provisions regarding the parties' default and breach, and the cure of any default, shall be subject to the Force Majeure provisions of Section 6.03.

4.07. Exclusive Remedies. The remedies provided to the parties in this Article IV and Sections 5.02.A, 5.02.B.1, and 5.04.A of the Master Agreement shall be exclusive of and shall exclude any and all other remedies now or hereafter allowed by law or in equity.

4.08. Waiver of Breach. The waiver by a party of any breach by the other party of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach by such party of either the same or a different provision of this Agreement.

4.09. Protection of District Against Cost or Claim.

A. MPHS Obligations. MPHS shall not suffer or permit to be enforced against the Premises or any part of it any mechanic's, materialman's, contractor's or subcontractor's lien arising from any work of improvement or demolition, however it may arise. However, MPHS may in good faith and at MPHS' own expense contest the validity of any such asserted lien, claim, or demand, provided MPHS has furnished the bond required in California Civil Code Section 3143 (or any comparable statute hereafter enacted for providing a bond freeing the Premises from the effect of such a lien claim). MPHS shall defend and indemnify District against all Claims arising out of work performed on the Premises by or on behalf of MPHS, together with reasonable attorneys' fees and all costs and expenses incurred by District in negotiating, settling, defending or otherwise protecting against such Claims in the event of the breach by MPHS of the duty to defend or indemnify District.

B. District's Right to Discharge Lien. If MPHS does not cause to be recorded the bond described in California Civil Code Section 3143 or otherwise protect the Premises under any alternative or successor statute, and a final judgment has been rendered against MPHS by a court of competent jurisdiction for the foreclosure of a mechanic's, materialman's, contractor's or subcontractor's lien claim, and if MPHS fails to stay the execution of the judgment by lawful means or to pay the judgment, District shall have the right, but not the duty,

to pay or otherwise discharge, stay, or prevent the execution of any such judgment or lien or both. MPHS shall reimburse District for all sums paid by District under this Section, together with all Districts' reasonable attorneys' fees and costs, plus interest on those sums, fees and costs at the rate of 10% per year from the date of the District's payment thereof until the date of MPHS' reimbursement thereof.

ARTICLE V
TERM; TERMINATION OF AGREEMENT

5.01. Term. The term of this Agreement shall commence on the Effective Date and, unless sooner terminated in accordance with the terms of this Agreement, shall expire immediately after the last of the following occurs: (a) MPHS has completed construction of the Improvements (including those to be constructed post-demolition on the Existing Hospital Site), and (b) the parties have executed the Punch List Confirmation.

5.02. Termination by Any Party. This Agreement shall terminate upon any of the following events:

A. The Master Agreement or any other then-effective Definitive Agreement is properly terminated by any party;

B. The provisions of Article VI of the Construction Ground Lease regarding reversion to the Existing Lease are properly triggered by either party; or

C. The parties mutually agree to abandon the Restructured Relationship.

5.03. Simultaneous Termination. Any termination of this Agreement shall also terminate the other Definitive Agreements, but shall not terminate the Construction Ground Lease.

5.04. Termination by MPHS. Subject to the provisions of Section 1.04 of the Master Agreement, if MPHS is unable to obtain all Regulatory Approvals necessary to construct the Improvements in substantial conformance with the EIR, Regulatory Approvals and the AA Plans, through no fault of its own, after pursuing the same with the diligence required under Section 1.04 of the Master Agreement, MPHS may elect to terminate this Agreement by delivering written notice of the same to District in accordance herewith. In the event of such termination, MPHS and District shall be released from all further obligations to the other under this Agreement and the other Definitive Agreements, excluding the Construction Ground Lease, except for those obligations that, by their terms, survive termination of this Agreement or the other Definitive Agreements. District shall cooperate and use its reasonable best efforts within its power to assist MPHS in obtaining the Regulatory Approvals and all other required variances, zoning, licenses, permits, and other governmental approvals necessary to construct the New Facility and Improvements. Notwithstanding the foregoing, MPHS may not elect to terminate this Agreement hereunder because of minor changes to Improvements required in conjunction with Regulatory Approvals or any other required variances, zoning, licenses, permits, and other governmental approvals.

5.05. Continuation of Construction Ground Lease Upon Termination. Termination of this Agreement prior to the Start Service Date for any reason shall not terminate or modify the Construction Ground Lease, nor shall the breach by any party of this Agreement constitute a breach by that party of the Construction Ground Lease (unless the acts or omissions of the breaching party that cause the breach of this Agreement also constitute a breach by such party pursuant to the terms and conditions of the Construction Ground Lease).

ARTICLE VI MISCELLANEOUS

6.01. Recitals and Headings. The Recitals are incorporated herein by this reference. Each party represents and warrants to the other that it has no knowledge or notice of any facts or circumstances indicating that any of the Recitals is false, incomplete or misleading. The subject headings of the sections of this Agreement are included for convenience only and shall not affect the construction or interpretation of any of its provisions.

6.02. Entire Agreement. This Agreement, the Exhibits hereto, and the other Definitive Agreements and the exhibits thereto together constitute the entire agreement between the parties pertaining to their subject matter and supersede all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the party to be charged. Notwithstanding the foregoing, any supplement, modification or amendment to this Agreement that would be subject, if applicable, to voter approval pursuant to California Health and Safety Code Section 32121(p) or its successor statute(s) shall not be approved by the District until compliance with any such voter approval process. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

6.03. Third Persons. Except as expressly stated herein with regard to Sutter Health, nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement upon any persons other than the parties to it and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation or liability of any third persons to any party to this Agreement, nor shall any provisions give any third parties any rights of subrogation or action against or with respect to any party to this Agreement.

6.04. Representations to Survive. Except as otherwise provided herein, all representations, warranties, covenants and agreements of the parties contained in this Agreement, or in any instrument, certificate, exhibit, schedule or other writing provided for in it, shall survive the expiration or termination of this Agreement and shall be deemed to be material and have been relied upon by the parties.

6.05. Notices. All notices, requests, demands, waivers, consents and other communications hereunder shall be in writing, shall be delivered either in person, by telegraphic, facsimile or other electronic means, by overnight air courier or by mail, and shall be deemed to have been duly given and to have become effective (a) upon receipt if delivered in person or by

telegraphic, facsimile or other electronic means calculated to arrive on any business day prior to 6:00 p.m. local time at the address of the addressee, or on the next succeeding business day if delivered on a non-business day or after 6:00 p.m. local time, (b) one (1) business day after having been delivered to an air courier for overnight delivery, or (c) three (3) business days after having been deposited in the mails as certified or registered mail, return receipt requested, all fees prepaid, directed to the party or its designated assignees at the addresses listed below (or at such other address as shall be given in writing by a party).

IF TO DISTRICT:

PENINSULA HEALTHCARE DISTRICT
Attn: Chair of the Board
1783 El Camino Real, 1st Floor
Burlingame, CA 94010
FAX: (650) 696-5336

With a copy to:

Colin Coffey, Esq.
Archer Norris
2033 North Main Street, Suite 800
Walnut Creek, CA 94596
FAX: (510) 273-8832

IF TO MPHS:

MILLS-PENINSULA HEALTH SERVICES
Attn: President and Chief Executive Officer
1783 El Camino Real
Burlingame, CA 94010
FAX: (650) 696-5279

With a copy to:

Gary F. Loveridge
Senior Vice President & General Counsel
Sutter Health
2200 River Plaza Drive, 3rd Floor West
Sacramento, CA 95833
FAX: (916) 286-6781

With a copy to:

Cathy Deubel Salenko
McDonough Holland & Allen PC
555 Capitol Mall, 9th Floor
Sacramento, CA 95814
FAX: (916) 444-8334

Any party may change its address for purposes of this Section by giving the other parties written notice of the new address in the manner set forth above.

6.06. Counterparts. This Agreement may be executed in one or more counterparts, and when so executed each counterpart shall be deemed to be an original; said counterparts together shall constitute one and the same instrument.

6.07. Binding. This Agreement shall be binding upon and inure to the benefit of the parties hereto. No party may assign or transfer any rights under this Agreement. Each party shall be responsible hereunder only for its own obligations and shall not be deemed to guarantee or otherwise have responsibility for the representations, acts or omissions of the other party. Notwithstanding any assignment or delegation of rights or duties under this Agreement, no such assignment or delegation shall relieve the party of any obligation or liability under this Agreement.

6.08. Good Faith. Each of the parties agrees that it shall use its best efforts in good faith to cause all the conditions precedent to its respective obligations to be satisfied and to consummate the transactions contemplated by this Agreement. The parties agree to act at all times in good faith, to deal fairly with the other party, and not to take any action which will deprive the other party of the benefits of this Agreement.

6.09. Governing Law and Forum Selection. This Agreement shall be construed in accordance with and governed by the laws of the State of California. The Superior Court for the County of San Mateo, California shall have exclusive jurisdiction over any judicial proceedings relating to any dispute arising out of the interpretation, performance or breach of this Agreement.

6.10. Severability. Should any provision of this Agreement, or part thereof, be determined to be invalid for any reason, it shall be severed from this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall be enforceable in accordance with its terms.

6.11. Dispute Resolution. The parties shall follow the procedures set forth in Section 6.11 of the Master Agreement with regard to resolving disputes under this Agreement. The respective obligations of the parties set forth in this Section 6.11 shall survive the Closing and the expiration or termination of this Agreement.

6.12. Cost of Transaction. Except as expressly provided in this Agreement, whether or not the transactions contemplated hereby shall be consummated, the parties agree that each party shall pay the fees, expenses and disbursements of their own agents, representatives, accountants and counsel incurred in connection with the subject matter hereof and any amendments hereto.

6.13. Confidentiality. The parties agree that any information submitted to or compiled by a party which involves this Agreement, the Site Plan, the Definitive Agreements, the Restructured Relationship, or the Regulatory Approvals, or the budgetary information, personnel records, patient records, marketing plans, financial statements, trade secrets, research concepts, or methods or products or proprietary information belonging to or provided by the other party (the "**Confidential Information**") shall be confidential, except to the extent the other party consents to its disclosure or disclosure is required by law. Each of the parties agree that both

prior and subsequent to the Closing, it will maintain the confidentiality of all such Confidential Information delivered to it by the other party or the other party's agents or representatives and will only disclose such Confidential Information to its duly authorized officers, members, directors, representatives, counsel, consultants, and agents. Each of the parties further agree that if this Agreement is terminated prior to closing for any reason, it will return all such Confidential Information and all copies thereof in its possession to the other party to this Agreement. Nothing in this Section 6.13 shall prohibit a party from using or disclosing such Confidential Information as, in the reasonable opinion of the counsel for a party, is (i) required by law or governmental regulations, (ii) reasonably required in order for the party to perform any of its obligations or to enforce or exercise any of its rights under this Agreement, (iii) as is reasonably required in order to obtain final approval of any of the Regulatory Approvals, or Financing, (iv) in any litigation or arbitration between the parties, or (v) as is otherwise necessary or appropriate. The respective obligations of the parties set forth in this Section 6.13 shall survive the Closing and the expiration or termination of this Agreement.

6.14. Force Majeure. If the performance of any act required by this Agreement to be performed by either District or MPHS, including without limitation the implementation of a cure of any default, is prevented or delayed by reason of any act of God, any act of the other party, fire, earthquake, strike, lockout, labor trouble, inability to secure materials, restrictive governmental laws or regulations, inability to secure required approvals, permits and the like, or any other cause (except financial inability) not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused.

6.15. Construction. No provision of this Agreement shall be construed against or interpreted to the disadvantage of either District or MPHS by any court, arbitrator, or other governmental or judicial authority by reason of such party's having or being deemed to have structured, written, drafted, or dictated such provisions.

6.16. Correction of Technical Errors. If by reason of inadvertence, and contrary to the intention of the District and MPHS, errors are made in this Agreement in the identification or characterization of any title exception, in a legal description or the reference to or within any Exhibit or Schedule with respect to a legal description, in the boundaries of any parcel in any map or drawing which is an Exhibit or Schedule, or in the typing of this Agreement or any of its Exhibits or Schedules, the District and MPHS by mutual agreement may correct such error by memorandum executed by them without the necessity of amendment of this Agreement.

6.17. Non-Material Amendments. The District shall designate a representative who shall have the authority, on behalf of the District, to consent to any non-material amendments or other modifications to this Agreement, after consultation with the District Board, where necessary or appropriate. For purposes of hereof, "non-material amendment" shall mean any amendment that does not materially increase the costs or liabilities of the District, does not materially alter the development and uses contemplated by this Agreement, or does not materially increase the time periods for development and construction of the Improvements, or does not decrease or modify the time periods provided for or the rights for review or approval by the District, including, without limitation, any rights for review and approval of changes in development, use, programs or services in connection with the development or operation of the

Improvements. Material amendments to this Agreement that would materially alter the rights or obligations of the parties or the principal benefits as provided in this Section shall be subject to the provisions of Section 6.02.

6.18. Time is of Essence. Time is expressly declared to be of the essence of this Agreement.

6.19. Cooperation. The parties shall fully cooperate as reasonable and necessary to enable effective performance of this Agreement. In furtherance of this objective, each party agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

6.20. Schedules and Exhibits. All schedules and exhibits to which reference is made in this Agreement are incorporated in the Agreement by the respective references to them, whether or not they are actually attached, provided they have been signed or initialed by the parties. Reference to "this Agreement" includes matters incorporated by reference.

Dated: _____, 2005.

PENINSULA HEALTHCARE DISTRICT,
a political subdivision of the State of California

MILLS-PENINSULA HEALTH SERVICES,
a California nonprofit public benefit
corporation

By: _____
Donald E. Newman, M.D.
Chair

By: _____
Robert W. Merwin,
Chief Executive Officer

EXHIBIT A
SITE PLAN FOR NEW FACILITY SITE

EXHIBIT B
FORM OF GUARANTY AGREEMENT

GUARANTY

This Guaranty ("Guaranty") is dated as of _____, 2005, and entered into by Sutter Health, a California nonprofit public benefit corporation (the "Corporation"), for the benefit of Peninsula Healthcare District, a political subdivision of the State of California (the "District").

Recitals

A. Contemporaneously with the execution of this Guaranty, Mills-Peninsula Health Services, a California nonprofit public benefit corporation ("MPHS"), and District have entered into a Construction Agreement dated _____, 2005 ("Construction Agreement"), under which MPHS has agreed to construct a new general acute care hospital (the "New Facility") and appurtenant parking facility and parking areas, a medical office building, helipad and other related improvements and landscaping (the "Related Improvements"), demolish the existing Peninsula Medical Center located at 1783 El Camino Real, Burlingame, California 94010 (the "Existing Hospital"), and to prepare the 4.15 acre parcel that the District shall retain (the "District's 4.15 Acre Parcel"). The New Facility and the Related Improvements may be collectively referred to herein as the "Improvements";

B. Corporation is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and is the sole corporate member of MPHS; and

C. District is willing to enter into the Construction Agreement and the other Definitive Agreements (as defined in the Construction Agreement) with MPHS only if Corporation guarantees certain obligations of MPHS under the Construction Agreement.

In consideration of District entering into the Construction Agreement and the other Definitive Agreements with MPHS, and for other valuable consideration, Corporation hereby agrees as follows:

1. Corporation guarantees and promises District that Corporation shall perform MPHS' obligations to construct the Improvements, demolish the Existing Hospital and prepare the District's 4.15 Acre Parcel under the Construction Agreement should MPHS fail to do so.

2. This Guaranty is effective as of the Closing Date (as defined in the Construction Agreement) and shall terminate on the expiration or termination of the Construction Agreement for any reason other than breach of the Construction Agreement by MPHS. This Guaranty cannot be revoked and shall continue in full force and effect until the obligations of MPHS to construct the Improvements, demolish the Existing Hospital and prepare the District's 4.15 Acre Parcel under the Construction Agreement are fully performed, except that neither MPHS nor Corporation shall have any obligation to perform such of MPHS' obligations under the Construction Agreement if either: (a) District is in material default under the Construction Agreement or any of the other Definitive Agreements; or (b) the Construction Agreement has expired or was terminated for any reason other than breach by MPHS.

3. The obligations hereunder are independent of the obligations of MPHS and a separate action or actions may be brought and prosecuted against Corporation whether action is brought against MPHS or whether MPHS is joined in any such action or actions; and Corporation waives the benefit of any statute of limitations affecting its liability hereunder or the enforcement thereof. It is understood and agreed that District shall not be required to first proceed against or exhaust their remedies against MPHS before proceeding to enforce this Guaranty, and Corporation obligates itself to perform MPHS' obligations to construct the Improvements, demolish the Existing Hospital and prepare the District's 4.15 Acre Parcel under the Construction Agreement as if those obligations were direct primary obligations of Corporation.

4. Corporation waives any right to require District to proceed against MPHS or pursue any other remedy in District's power whatsoever. Corporation waives any defense arising by reason of any disability or other defense of MPHS or by reason of the cessation from any cause whatsoever of the liability of MPHS. Until MPHS' obligations to District to construct the Improvements, demolish the Existing Hospital and prepare the District's 4.15 Acre Parcel under the Construction Agreement shall have been fully performed, Corporation shall have no right of subrogation and waives any right to enforce any remedy which District now has or may hereafter have against MPHS. Corporation waives all presentments, demands for performance, notices of nonperformance, protests and notices of protest, notices of dishonor and notices of acceptance of this Guaranty.

5. It is not necessary for District to inquire into the powers of MPHS or the officers, directors or agents acting or purporting to act on its behalf.

6. Nothing in this Guaranty, whether express or implied, is intended to confer any rights or remedies under or by reason of this Guaranty on any persons other than District and its respective successors and assigns, nor is anything in this Guaranty intended to relieve or discharge the obligation or liability of any third persons to any party to this Guaranty, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Guaranty.

7. No amendment or waiver of any provision of this Guaranty or consent to any departure by Corporation therefrom shall be effective unless the same shall be in writing and signed by District and Corporation. No failure on the part of District to exercise and no delay in exercising any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

8. All notices, requests, demands, waivers, consents and other communications hereunder shall be in writing, shall be delivered either in person, by telegraphic, facsimile or other electronic means, by overnight air courier, or by mail, and shall be deemed to have been duly given and to have become effective (a) upon receipt if delivered in person or by telegraphic, facsimile or other electronic means calculated to arrive on any business day prior to 6:00 p.m. local time at the address of the addressee, or on the next succeeding business day if delivered on a non-business day or after 6:00 p.m. local time, (b) one (1) business day after having been delivered to an air courier for overnight delivery, or (c) three (3) business days after having been

deposited in the mails as certified or registered mail, return receipt requested, all fees prepaid, directed to the party or its designated assignees at the addresses listed below (or at such other address as shall be given in writing by a party).

IF TO DISTRICT:

PENINSULA HEALTHCARE DISTRICT

Attn: Chair of the Board
1783 El Camino Real, 1st Floor
Burlingame, CA 94010
FAX: (650) 696-5336

With a copy to:

Colin Coffey, Esq.
Archer Norris
2033 North Main Street, Suite 800
Walnut Creek, CA 94596
FAX: (510) 273-8832

IF TO MPHS:

MILLS-PENINSULA HEALTH SERVICES

Attn: President and Chief Executive Officer
1783 El Camino Real
Burlingame, CA 94010
FAX: (650) 696-5279

With a copy to:

Gary F. Loveridge
Senior Vice President & General Counsel
Sutter Health
2200 River Plaza Drive, 3rd Floor West
Sacramento, CA 95833
FAX: (916) 286-6781

With a copy to:

Cathy Deubel Salenko
McDonough Holland & Allen PC
555 Capitol Mall, 9th Floor
Sacramento, CA 95814
FAX: (916) 444-8334

IF TO CORPORATION:

SUTTER HEALTH
Attn: President and Chief Executive Officer
2200 River Plaza Drive, 3rd Floor West
Sacramento, CA 95833
FAX: (916) 286-6781

With a copy to:

Gary F. Loveridge
Senior Vice President & General Counsel
Sutter Health
2200 River Plaza Drive, 3rd Floor West
Sacramento, CA 95833
FAX: (916) 286-6781

With a copy to:

Cathy Deubel Salenko
McDonough Holland & Allen PC
555 Capitol Mall, 9th Floor
Sacramento, CA 95814
FAX: (916) 444-8334

Any party may change its address for purposes of this paragraph by giving the other parties written notice of the new address in the manner set forth above.

9. This Guaranty shall be construed in accordance with and governed by the laws of the State of California. In any action brought under or arising out of this Guaranty, Corporation hereby submits to the jurisdiction of any competent federal or state court within the State of California and consents to service of persons by any means authorized by California or federal law.

10. This Guaranty constitutes the entire agreement of Corporation with respect to the matters set forth herein. The rights and remedies herein provided are cumulative and not exclusive of any remedies provided by law or any other agreement, and this Guaranty shall be in addition to any other guaranty of MPHS' obligations to construct the Improvements, demolish the Existing Hospital and prepare the District's 4.15 Acre Parcel under the Construction Agreement. The invalidity or unenforceability of any one or more sections of this Guaranty shall not affect the validity or enforceability of its remaining provisions.

11. In any suit or arbitration between the parties that arises out of or relates to this Guaranty, including any suit or arbitration to enforce any covenant or agreement hereunder or to interpret any provision hereof, the non-prevailing party shall pay all costs and expenses of the prevailing party in connection with the suit or arbitration, including, without limitation, court or arbitration costs, arbitrators' fees, reasonable attorneys' fees and reasonable expert witness fees, including any such fees and costs as may be incurred in enforcing any judgment or order entered

in any arbitration or legal action, and any such fees and costs of any appeal. The costs and expenses to be paid shall be included in any arbitration award or judgment or decree entered in such arbitration or suit.

12. Dispute Resolution.

A. Procedures. The parties shall use their best good faith efforts to resolve disputes quickly and in an informal, professional and business-like manner. If the parties are unable to resolve quickly any dispute, the parties shall comply with the following procedures:

1. Meet and Confer. The parties agree to meet and confer on any issue that is the subject of a dispute under a specific term of this Agreement ("**Meet and Confer**"), as a condition precedent to the mediation and arbitration provisions of subsections 2 and 3 of this Section 12. Any ambiguity or uncertainty as to whether a dispute is subject to the procedures set forth in this Section 12 shall be resolved in favor of the application of these provisions. The party seeking to initiate the Meet and Confer procedures ("**Initiating Party**") shall give written notice to the other party, describing in general terms the nature of the dispute, the Initiating Party's position and a summary of the evidence and arguments supporting its position and identifying one or more individuals with authority to settle the dispute on such party's behalf. (The individuals so designated by a party shall be known as the "**Authorized Individuals.**")

The party receiving such notice (the "**Responding Party**") shall have ten (10) business days within which to respond. The response shall be in writing, shall include the Responding Party's position, a summary of the evidence and arguments supporting its position and shall also identify one or more Authorized Individuals with authority to settle the dispute on such party's behalf. The Authorized Individuals for the parties shall meet at a mutually acceptable time and place within thirty (30) days of the Initiating Party's notice and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within sixty (60) days of the Initiating Party's notice, or if the Responding Party fails to timely provide its written response or will not meet within thirty (30) days, the parties shall submit the dispute to mediation in accordance with Section 12.A.2 and shall give the other party written notice that the matter is being submitted to mediation. All deadlines specified in this Meet and Confer provision may be extended by mutual agreement.

2. Mediation. Within ten (10) business days of the notice of submission to mediation, the parties shall agree upon a mediator. If the parties are unable to agree, a mediator shall be appointed by the American Arbitration Association, San Francisco office. In consultation with the mediator selected, the parties shall promptly designate a mutually convenient time and place for the mediation, such time to be no later than thirty (30) days after selection of the mediator. At the mediation, each party shall be represented by persons with authority to negotiate a resolution of the dispute and may be represented by counsel. The mediator shall determine the format for the meetings. The mediation session shall be private. The fees and expenses of the mediator shall be borne equally by the parties. The entire mediation process shall be confidential and the privileges and protection of Evidence Code Sections 1115 through 1128 shall apply. Prior to commencement of mediation, if requested by either party or

mediator, the parties and the mediator shall execute a written confidentiality agreement. If, as the result of mediation, a voluntary settlement is reached and the parties agree that such settlement shall be reduced to writing, the mediator shall be deemed appointed and constituted an arbitrator for the sole purpose of signing the mediated settlement agreement. Such agreement shall be, and have the same force and effect as, an arbitration award and judgment may be entered upon it in accordance with applicable law in any court in Sacramento County, California.

3. Arbitration. If the parties cannot resolve a dispute after exhaustion of the Meet and Confer and the mediation procedures as set forth above, they shall submit it to binding arbitration in accordance with the then prevailing rules of the American Arbitration Association and judgment upon the award rendered may be entered and enforced in any court of competent jurisdiction in Sacramento County, California. The arbitrator shall be knowledgeable in and familiar with health care delivery systems and managed care, shall have jurisdiction to resolve disputes only in accordance with the provisions and limitations of this Agreement, shall follow California and federal substantive rules of law to the extent applicable and not inconsistent with this Agreement, shall require the testimony be transcribed at the request of any party, and shall render a decision in writing accompanied by finding of facts and a statement of reasons for the decision. The decision of the arbitrator shall be final and non-appealable. The place of arbitration shall be Sacramento County, California.

B. Provisional Remedies; Survival. Notwithstanding the provisions of Section 12.A.3, each party shall have the right to seek provisional remedies from a court of competent jurisdiction in Sacramento County, California, in accordance with Code of Civil Procedure Section 1281.8. The provisions of this Section 12 shall survive the termination of this Agreement.

Dated as of _____, 2005.

SUTTER HEALTH, a California
nonprofit public benefit corporation

By _____

Its _____