

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("Agreement") is dated effective October __, 2007, and is by and among Eden Township Healthcare District, a California healthcare district (the "District"), Eden Medical Center, a California nonprofit public benefit corporation ("EMC"), and Sutter Health, a California nonprofit public benefit corporation ("Sutter Health"). The District, EMC and Sutter Health may be collectively referred to herein as the "Parties."

RECITALS

A. District is a California healthcare district under the Local Health Care District Law, California Health & Safety Code Sections 32000 *et seq.*, that owns a general acute care hospital located at 13855 East 14th Street, San Leandro, California 94578, commonly known as San Leandro Hospital ("SLH").

B. Sutter Health operates an integrated healthcare delivery system in Northern California.

C. EMC owns and operates a general acute care hospital located at 20103 Lake Chabot Road, Castro Valley, California 94546, commonly known as Eden Medical Center ("Eden Hospital"), and leases from the District and operates SLH. Sutter Health acquired Eden Hospital from the District pursuant to the Memorandum of Understanding dated June 11, 1997, as amended, by and between the District and Sutter Health ("1996 MOU"). As part of this acquisition, Sutter Health formed EMC to own and operate Eden Hospital. Sutter Health is the corporate member of EMC ("Corporate Member") and the District is the community member of EMC ("Community Member").

D. In 2004, in an effort to reduce costs through an alignment of operations, the District purchased the assets of SLH from a third party and leased SLH to EMC pursuant to a Lease and Hospital Operations Agreement dated May 17, 2004 ("Lease"), by and between the District and EMC. Pursuant to the terms of the Lease, EMC agreed, subject to specified terms and conditions, to build a replacement facility for Eden Hospital. Sutter Health entered into a guaranty of EMC's performance of EMC's obligations in the Lease concerning a replacement facility ("Guaranty").

E. The District has determined that the transactions contemplated by this Agreement and related agreements will facilitate the provision of health care services and/or health care facilities for the communities served by the District and will therefore benefit the District and communities served by the District.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

ARTICLE I EFFECTIVE DATE

1.01. Effective Date. This Agreement shall be effective on October __, 2007 (the "Effective Date").

1.02. Representations, Warranties and Agreements. By execution of this Agreement, the Parties covenant and agree that the representations and warranties of the Parties set forth in Schedule 1.02, respectively, are true and correct in all material respects as to such Party as of the Effective Date, except for representations and warranties specifically relating to a time or times other than the date of this Agreement, which shall be true and correct in all material respects at such time or times.

1.03. Deliveries on the Effective Date. Contemporaneously with the execution of this Agreement, the Parties shall deliver to each other:

- A. The executed closing agreement attached as Exhibit 1.03A ("Closing Agreement");
- B. The executed amended and restated lease and hospital operations agreement attached as Exhibit 1.03B ("Amended Lease");
- C. The following amended bylaws of EMC adopted by EMC and approved by the District and Sutter Health:
 - 1. To be effective upon the Effective Date and attached as Exhibit 1.03C-1 ("Amended Bylaws"); and
 - 2. To be effective upon the Approval Date (as defined below) and attached as Exhibit 1.03C-2 ("Approval Bylaws").
- D. The executed escrow agreement attached as Exhibit 1.03.D ("Escrow Agreement");
- E. Certified resolutions of each Party authorizing this transaction, the execution of this Agreement, the Closing Agreement, the Amended Lease, the Escrow Agreement, all other related documents, the adoption by EMC and the approvals of the District and Sutter Health of the Amended Bylaws and, in the case of the District, the resignation of membership in EMC;
- F. Opinions of counsel of each Party dated the Effective Date and covering the matters described in Schedule 1.03F;
- G. The executed second amendment to restated management services agreement attached as Exhibit 6.10 ("Amended Management Agreement"); and
- H. All other documents required to be delivered by the Parties hereunder or deemed necessary or advisable by legal counsel to the Parties.

1.04. 1996 MOU. Except to effect the transfer of the Transferred Assets (as defined in the 1996 MOU) as provided for under the terms of the 1996 MOU, this Agreement supersedes the 1996 MOU. The District and Sutter Health agree that any obligations under 1996 MOU are either fully performed or hereby terminated and shall have no force and effect as of the Effective Date.

ARTICLE II MASTER FACILITY PLAN

2.01. Master Facility Plan. The Parties have developed and approved a master facility plan for the Eden campus attached as Exhibit 2.01 ("Master Facility Plan"). A material change to the Master Facility Plan shall be amended by mutual agreement of the Parties except as provided in Section 3.04 with regard to the MOB (as defined therein).

2.02. Sutter Health Facility and Planning Development. Sutter Health, through its Sutter Health Facility and Planning Development department ("SHFPD"), is solely responsible for all aspects of the management, planning, design and development of the New Sutter Facility, including but not limited to budget control, selection of architects, engineers, consultants and project management staff. SHFPD shall work in conjunction with the MFPC (as defined below) to implement the Master Facility Plan in accordance with the terms of this Agreement.

2.03. Master Facility Planning Committee. Sutter Health has formed a master facility planning committee composed of representatives from each of the Parties ("MFPC"). The MFPC shall work collaboratively in an advisory role with SHFPD to complete architectural planning for the New Sutter Facility and associated budgets in accordance with the Master Facility Plan and this Agreement and will continue to do so until the Approval Date (as defined in Section 5.01 below). The MFPC shall establish regular meetings as necessary to perform its function as described herein in a timely manner consistent with the timelines set forth in the Master Facility Plan.

ARTICLE III NEW SUTTER FACILITY PROJECT

3.01. New Sutter Facility. Sutter Health will develop and construct a 130-bed general acute care hospital and related improvements in accordance with the Master Facility Plan to be located on the existing Eden Hospital campus ("New Sutter Facility"). The cost of construction of the New Sutter Facility as described in the Master Facility Plan, including but not limited to all planning and construction documents and securing all permits and approvals required from governmental agencies for construction of the New Sutter Facility and demolition of Eden Hospital (exclusive of the medical office building as described in Section 3.04) (the "Project"), is estimated to cost three hundred million dollars (\$300,000,000) ("Estimated Project Cost"). Sutter Health or, at Sutter Health's option, EMC (after the District resigns from governance in EMC in accordance with Article V) or another Sutter Health affiliate shall own and operate the New Sutter Facility. The District shall have no ownership interest in the New Sutter Facility.

3.02. Demolition of Eden Hospital. The Parties intend that Eden Hospital be demolished within a reasonable time after the commencement of the provision of health care services at the New Sutter Facility and acute care in-patient services are no longer provided at Eden Hospital. For this reason, the District hereby terminates its right to purchase the assets comprising the Eden Hospital principally under Article 8 of the 1996 MOU.

3.03. Changes in Estimated Project Cost and Project. If the Project exceeds the Estimated Project Cost, Sutter Health may, within its sole discretion, implement design changes, re-engineer the Project and amend the Master Facility Plan (except for a material changes which would required the Parties mutual consent as set forth in Section 2.01) to reduce costs as

necessary to obtain regulatory approval and not exceed the Estimated Project Cost; however, such redesign and reengineering shall not reduce the number of beds as described in Section 3.01 or the minimum services to be provided at the New Sutter Facility on the Start Service Date as described in Section 7.01. Should the Project cost less than the Estimated Project Cost, Sutter Health may retain any savings for future capital needs for EMC.

The Parties agree that Sutter Health should have no obligation to make changes to the Project that materially impact the Estimated Project Cost or Project scope as described in the Master Facility Plan as a result of changes or conditions required by the lead agency in the regulatory approval process. If regulatory approval is denied or conditioned upon a change or condition that materially impacts the Estimated Project Cost or Project scope as described in the Master Facility Plan, then Sutter Health may construct a 130-bed general acute care facility to be owned by Sutter Health or a Sutter Health affiliate on another site within the District provided (a) that Sutter Health demonstrates to the District that construction of such substitute facility on the alternative site will cost less than construction of the New Sutter Facility on the Eden Hospital campus and demolition of the Eden Hospital, and (b) such substitute facility is completed by December 31, 2015 (or such time as delayed or tolled under this Agreement or as otherwise agreed upon by the Parties). The Parties agree that such substitute facility shall be acceptable to all Parties for purposes of Sutter Health's meeting its Construction Obligation (as defined below) without further obligation.

3.04. Medical Office Building. Sutter Health, at its option, may construct, at its own expense, a medical office building on or near the Eden Hospital campus ("MOB"), or arrange for the development and construction of the MOB by a third party. Sutter Health or, at Sutter Health's option, EMC (after the District's resigns from governance in EMC in accordance with Article V) or another Sutter Health affiliate shall own the MOB. The District shall have no ownership interest in the MOB. The MOB shall not be included in the Estimated Project Cost. Sutter Health shall make all determinations concerning the development and construction of such MOB. The MOB project may be included in the Master Facility Plan; provided, however, that the Master Facility Plan with regard to the MOB may be unilaterally amended by Sutter Health. In no event shall an amendment to the Master Facility Plan concerning the MOB which materially changes the Master Facility Plan be amended without the mutual agreement of the Parties.

3.05. Project Funding.

A. By Sutter Health. Sutter Health shall be solely responsible for the cost of development and construction of the Project and any costs it may incur in excess of the Estimated Project Cost in accordance with the terms of this Agreement.

B. By District. The District shall have no obligation to fund the Project or the New Sutter Facility, its programs and services. The District may, in its sole discretion, consider the needs of the development and operation of the New Sutter Facility in its community benefit allocations and evaluate the contribution of property and funds to support development of new facilities, equipment, programs and services for the New Sutter Facility as it would normally do in making such grants to other nonprofit, community based organizations within the District

to benefit residents of the District. In recognition of community need, the District will give priority to funding projects supporting the recruitment and retention of new physicians.

ARTICLE IV SLH CAMPUS

4.01. Continuation of General Acute Care Services at SLH.

A. SLH Improvement Plan. Sutter Health, in collaboration with EMC and the District, developed a SLH Improvement Plan to address the continuation of general acute care services at SLH until June 30, 2009 ("SLH Plan"), which is attached as Schedule 4.01A. Subject to the support of the EMC Medical Staff and Physician Leadership Committee, Sutter Health and EMC will implement the SLH Plan, including the acute rehabilitation conversion. In addition, Sutter Health shall monitor on an ongoing basis the financial feasibility of the provision of general acute services at SLH, which will be monitored and measured independently from EMC's operation of its Eden Hospital campus. This feasibility will be measured against a goal of achieving break-even net operating income in subsequent twelve (12) month fiscal year periods as determined by generally accepted accounting principles consistently applied.

B. General Acute Care Services at SLH after June 30, 2009. The Parties understand and agree that any commitment to continue general acute care services at SLH will not extend beyond June 30, 2009, if the Target is not achieved for the twelve (12) month period commencing July 1, 2007, through June 30, 2008. If it is determined by Sutter Health that continuation of general acute care services at SLH after June 30, 2009, is not financially feasible or, by mutual agreement of the Parties, such continuation of services will not be pursued for any reason, Sutter Health and EMC will work collaboratively with the EMC Medical Staff to implement an orderly transition plan for the discontinuation of such services. The Parties understand and agree that on or after July 1, 2009, Sutter Health, at its option, may reduce or eliminate services at SLH.

4.02. Amended Lease. District and EMC shall enter into the Amended Lease contemporaneously with execution of this Agreement. The understanding of the Parties as set forth in Sections 4.03 and 4.04 shall be memorialized in the Amended Lease. Upon any inconsistency between this Agreement and the Amended Lease, the Amended Lease shall control.

4.03. Sutter Health's Option to Purchase. If, commencing July 1, 2009, and until June 30, 2010, Sutter Health elects for EMC to continue to provide services under the Lease or any amendments thereto (including but not limited to services provided as a regional acute rehabilitation center or other Sutter Health regional service), Sutter Health (or at Sutter Health's option, a new Sutter Health affiliate or EMC) shall have an option to purchase the Leased Property (as defined in the Lease) consisting of San Leandro Hospital and employee parking lot exclusive of the two medical office buildings and further described in the Amended Lease ("Property"). Should Sutter Health elect to exercise this option, the purchase price shall be an amount equal to the net book value of SLH as of the Effective Date less an amount equal to (a) the total cash losses attributable to SLH, and (b) capital expenditures made by EMC and/or Sutter Health for SLH since the commencement date of the Lease that were not otherwise required as rental payments pursuant to Section 1.2 of the Lease (the "Purchase Price"). The

Parties acknowledge and agree that if the total of (a) and (b) above exceed the net book value of SLH as of the Effective Date, Sutter Health shall be deemed to have paid the Purchase Price in full and no balance shall be due to effect the purchase under the option.

Upon Sutter Health's election to exercise its option to purchase, Sutter Health shall pay the District the balance of Purchase Price (if any) in cash or immediately available funds, the District shall transfer fee ownership of the Property to Sutter Health, or at Sutter Health's option, a new Sutter Health affiliate, the owner and operator of the New Sutter Facility or EMC, and the District shall accept such Purchase Price as payment in full for such Property. If Sutter Health or a new Sutter Health affiliate or EMC assumes ownership of the Property, the Lease shall terminate effective the transfer date and the District will support the transfer of the facility license and provider number, as appropriate, and reasonably cooperate in the transition to reduce disruption of operations and reimbursement. Following such purchase and until the Start Service Date, Sutter Health agrees that it shall not cause the transfer of ownership of SLH to an entity other than a new Sutter Health affiliate, the owner and operator of the New Sutter Facility, the East Bay regional corporation described in Section 5.04, or EMC without the District's prior written consent.

4.04. Lease Termination. If Sutter Health does not exercise its option to purchase as described in Section 4.03 above, Sutter Health may cause EMC to terminate the Lease upon ninety (90) days prior written notice to the District effective at any time commencing July 1, 2009, and until June 30, 2010. If Sutter Health does not provide prior written notice of termination of the Lease as required under this Section, the Lease shall automatically terminate effective June 30, 2010. EMC shall transfer possession of SLH to the District on the effective date of termination of the Lease. On the effective date of termination of the Lease, the District shall pay to Sutter Health an amount (the "Capital Expenditure Payment") equal to all capital expenditures made by Sutter Health for the benefit of SLH (including but not limited to any capital expenditures for conversion to acute rehabilitation) from the Effective Date to the termination of the Lease. Notwithstanding the actual amount of such capital expenditures, the Capital Expenditure Payment shall not exceed five million dollars (\$5,000,000). The Capital Expenditure Payments shall not include any amount representing rent payments under the Lease.

ARTICLE V EMC GOVERNANCE

5.01. District's Resignation of Membership in EMC. The District shall resign as the Community Member in EMC in accordance with the terms of this Section 5.01.

A. Resignation Effective Upon Approval Date. Prior to execution of this Agreement, the District shall have taken all action necessary to resign as the Community Member of EMC and eliminate the EMC board seats that were appointed by the District, as the Community Member, prior to the Approval Date. Such resignation shall occur automatically, effective the earlier of (i) approval of conforming documents (i.e., stamped drawings) by Office of Statewide Health Planning and Development ("OSHPD") as required for complete construction of all phases of the New Sutter Facility, or (ii) six (6) months after the commencement of construction of the New Sutter Facility foundation and structure ("Approval Date"). Even though such resignation shall occur automatically upon the Approval Date, the

District shall provide the other Parties with written notice of resignation of the District as the Community Member of EMC effective the Approval attached as Exhibit 5.01A.

The Parties intend, and the District specifically intends, that its resignation as the Community Member of EMC be effective automatically on the Approval Date without further action by the District. It is the specific intent of the Parties that the District have no membership or other interest in EMC except as expressly stated in this Agreement, including but not limited to any right to appoint or otherwise control EMC's board, as of the Approval Date, and that any action taken by the District (except as provided in Section 5.01), any Party or any third party to maintain the District as the Community Member or other member of EMC after the Approval Date shall have no force or effect.

B. Notice of Approval Date. Sutter Health shall give the District written notice of either OSHPD's approval of conforming documents (i.e., stamped drawings) or Sutter Health's commencement of construction of the New Sutter Facility foundation and structure. Such notice shall specify the Approval Date, and such Approval Date specified in such notice shall be conclusive for purposes of the resignation of the District as provided in this Section 5.01. Should the District dispute the Approval Date as specified in such notice, then such dispute shall be resolved pursuant to the dispute resolution provisions of Section 10.10 and the District's resignation as the Community Member of EMC shall continue throughout such process unless otherwise determined in accordance with Section 9.03C upon an Event of Default (as defined in Section 9.02).

5.02. Continuity of Governance Upon Approval Date. To ensure continuity of governance immediately after the Approval Date (and after the District's resignation as the Community Member of EMC in accordance with Section 5.01), Sutter Health agrees that the then-current Sutter Health appointed EMC board members may continue with their then-current board terms for the remainder of their respective terms.

5.03. New Sutter Health Appointed EMC Board Members. Sutter Health agrees that a majority of the EMC board of directors shall be composed of residents of the community served by the New Sutter Facility prior to any Sutter East Bay regionalization (as discussed in Section 5.04). If EMC is not the entity that owns and/or operates the New Sutter Facility, then Sutter agrees that a majority of the Sutter Health affiliate that owns and/or operates the New Sutter Facility shall be composed of residents of the community served by the New Sutter Facility prior to any Sutter East Bay regionalization. For purposes of this Agreement, the community served by the New Sutter Facility shall be the geographic area comprised of the zip codes in Schedule 5.03 attached. The Parties agree that there will be a reasonable transition time after the Approval Date to configure the appropriate board of EMC or the Sutter Health affiliate that owns and/or operates the New Sutter Facility after the Approval Date.

5.04. Regionalization. The Parties acknowledge that it is anticipated that EMC and other Sutter Health affiliates in the East Bay may adopt a single corporate regional governance structure in the future. If this should occur, it is anticipated that EMC will merge into an East Bay regional corporation (or another Sutter Health affiliate designated for such purpose) and EMC will cease to be a separate legal entity. Although the organizational details of any such regional governance structure have yet to be determined, it is anticipated that EMC will cease to

be a separate legal entity in such a regional reorganization. The Parties acknowledge and agree that such regional reorganization may be consummated without further consent of either the District or EMC.

Upon any regionalization, Sutter Health shall appoint to the East Bay regional corporation as representative of EMC a minimum of two (2) board members that are residents of the community served by the New Sutter Facility as shown on Schedule 5.03.

5.05. Changes to EMC's Bylaws.

A. Amended Bylaws. District and Sutter Health shall agree to approve, and EMC shall agree to adopt, the Amended Bylaws which shall be effective on the Effective Date. The Amended Bylaws shall include the matters set forth in Section 5.04 above. In addition, the Amended Bylaws shall provide that upon the Effective Date until automatic termination on the Approval Date, any block voting requirements by the District and Sutter Health, as members of EMC, shall be deleted and the Chief Executive Officer of EMC ("CEO") shall be a non-voting ex-officio member of the EMC Board. Further, the Amended Bylaws shall provide that the CEO shall be selected and employed as other chief executive officers of other Sutter Health affiliate hospital corporations. The current CEO will transition to the employment of Sutter Health upon the Effective Date.

The current selection process and employment status for chief executive officers of Sutter Health affiliate hospital corporations provides that the President and CEO of Sutter Health ("Sutter CEO") shall screen candidates when the CEO is to be hired and shall present finalists to the affiliate board for selection. The CEO shall be an employee of Sutter Health. A designated committee of the affiliate shall meet with and provide an evaluation of the CEO and shall make compensation recommendations, based on an agreed upon salary system and survey process, to the Sutter CEO, who shall make the final determination. The CEO shall serve at the pleasure of Sutter Health, acting through the Sutter CEO, and the affiliate board, and either, with the approval of the other, may terminate the CEO's services.

B. Approval Bylaws. District and Sutter Health shall agree to approve, and EMC shall agree to adopt, the Approval Bylaws which shall be effective on the Approval Date. The Approval Bylaws shall include the matters set forth in Section 5.04 above. In addition, the Approval Bylaws shall eliminate the EMC board seats that were appointed by the District prior to the Approval Date and for the CEO to continue to be a non-voting ex-officio member of the EMC Board and be selected and employed as other chief executive officers of other Sutter Health affiliate hospital corporations.

ARTICLE VI PRE-START SERVICE DATE COVENANTS

6.01. Regulatory Approvals. Sutter Health or its authorized agent will obtain final approval of all of the permits, certifications, and approvals required for and with respect to implementing the Master Facility Plan and development and construction of the Project (the "Regulatory Approvals"). The District shall publicly endorse the development of the New Sutter Facility in all regulatory proceedings required to approve the New Sutter Facility and the Master Facility Plan. In addition, the District and EMC shall each use its commercially reasonable best

and diligent efforts to support Sutter Health's efforts to obtain Regulatory Approvals but shall have no responsibility to secure or pay for such Regulatory Approvals.

6.02. MFPC and Master Facility Plan. The Parties shall use their commercially reasonable best and diligent efforts to implement the Master Facility Plan and to meet the timetables described therein.

6.03. EMC's Operations. From the execution of this Agreement to the commencement of the provision of health care services at the New Sutter Facility ("Start Service Date"), EMC will continue to be responsible for the ongoing governance and management of EMC, as a Sutter Health affiliate, to facilitate operating and financial performance of EMC and its Eden and SLH campuses during the planning and development of the Project.

6.04. General Notifications. The Parties shall notify all interested parties of the proposed transaction in accordance with a mutually agreed upon communications plan. Interested parties may include but not be limited to contractors, lenders, insurance carriers, local government agencies and such other persons or entities as the Parties deem appropriate.

6.05. Approvals and Consents. The Parties shall use their commercially reasonable best and diligent efforts to obtain such approvals or consents as may be required by law or under this Agreement or to which a Party is subject as are requisite to be obtained or given by it prior to consummating the transactions contemplated by this Agreement.

6.06. Cooperation. Except as otherwise provided herein, each Party shall reasonably cooperate with the other Parties and their representatives and attorneys: (i) in the Party's efforts to obtain all consents, approvals, authorizations, clearances and licenses required to carry out the transactions contemplated by this Agreement (including those of governmental authorities) or which the Party reasonably deems necessary or appropriate, and (ii) in the preparation or submission of any document or other material which may be required by any governmental authority as a predicate to or result of the transactions contemplated in this Agreement.

6.07. Notices. Each Party shall notify the other Parties promptly, in writing, of any actions, proceedings or lawsuits by any governmental authority or any person commenced against the Party involving in any way the transactions contemplated by this Agreement, and shall keep the other Parties reasonably informed as to such matters.

6.08. Access and Assistance. EMC shall provide Sutter Health and its designated agents and contractors with full access to its properties so that Sutter Health can develop and construct the Project and perform its obligations under the terms of this Agreement. Toward that end, EMC shall create a separate legal parcel for the New Sutter Facility and enter into a ground lease and easement agreement that provides Sutter Health or its assignee (which shall be a Sutter Health affiliate) with full access to EMC's properties such that Sutter Health is able to develop, construct, own and operate the New Sutter Facility. EMC shall use its commercially reasonable best and diligent efforts to vacate EMC's land and buildings in a timely manner to facilitate implementation of the Master Facility Plan, including but not limited to the termination of medical office leases and use of the helipad. EMC shall have no right or interest in the New Sutter Facility unless Sutter Health expressly agrees to transfer its interest to EMC in writing.

6.09. Financing. The District agrees to reasonably cooperate with Sutter Health to implement any financing or refinancing of the New Sutter Facility upon Sutter Health's reasonable request, and Sutter Health shall reimburse the District for its reasonable costs, if any, incurred in response to such a request from Sutter Health. The District acknowledges Sutter Health's intent to (a) finance the costs of the New Sutter Facility on a tax-exempt basis, and (b) reimburse itself from such a financing for expenditures made with respect to the New Sutter Facility, whether from the Escrow Funds (as defined below) held in the Escrow Account (as defined below) or otherwise. The District will welcome the application from Sutter Health for the District to serve as a tax-exempt bond issuer with respect to one or more financings for the New Sutter Facility, provided that the proceeds of any such bonds issued by the District shall be used within the District and that Sutter Health shall reimburse the District for its reasonable costs incurred as issuer. Nothing herein shall preclude Sutter Health from seeking financing through other means, at its sole discretion.

6.10. Management Agreement. EMC currently provides management services to the District under the Restated Management Services Agreement dated January 15, 1998, and the First Amendment to Restated Management Services Agreement dated effective August 1, 2005 ("Management Agreement") by and between the District and EMC. District and EMC shall enter into the Amended Management Agreement contemporaneously with execution of this Agreement. Within three (3) months from the Effective Date, the District agrees to review its needs for services as provided under the Management Agreement. Within two (3) months thereafter, the Parties agree to mutually assess if the continued provision of services by EMC under the terms of the Management Agreement is in the best interests of the Parties. If the District seeks to continue the provision of services under the Amended Management Agreement, the Parties shall use their reasonable best efforts to negotiate a new agreement for such services, which shall require the prior written agreement of the Parties.

ARTICLE VII POST-START SERVICE DATE COVENANTS

7.01. Services on Start Service Date. On the Start Service Date, EMC (or at Sutter Health's option, another Sutter Health affiliate) shall provide at the New Sutter Facility maternity and neurosciences services (operated in conjunction with regional service line management), emergency services, and trauma services as designated by Alameda County.

7.02. New Sutter Facility. Commencing the Start Service Date, EMC (or at Sutter Health's option, another Sutter Health affiliate) will operate and maintain the New Sutter Facility as a general acute care licensed hospital, as defined under applicable law and regulations.

7.03. District's First Right or Right of First Refusal.

A. Right of First Refusal. Upon the occurrence of any of the following contingencies or notice by Sutter Health of its formal decision to effect any of the following contingencies, the District shall have the first right or right of first refusal to acquire the Assets (as defined below) from EMC (or other Sutter Health affiliate that may own the Assets) ("EMC/SH") and shall pay to EMC/SH the agreed upon consideration in accordance with the formula described in Section 7.03C ("Right of First Refusal"):

1. The sale of all or substantially all of the assets of EMC/SH to an entity not affiliated with Sutter Health; or

2. The sustained discontinuation of the provision of acute care services at the New Sutter Facility upon a final determination by the Alameda County Superior Court ("Court"), if such sustained discontinuation is not resolved within thirty (30) days of such determination or if EMC/SH fails to diligently work to resolve such discontinuation; or

3. A substantial change in control of Sutter Health which shall mean the conversion of Sutter Health to a for-profit corporation or the sale of substantially all of its assets to a for-profit organization, or the consolidation or merger of Sutter Health into a for-profit entity, the result of which would be the loss of control by Sutter Health to that for-profit entity.

The "Assets" shall mean the real estate and affixed improvements comprising the New Sutter Facility and other real property referred to as the Hospital Facilities in the 1996 MOU.

B. Exercise of Right of First Refusal. EMC/SH or Sutter Health shall provide the District of written notice of its intent to enter into one of the above contingencies ("Initial Notice"). The District shall provide EMC/SH and Sutter Health with written notice of its intent to exercise its Right of First Refusal within thirty (30) days of the District's receipt of the Initial Notice ("Notice to Exercise"). If the District fails to provide such Notice to Exercise within the time period specified above, the District shall be deemed to have waived its Right of First Refusal. As such, EMC/SH and Sutter Health, as the case may be, may proceed with the events specified in this Section 7.03 and the District shall have no further rights with regard to the Assets.

C. Valuation. If the District provides such Notice to Exercise within the time period specified above, the District shall appoint a qualified appraiser with expertise in the methods of appraisal and valuation of hospital facilities who shall determine, in accordance with applicable government and industry standards for appraisal and valuation, the fair market value of the Assets ("District Appraisal"). The District shall provide Sutter Health and EMC/SH with the District's Appraisal within sixty (60) days of the District's receipt of the Initial Notice. The District Appraisal shall be conclusive unless EMC/SH or Sutter Health, at either of their options, elect to appoint a second appraiser to determine the fair market value of the Assets ("Sutter Appraisal"). Sutter Health or EMC/SH shall provide the District with the Sutter Appraisal within sixty (60) days of Sutter Health's and EMC/SH's receipt of the District's Appraisal. If the values assigned by the District Appraisal and the Sutter Appraisal deviate or the District, Sutter Health and EMC/SH cannot mutually agree upon the fair market value, then the District, Sutter Health and EMC/SH shall appoint a mutually agreed upon third appraiser within thirty (30) days after the District's receipt of Sutter Appraisal ("Third Appraisal"), who shall determine, in accordance with applicable government and industry standards for appraisal and valuation, the fair market value of the Assets. The Third Appraisal shall be provided to the District, Sutter Health and EMC/SH within thirty (30) days of the appointment of the third appraiser and the determination of fair market value therein shall be conclusive.

ARTICLE VIII TERM AND TERMINATION

8.01. Term. This Agreement shall become effective on the Effective Date and shall continue in effect until the Start Service Date, unless mutually agreed upon by the Parties. Upon expiration of this Agreement upon the Start Service Date, the Parties agree that all obligations of the Parties under this Agreement shall terminate as of the Start Service Date (if not sooner by performance or otherwise) with the exception of the following obligations set forth in Sections 5.03, 5.04, 7.02 and 7.03, which shall survive expiration of this Agreement.

8.02. Termination. This Agreement may be terminated at any time:

A. By the mutual written consent of the Parties;

B. By a non-breaching Party in the event of a material breach of this Agreement by another Party (subject to a notice of the apparent material breach and a reasonable right to cure the same as provided in Section 9.01). Upon termination in accordance with Section 8.02, the Parties shall have no obligations to perform any obligation yet to be performed under the terms of this Agreement.

8.03. Simultaneous Expiration or Termination. The Escrow Agreement, the Amended Lease and the Amended Management Agreement, to the extent that they are then-currently in effect as of such date, shall expire or terminate simultaneously on the date this Agreement expires or terminates in accordance with this Article VIII.

ARTICLE IX DEFAULT AND REMEDIES

9.01. Default in General. Should any Party fail to timely and adequately perform any material obligation, promise, covenant or agreement that such Party makes or is required to perform under this Agreement and if any such failure shall continue for sixty (60) days after written notice thereof from a Party that has not failed to perform any of its material obligations, promises, covenants and agreements, then such uncured failure shall constitute an event of default under this Agreement, unless the Party cannot reasonably cure such failure within such sixty (60) day period, in which case there shall be no event of default, so long as the Party acts promptly to commence its cure and thereafter diligently continues to pursue the cure.

9.02. Sutter Health's Events of Default. All events of default as described in subsections A through D below ("Events of Default") are subject to time periods which may be delayed or tolled due to (i) *force majeure* events as set forth in Section 9.03B.6 or (ii) delays in obtaining Regulatory Approvals as described in Section 6.01 and shall have the sixty (60) day notice period and opportunity to cure set forth in Section 9.01.

A. Sutter Health's failure to submit plans to OSHPD for a substantial increment of construction to include building foundation and structure by December 31, 2008, to satisfy the performance requirement set forth in SB 1661 for SB 1953 (as amended) compliance projects; or

B. Sutter Health's failure to commence construction of the New Sutter Facility foundation and structure within one hundred twenty (120) days after Sutter Health's

receipt of OHSPD's written final approval of Sutter Health's first fast-track submission of foundation and structure for the New Sutter Facility; or

C. Sutter Health's failure to submit documentation to apply for an extension under California Health and Safety Code Section 130060(f) and obtain such extension only if such extension is deemed necessary due to a projected completion date for construction of the New Sutter Facility after January 1, 2013; or

D. A final determination by a Court that Sutter Health has actually abandoned the New Sutter Facility or constructively abandoned by failure to diligently pursue construction of the New Sutter Facility if such abandonment or failure to diligently pursue is not resolved within thirty (30) days after the final Court determination and Sutter Health fails to diligently work to resolve such discontinuation; or

E. Sutter Health's failure to obtain a license for an acute care general hospital from the California Department of Health Care Services for the New Sutter Facility by December 31, 2013.

9.03. District's Exclusive Remedies for Events of Default. Upon an Event of Default by Sutter Health, the District shall have the following remedies, which shall be the sole and exclusive remedies available to the District in law or equity, and shall consist of each of the following:

A. Escrow Account. District and Sutter Health shall enter into the Escrow Agreement, contemporaneously with the execution of this Agreement. The understanding of the Parties as set forth in this Section 9.03 shall be memorialized in the Escrow Agreement. Upon any inconsistency between this Agreement and the Escrow Agreement, the Escrow Agreement shall control.

1. Terms of Escrow. Under the terms of the Escrow Agreement, Sutter Health shall place into escrow ("Escrow Account") as of the Effective Date \$260 million. Sutter Health shall not be required to make additional deposits into the Escrow Account. Sutter Health shall, within its sole discretion, choose the escrow holder under the Escrow Agreement ("Escrow Holder"). In addition, Sutter Health shall, within its sole discretion, direct Escrow Holder in the investment of the funds held in Escrow Account ("Escrow Funds"). All earnings on the Escrow Funds shall belong solely to Sutter Health and shall be paid out to Sutter Health upon Sutter Health's written request to the Escrow Holder and may be used by Sutter Health for any purpose. Further, Sutter Health shall be responsible for funding all fees and costs related to the Escrow Account.

2. Access to Escrow Funds. The Escrow Agreement shall provide that Sutter Health shall have full and exclusive access to the Escrow Funds and any accrued interest in the Escrow Funds at any time for the purpose of funding or reimbursing expenses concerning the development and construction of the New Sutter Facility. The Escrow Agreement shall provide that Sutter Health shall give the Escrow Holder written notice of such costs and expenses Sutter Health incurs and the Escrow Holder shall transfer to Sutter Health or

such other party designated by Sutter Health such amount from the Escrow Funds within two (2) business days of the Escrow Holder's receipt of such notice.

The Escrow Agreement shall provide that, upon a final determination by a Court of an Event of Default by Sutter Health and a final order directing specific performance by Sutter Health of Sutter Health's Construction Obligation as described in Section 9.03B. below, and Escrow Holder's receipt of such final order, Escrow Holder shall provide access to the Escrow Funds in accordance with the order of the Court to the extent that such access is required to effectuate the specific performance remedy provided in Section 9.03B.2.

3. Substitution of Funds. Sutter Health may, at its sole discretion, substitute for all or any portion of the Escrow Funds an equal amount from the proceeds of any Sutter Health financing for the construction of the New Sutter Facility. Such substitution shall not alter any other restrictions respecting the use of the Escrow Funds under the Escrow Agreement, except that the District agrees to subordinate any interest it has or may have in the Escrow Account and the Escrow Funds to the interest of any third party as may be necessary to secure such financing (i.e., lenders, trustees, bondholders, etc.). The District agrees to reasonably cooperate and execute such documents effecting such subordination, copies of which shall be provided to the Escrow Holder by Sutter Health.

4. Termination of Escrow Account. The Escrow Agreement may be mutually terminated by the District and Sutter Health. The Escrow Agreement shall automatically terminate the earlier of (a) the Start Service Date, (b) when there is a zero balance of Escrow Funds due to expenditures made in accordance with Section 9.03A.2; (c) on December 31, 2015 (or such time as delayed or tolled in accordance with the terms of this Agreement); or (d) upon termination of this Agreement. Upon termination of the Escrow Agreement, the Escrow Holder shall immediately transfer any remaining Escrow Funds and any remaining accrued interest, if any, to Sutter Health and Sutter Health may use such funds for any purpose.

B. Specific Performance. Upon an Event of Default by Sutter Health, the District shall be entitled to and may request specific performance by Sutter Health of Sutter Health's obligation to develop and construct the New Sutter Facility as set forth in Sections 3.01 through 3.02 ("Construction Obligation"). Therefore, for specific performance of Sutter Health's Construction Obligation only, the following procedures shall apply:

1. Jurisdiction and Venue. The parties hereby consent to the jurisdiction of the Court and to venue in that Court for resolution of the claim.

2. Damages Not Adequate. The Parties hereby acknowledge and agree that time is of the essence in resolving disputes regarding Sutter Health's Construction Obligation; that the primary consideration to the District in entering into this Agreement is to ensure the continued provision of, and access to, health care services for its residents through the timely construction of the New Sutter Facility; that construction of the New Sutter Facility on the existing EMC campus (except when construction on an alternative site is permitted under Section 3.03) is essential to such access, given its location; that the Events of Default relating to the Construction Obligation will cause the District irreparable harm; that an award of money

damages would not adequately redress that harm and that the District shall be entitled to mandatory injunctive relief commanding Sutter Health specifically to perform its obligations under the Construction Obligation.

3. Fees and Costs. The prevailing party in such proceeding shall be entitled to its attorneys' fees, costs, and other reasonable expenses of litigation incurred in connection with such proceeding.

4. Standard of Performance. With respect to any Event of Default, Sutter Health shall have, without limitation, the right to demonstrate that it has performed the obligation or duty in question, or that the Event of Default was caused by the delay of the District, or by *force majeure* as set forth below in subsection 6 of this Section 9.03B or by delays in obtaining Regulatory Approvals.

5. Election to Extend. As an alternative to immediately electing any remedy, the District may, in its sole and absolute discretion, elect to extend the time to comply by giving written notice thereof and establishing a new date certain for compliance with respect to any of the deadlines related to the Events of Default. If Sutter Health again fails to meet any newly extended deadline, the District's rights and remedies pursuant to this Section shall remain in force.

6. Automatic Extension of Times of Events of Default. The times set forth in the Events of Default automatically shall be extended for the period that any *force majeure* event such as natural disasters, war, civil strife, terrorism, explosion, flood, restrictive governmental laws or regulations, labor stoppages, materials or contractor or laborer shortages and delays which prevent or delay approval and permitting processes or construction of the Project, including those caused or created by OSHPD, lead agency, Alameda County and other governmental agencies; provided, however, that Sutter Health must not have been the cause of the prevention or delay. The time for performance will similarly be extended if an injunction or court order affording interim or permanent relief directed to Sutter Health or EMC as a party or real party in interest prevents or delays the performance of any act required to be performed. Any dispute regarding the application of this subsection 6 shall be resolved pursuant to the dispute resolution provisions set forth in Section 10.10 of this Agreement.

7. Non-Termination of Agreement after Remedy. If there occurs an Event of Default and the District elects a remedy to seek specific performance pursuant to this Section, this Agreement shall not terminate and the Parties shall continue to comply with the other terms hereof.

8. Meet and Confer. The dispute resolution provisions of Section 10.15 shall not apply to this Section 9.03B except for disputes pertaining to *force majeure* described in Section 9.03B.6. Notwithstanding the foregoing, the Parties agree to resolve disputes concerning this Section 9.03 (excluding disputes pertaining to *force majeure* as described in Section 9.03B.6) through the meet and confer dispute resolution process set forth in paragraph 2 of Schedule 10.10, provided such process runs concurrently with the sixty (60) day cure period set forth in Section 9.01.

C. Reinstatement of District Governance upon Event of Default. This Section 9.03C shall not be effective unless there is a final Court determination that there is an Event of Default by Sutter Health before both the Start Service Date and regionalization as anticipated under Section 5.04 and after the Approval Date. Upon a final determination by a Court that there is an Event of Default by Sutter Health after the Approval Date and prior to the Start Service Date and regionalization, the Amended Bylaws shall replace the then-existing EMC bylaws (which are anticipated to be the Approval Bylaws, as may be amended by EMC after the Approval Date) and shall remain in effect until the earlier of when Event of Default has been cured or the Start Service Date. Upon the non-effectiveness of the Amended Bylaws, the previous EMC bylaws (which are anticipated to be the Approval Bylaws, as may be amended by EMC after the Approval Date) shall be effective and replace the Amended Bylaws.

D. Amended Lease. Upon an Event of Default prior to the exercise of Sutter Health's option to purchase SLH, the Amended Lease shall automatically terminate. The Parties agree to reasonably cooperate in the transition of services at SLH upon such termination.

E. Termination of Remedies on Start Service Date. On the Start Service Date, the remedies and rights stated in this Section shall automatically terminate.

F. Exclusive Remedies. The remedies provided to the District in this Article IX upon an Event of Default by Sutter Health shall be exclusive of any and all other remedies now or hereafter allowed or available to the District by law or in equity. The District expressly waives any other remedies otherwise available to it at law or in equity for an Event of Default by Sutter Health.

9.04. Waiver of Default or Breach. The waiver by a Party of any default or breach of the other Party, or the waiver by a Party of or with respect to an event or failure to perform that, with proper notice or the passage of time, would constitute a breach or default by the other Party of or under any of the provisions of this Agreement, shall not constitute a continuing waiver or a waiver of any subsequent default or breach, or of any event or failure to perform that, with proper notice or the passage of time, would constitute a breach or default by such Party under the same or a different provision of this Agreement.

9.05. EMC. It is intended by the Parties, and specifically intended by EMC, that EMC have no rights to enforce the obligations of Sutter Health under the terms of this Agreement, the Closing Agreement, the Amended Lease or the Escrow Agreement.

ARTICLE X GENERAL PROVISIONS

10.01. 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.

10.02. Entire Agreement. This Agreement and the Exhibits and Schedules herein 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. 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.

10.03. Third Persons. 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.

10.04. 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:

EDEN TOWNSHIP HEALTHCARE DISTRICT
Attn: Chair of the Board
20103 Lake Chabot Road
Castro Valley, CA 94546
FAX: _____

With a copy to:

Craig Cannizzo, Esq.
Hooper, Lundy & Bookman
180 Montgomery Street, Suite 100
San Francisco, CA 94104
FAX: (415) 875-8519

IF TO EMC:

EDEN MEDICAL CENTER
Attn: President and Chief Executive Officer
20103 Lake Chabot Road
Castro Valley, CA 94546
FAX: (510) 889-6506

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 SUTTER HEALTH:
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.

10.05. 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.

10.06. 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.

10.07. 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 Parties of the benefits of this Agreement.

10.08. 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 Alameda, California, shall have exclusive jurisdiction over any judicial proceedings relating to any dispute arising out of the interpretation, performance or breach of this Agreement.

10.09. 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.

10.10. Dispute Resolution. Except with regard to disputes under Section 9.03B (and not including disputes pertaining to *force majeure* as described in Section 9.03B.6), the Parties shall follow the procedures set forth in Schedule 10.10 with regard to resolving disputes under this Agreement. The respective obligations of the Parties set forth in this Section 10.10 shall survive the expiration or termination of this Agreement.

10.11. 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.

10.12. No Broker Fee. Each of the Parties represents and warrants that the Party has dealt with no broker or finder in connection with any of the transactions contemplated by this Agreement, and, insofar as the Party knows, no broker or other person is entitled to any commission or finder's fee in connection with the transactions contemplated under this Agreement.

10.13. Further Assurances. At any time from and after the Effective Date, at the request of a Party, each Party shall execute, acknowledge and deliver to the other Parties any and all other assignments, consents, approvals, conveyances, assurances, documents and instruments reasonably requested by a Party at any time and shall take any and all other actions reasonably requested by a Party at any time for the purpose of consummating this Agreement.

10.14. Confidentiality. The Parties agree that any information submitted to or compiled by a Party which involves this Agreement, the Master Facility Plan, 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 Parties consent to its disclosure or disclosure is required by law. Each of the Parties agree that it will maintain the confidentiality of all such Confidential Information delivered to it by the other Parties or the other Parties' 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 the Effective Date for any reason, it will return all such Confidential Information and all copies thereof in its possession to the other Parties to this Agreement. Nothing in this Section 10.14 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 any 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 10.14 shall survive the expiration or termination of this Agreement.

10.15. Force Majeure. Except as specifically provided in Section 9.03B.6 for specific performance of a Construction Obligation, if the performance of any act required by this Agreement to be performed by any Party, including without limitation the implementation of a cure of any default, is prevented or delayed by reason of any *force majeure* event such as natural disasters, war, civil strife, terrorism, explosion, flood, restrictive governmental laws or regulations, labor stoppages, materials or contractor or laborer shortages and delays in approval and permitting processes or construction that are not caused by a Party, including those caused or created by OSHPD, lead agency, Alameda County and other governmental agencies, the time for performance of the act will be extended for a period equivalent to the period of delay and failure of performance of the act during the period of delay will be excused. Should a Party, due to the occurrence of a *force majeure* event, fail to perform this Agreement in part or in full, such Party shall, in light of the effect of the *force majeure* event, be exempted from some or all of its responsibilities hereunder, except where applicable law provides otherwise. The time for performance will similarly be extended if an injunction or court order affording interim or permanent relief directed to Sutter Health or EMC as a party or real party in interest prevents or delays the performance of any act required to be performed by a Party.

Should a Party determine that it is or may be unable to perform or be delayed in performance of this Agreement as a result of *force majeure* event governed by this Section, it shall inform the other Parties, as soon as reasonably possible following the occurrence of such *force majeure* event, of the situation and the reason(s) for the nonperformance. The Party unable to perform shall take appropriate means to minimize or remove the effects of *force majeure* event and attempt to resume performance of the obligations delayed or not performed or prevented by the *force majeure* event. After the *force majeure* event is removed, the Parties agree to resume performance of this Agreement with their best efforts or to negotiate toward an amended or new agreement if performance of this Agreement has been made legally impossible.

10.16. Fees and Costs. The prevailing party in any action or proceeding commenced in court for breach of this Agreement shall be entitled to its attorneys' fees, costs, and expenses of experts incurred in prosecuting or defending such action or proceeding.

10.17. Construction. No provision of this Agreement shall be construed against or interpreted to the disadvantage of Party 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.

10.18. Correction of Technical Errors. If by reason of inadvertence, and contrary to the intention of the Parties, errors are made in this Agreement in the identification or characterization or in the typing of this Agreement or any of its Exhibits or Schedules, the Parties by mutual agreement may correct such error by memorandum executed by them without the necessity of amendment of this Agreement.

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

10.20. 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.

10.21. 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: October __, 2007.

DISTRICT:

EDEN TOWNSHIP HEALTHCARE
DISTRICT,
a California healthcare district

By: _____
Name:
Its:

SUTTER HEALTH:

SUTTER HEALTH,
a California nonprofit public benefit
corporation

By: _____
Name:
Its:

EMC:

EDEN MEDICAL CENTER,
a California nonprofit public benefit
corporation

By: _____
Name:
Its:

SCHEDULE 1.02

REPRESENTATIONS AND WARRANTIES

The representations and warranties set forth in Schedule 1.02 with respect to each Party are made by such Party for the purpose of inducing the other Parties to enter into this Agreement and to consummate the transactions contemplated herein.

As used in this Schedule, "to the best knowledge" of a Party means the actual knowledge of the Party, its officers, directors and senior management, after due inquiry of employees and agents of such Party who would be reasonably expected to know such information.

1. District Representations and Warranties. The District makes the following representations and warranties:

A. Existence and Capacity. The District is a California Local Health Care District, duly organized and existing under the laws of the State of California and has the full legal right, power and authority to own, lease or dispose of its properties and to carry on its business as now being conducted.

B. Authorization. The District has the requisite power to execute and deliver this Agreement and all related agreements and to consummate the transactions and perform its obligations contemplated by this Agreement and all related agreements. The execution, delivery and performance of this Agreement and all related agreements by the District and the consummation of the transactions contemplated therein have been duly authorized by all necessary action. This Agreement and all related agreements are each a legally valid and binding agreement of the District, enforceable against the District in accordance with their respective terms (except as may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally or by the application of equitable principles). No other proceeding on the part of the District is necessary to authorize this Agreement and all related agreements and the consummation of the transactions contemplated therein and by this Agreement.

C. Noncontravention. The execution and delivery of this Agreement and all related agreements by the District and the consummation of the transactions contemplated therein and by this Agreement do not and will not: (a) violate or conflict with any provision of the charter documents or bylaws of the District; or (b) conflict with, violate or result in a breach of any law, ordinance, regulation, decree, or order of any court or governmental entity applicable to the District.

D. Consents. Other than as provided in this Agreement or any related agreements, no authorization, consent, order, or approval of, or filing or qualification with, any court, regulatory authority, or other governmental body is necessary for the consummation by the District of the transactions contemplated by this Agreement or any related agreement.

E. Investigation or Litigation. Except as set forth in Schedule 1.02-1 attached hereto and incorporated herein, there is no action, suit, or proceeding pending or, to the best of the District's knowledge, threatened by, against or affecting the District or the

transactions contemplated in this Agreement, at law or in equity, or before any federal, state, municipal, or other governmental court, department, commission, board, bureau, agency, or instrumentality.

2. EMC's Representations and Warranties. EMC makes the following representations and warranties:

A. Existence and Capacity. EMC is a nonprofit public benefit corporation, duly organized and existing and in good standing under the laws of the State of California and has the full legal right, power and authority to own, lease or dispose of its properties and to carry on its business as now being conducted.

B. Authorization. EMC has the corporate power to execute and deliver this Agreement and all related agreements and to consummate the transactions and perform its obligations contemplated by this Agreement and all related agreements. The execution, delivery and performance of this Agreement and all related agreements by EMC and the consummation of the transactions contemplated therein have been duly authorized by all necessary corporate action. This Agreement and all related agreements are each a legally valid and binding agreement of EMC, enforceable against EMC in accordance with their respective terms (except as may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally or by the application of equitable principles). No other proceeding on the part of EMC or any of its affiliates is necessary to authorize this Agreement and all related agreements and the consummation of the transactions contemplated therein and by this Agreement.

C. Noncontravention. The execution and delivery of this Agreement and all related agreements by EMC and the consummation of the transactions contemplated therein and by this Agreement do not and will not: (a) violate or conflict with any provision of the articles of incorporation or bylaws of EMC; or (b) conflict with, violate or result in a breach of any law, ordinance, regulation, decree, or order of any court or governmental entity applicable to EMC.

D. Consents. Other than as provided in this Agreement or any related agreements, no authorization, consent, order, or approval of, or filing or qualification with, any court, regulatory authority, or other governmental body is necessary for the consummation by EMC of the transactions contemplated by this Agreement or any related agreement.

E. Investigation or Litigation. Except as set forth in Schedule 1.02-2 attached hereto and incorporated herein, there is no action, suit, or proceeding pending or, to the best of EMC's knowledge, threatened by, against or affecting EMC which pertain to the transactions contemplated by this Agreement, at law or in equity, or before any federal, state, municipal, or other governmental court, department, commission, board, bureau, agency, or instrumentality.

3. Sutter Health's Representations and Warranties. Sutter Health makes the following representations and warranties:

A. Existence and Capacity. Sutter Health is a nonprofit public benefit corporation, duly organized and existing and in good standing under the laws of the State of

California and has the full legal right, power and authority to own, lease or dispose of its properties and to carry on its business as now being conducted.

B. Authorization. Sutter Health has the corporate power to execute and deliver this Agreement and all related agreements and to consummate the transactions and perform its obligations contemplated by this Agreement and all related agreements. The execution, delivery and performance of this Agreement and all related agreements by Sutter Health and the consummation of the transactions contemplated therein have been duly authorized by all necessary corporate action. This Agreement and all related agreements are each a legally valid and binding agreement of Sutter Health, enforceable against Sutter Health in accordance with their respective terms (except as may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally or by the application of equitable principles). No other proceeding on the part of Sutter Health or any of its affiliates is necessary to authorize this Agreement and all related agreements and the consummation of the transactions contemplated therein and by this Agreement.

C. Noncontravention. The execution and delivery of this Agreement and all related agreements by Sutter Health and the consummation of the transactions contemplated therein and by this Agreement do not and will not: (a) violate or conflict with any provision of the articles of incorporation or bylaws of Sutter Health; or (b) conflict with, violate or result in a breach of any law, ordinance, regulation, decree, or order of any court or governmental entity applicable to Sutter Health.

D. Consents. Other than as provided in this Agreement or any related agreements, no authorization, consent, order, or approval of, or filing or qualification with, any court, regulatory authority, or other governmental body is necessary for the consummation by Sutter Health of the transactions contemplated by this Agreement or any related agreement.

E. Investigation or Litigation. Except as set forth in Schedule 1.02-3 attached hereto and incorporated herein, there is no action, suit, or proceeding pending or, to the best of Sutter Health's knowledge, threatened by, against or affecting Sutter Health which pertain to the transactions contemplated by this Agreement, at law or in equity, or before any federal, state, municipal, or other governmental court, department, commission, board, bureau, agency, or instrumentality.

SCHEDULE 1.02-1

DISTRICT'S INVESTIGATION OR LITIGATION

None

SCHEDULE 1.02-2

EMC'S INVESTIGATION OR LITIGATION

None

SCHEDULE 1.02-3

SUTTER HEALTH'S INVESTIGATION OR LITIGATION

None

EXHIBIT 1.03A
CLOSING AGREEMENT

EXHIBIT 1.03B
AMENDED LEASE

EXHIBIT 1.03C-1
AMENDED BYLAWS

EXHIBIT 1.03C-2
APPROVAL BYLAWS

EXHIBIT 1.03D
ESCROW AGREEMENT

SCHEDULE 1.03F

OPINIONS OF COUNSELS

1. Opinions of Counsel to the District

Counsel to the District shall opine on those matters set forth in Schedule 1.02, paragraph 1.

2. Opinions of Counsel to EMC and Sutter Health

Counsel to EMC and Sutter Health shall opine on those matters set forth in Schedule 1.02, paragraph 2 with regard to EMC, and those matters set forth in Schedule 1.02, paragraph 3 with regard to Sutter Health.

EXHIBIT 2.01
MASTER FACILITY PLAN

SCHEDULE 4.01A

SLH IMPROVEMENT PLAN

SAN LEANDRO HOSPITAL IMPROVEMENT PLAN

This San Leandro Hospital Improvement Plan ("Plan") is intended as a summary of objectives based on consultation with San Leandro Hospital ("SLH") and Eden Medical Center ("EMC") physicians to further develop and implement a more definitive Plan. It is in the best interest of the continuation of operations at SLH for SLH to meet the financial target to breakeven between July 2007 and June 2009 (the improvement and evaluation period).

1. Physician Leadership.

A Physician Leadership Committee ("Physician Committee") was formed in May 2007 to collaborate with EMC and SLH management and Sutter Health concerning physician issues and areas for improvement at EMC's Eden and SLH campuses; and to keep physicians informed of and engaged in improvements. The Physician Committee is composed of representative physicians from the medical staffs of EMC's Eden campus and SLH campus. The Chief of Staff of EMC's Medical Staff is Chair of the Physician Committee. The Physician Committee has consulted with the Medical Staff to identify necessary improvements set forth in this Plan. The Physician Committee shall continue to meet on a regular basis during the improvement and evaluation period (July 2007 – June 2009) during which the Physician Committee and EMC management will identify and work together to pursue and implement these and other improvements at SLH.

The Physician Committee, in collaboration with EMC and Sutter Health, is responsible for further development of this Plan consistent with the following areas of focus and other improvements as may be mutually agreed by EMC/SLH management and the Physician Committee.

2. Services.

A. Acute Rehabilitation.

(1) Subject to support of the Medical Staff and the Physician Committee, Sutter Health will convert the 4th floor of SLH to acute rehabilitation at a cost not to exceed \$5 million. This conversion will add approximately 18-20 acute rehabilitation beds at SLH and replace acute rehabilitation services provided at Laurel Grove Hospital, which is anticipated to be demolished as part of the EMC Master Facility Plan.

(2) By December 31, 2008, Sutter Health, in consultation with the Physician Committee and the Sutter Health East Bay Joint Board Planning Committee, will determine the feasibility of converting additional floors at SLH to acute rehabilitation or converting the entire SLH facility to a regional acute rehabilitation hospital.

B. Hospitalist. EMC will evaluate establishing hospitalist services at SLH as appropriate in consultation with the Physician Committee.

C. Radiology. EMC will install a new CT scanner at SLH to be operational by December 31, 2007. EMC will also evaluate installing mammography and ultrasound units at SLH. In addition and in consultation with the Physician Committee, EMC will evaluate upgrading radiology equipment and radiology professional services at SLH as needed and appropriate to meet physician and patient needs.

D. Operating Rooms. In consultation with the Physician Committee, EMC will evaluate expanding the hours of operation of SLH's operating rooms to better meet physician and patient needs as appropriate.

E. Ancillary Services. In consultation with the Physician Committee, EMC will evaluate improving ancillary services at SLH to better meet physician and patient needs as appropriate.

3. Management.

Management of EMC/SLH shall participate actively in the Physician Committee to further a free flow of information and promote a positive work environment and resolution of issues addressed by the Physician Committee. Management of EMC/SLH shall also develop regular forums for communication with physicians, and in particular, SLH physicians, and actively participate in these forums. Management of EMC also commits to support and foster an environment of open, constructive and productive communication with the Medical Staff to improve SLH in accordance with the terms of this Plan.

4. Physician Recruitment.

In consultation with the Physician Committee, EMC shall support physician recruitment at SLH and EMC as demonstrated by community need. Management shall evaluate SLH's and EMC's physician needs, especially in light of SLH physician aging. EMC shall work in collaboration with the Physician Committee to assess community needs and identify potential opportunities to meet these needs in a Physician Succession Plan.

5. Communications, Marketing and Advertising.

EMC shall work collaboratively with the Physician Committee to develop a plan in accordance with Sutter Health's guidelines to promote SLH and its physicians, including ads targeted to the SLH area featuring SLH community physicians.

6. Sutter Medical Network.

Sutter Health will explore the feasibility of Affinity's affiliation with the Sutter Medical Network.

EXHIBIT 5.01A

NOTICE OF DISTRICT'S RESIGNATION AS COMMUNITY MEMBER OF EMC

RESIGNATION

TO: The General Member, Chief Executive Officer and Board of Directors of Eden Medical Center, a California nonprofit public benefit corporation

This Resignation is given pursuant to the terms of the Memorandum of Understanding (the "Agreement") by and among Eden Township Healthcare District, a California healthcare district (the "District"), Eden Medical Center, a California nonprofit public benefit corporation ("EMC"), and Sutter Health, a California nonprofit public benefit corporation ("Sutter Health") dated effective October____, 2007.

The undersigned, as a duly authorized representative and officer of the District, hereby submits the District's resignation as the Community Member of EMC effective as of the Approval Date, as such term is defined in the Agreement.

Simultaneously with the resignation of the District as provided herein, and without further action by the District, EMC or Sutter Health, or any of them, each and every member of the EMC Board of Directors (the "Board"), duly appointed by the District and then currently serving as members of the Board (the "District's Board Members"), shall, without further action by the District's Board Members, or any of them, or the execution of any document by the District's Board Members, or any of them, be deemed to have immediately resigned as a member of the Board.

EDEN TOWNSHIP HOSPITAL DISTRICT

By:_____

[PRINT NAME AND TITLE]

SCHEDULE 5.03

COMMUNITY SERVED BY THE DISTRICT

94546
94541
94544
94578
94577
94580
94552
94579
94545
94587
94542

EXHIBIT 6.10

AMENDED MANAGEMENT AGREEMENT

**SECOND AMENDMENT TO RESTATED
MANAGEMENT SERVICES AGREEMENT**

This Second Amendment to the Restated Management Services Agreement ("Amendment") is dated effective October __, 2007, by and between Eden Township Healthcare District, a local healthcare district ("District"), and Eden Medical Center, a California public benefit corporation ("Manager").

RECITALS

A. District and Manager entered into a Restated Management Services Agreement on January 15, 1998, and a First Amendment to Restated Management Services Agreement effective as of August 1, 2005 (the "Agreement").

B. District and Manager seek to amend the terms of the Agreement to provide for either party to terminate the Agreement without cause upon reasonable notice.

NOW, THEREFORE, Manager and District agree as follows:

1. Section 3.1 of the Agreement is amended and replaced in its entirety to read as follows:

3.1 Term and Termination. The term of the Agreement shall commence on August 1, 2005 (the "Commencement Date"), and terminate on August 1, 2008 ("Termination Date"). On the Termination Date, and on each annual anniversary date of the Termination Date thereafter, this Agreement shall be automatically renewed for successive one (1) year terms unless and until either party gives the other party thirty (30) calendar days prior written notice of its intention not to renew this Agreement. In addition, either party may unilaterally terminate this Agreement at any time after March 30, 2008, without cause by giving the other party thirty (30) calendar days prior written notice of its intention to unilaterally terminate this Agreement.

2. Except as expressly amended by this Amendment, the Management Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, District and Manager have caused this Amendment to be executed as of the date first written above.

"DISTRICT"

"MANAGER"

EDEN TOWNSHIP HOSPITAL DISTRICT

EDEN MEDICAL CENTER

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

SCHEDULE 10.10

DISPUTE RESOLUTION AND BINDING ARBITRATION PROCESS

1. Overall Scope. The provisions for mediation and binding arbitration set forth in this Schedule shall apply to all disputes arising under or relating to the Agreement, except for specific performance of Sutter Health's Construction Obligation upon an Event of Default by Sutter Health as defined in section 9.03B of the Agreement. Provided, the Parties specifically agree that disputes involving a *force majeure* event, and disputes over delays or performance of development and construction activities as defined in Section 9.03B.6, shall be resolved by binding arbitration. All binding arbitrations between the Parties shall be resolved in accordance with the rules set forth in this Schedule, and where they do not conflict, the JAMS Rules. The Parties acknowledge and agree that some of these disputes, including those that may arise during the construction process as defined in Section 9.03B.6, may be more efficiently and economically resolved through streamlined arbitration.¶
2. Identifying Disputes. Each Party shall use its best efforts to promptly identify and consolidate all related disputes. Unrelated disputes shall not be consolidated except by mutual agreement of the Parties. If the Parties are unable to agree regarding what constitutes a related or unrelated dispute, either Party may file an application with JAMS seeking resolution of that issue.
3. Meet and Confer. The Parties agree to meet and confer within thirty (30) days of written request by either Party in an effort to settle any dispute arising under this Agreement. At each meet and confer meeting, each Party shall be represented by persons with authority to settle the dispute. Meet and Confer discussions and negotiations shall be treated as compromise and settlement negotiations and shall not be admitted in evidence in any dispute resolution proceeding between the Parties.
4. Agreement to Arbitrate. If they cannot resolve their disputes through the meet and confer process, the Parties shall submit the disputes to binding arbitration in lieu of litigation in any court. The construction of this Schedule, and the validity and enforceability of all arbitrations conducted pursuant to this Schedule shall be governed by the laws of the State of California.
5. Initiate Arbitration. Either Party may initiate arbitration by serving on the other Party an arbitration demand setting forth separately a brief statement of each dispute and, if applicable, an approximation of the amount of money believed to be at issue and how that amount was calculated ("Arbitration Notice"). If the dispute is one which a Party reasonably believes is eligible for bifurcation as described in Section 8.D, that Party may so indicate.
6. Administration of Arbitration. The binding arbitration shall be administered by JAMS in accordance with this Schedule and the JAMS rules applicable to commercial arbitrations, except that this Schedule shall control in instances the JAMS rules conflict.
7. Arbitration Process.
 - A. Joinder of Interested Parties. The Parties agree that any and all proper parties may be joined in the arbitration, but the Parties agree to proceed with arbitration of all disputes

between them even if other parties refuse to participate. The Parties specifically waive any objection to arbitration based on the refusal of any other party to be joined.

B. Choosing Arbitrators. The Parties prefer that their disputes where the amount in controversy is less than twenty million dollars (\$20,000,000.) be resolved by a single arbitrator, and that disputes where the amount in controversy equals or exceeds this amount be resolved by a panel of three arbitrators ("Arbitrators"), unless the parties mutually agree to a more streamlined procedure. The Arbitrator(s) shall be knowledgeable in and familiar with disputes involving hospital development and construction. JAMS shall submit a proposed panel of either retired judges of the California (Superior Court or above) or United States court sitting in California, or an attorney with at least twenty (20) years of experience including at least fifteen (15) years in construction disputes. Alternatively, the Parties may prefer that the Arbitrator(s) have other expertise that may be more appropriate in a given dispute. If the Parties are unable to agree on the Arbitrator(s) within thirty (30) days of the date JAMS accepts the arbitration, the Arbitrators shall be selected according to JAMS procedures. The Parties shall each advance one-half of the fees required in order to initiate the arbitration, although they shall ultimately bear responsibility for such fee as determined by the Arbitrator(s).

C. Classifying Disputes. The Parties shall in good faith attempt to agree on how to define and value each dispute. If the Parties have not agreed on whether the arbitration involves an aggregate amount in controversy of twenty million dollars (\$20,000,000) or more, a single Arbitrator shall be appointed in accordance with section B above. The single neutral Arbitrator shall determine the amount in controversy, after hearing from the parties and receiving such briefs and documents as may be required to make this determination. The neutral Arbitrator shall communicate his or her determination to JAMS and the parties, and, if the amount in controversy equals or exceeds twenty million dollars (\$20,000,000), JAMS shall proceed with the selection of two additional arbitrators in accordance with Section B above. The Arbitrator shall have sole and final discretion in interpreting this Schedule, and to determine how to value disputes for purposes of determining the amount in controversy, what constitutes a separate dispute or an unrelated dispute and the timing and manner of the arbitration of each related dispute.

D. Early Pre-Hearing Conference. The Parties acknowledge and agree that it is their intent to limit the time, operational disruption and expense involved in resolving these disputes so that they may cooperatively contribute to the operation of the New Sutter Facility and the ongoing Restructured Relationship. Therefore, as soon as possible after the Arbitrators are chosen, they shall schedule an early pre-hearing conference (the "Pre-Hearing Conference") to determine whether the arbitration should be conducted in a bifurcated manner so that legal issues of contract interpretation or liability can be determined before the Parties are required to present proof regarding the actual damages or amounts owed by one Party to the other. At the Pre-Hearing Conference, the Arbitrators shall also address procedural matters, confidentiality issues (see Section 8.E, below), arrange for the timing of exchange of discovery information and in general attempt to focus the issues and streamline the proceedings to the extent possible. In making all such decisions, the Arbitrators should be guided by, and endeavor to support, the Parties' agreement and goal to engage in as streamlined an approach to arbitration as is possible given the nature and extent of the dispute(s).

E. Confidentiality of Discovery Material.

(1) Intent. The Parties recognize and agree that theirs is an ongoing business relationship and that this fact creates unusually sensitive issues with respect to the exchange of information related to their dispute. The Parties agree that it is not their intent to use the discovery process described in this Schedule to obtain the other Party's highly confidential and proprietary business information, except to the extent that such information is material to the presentation of a Party's case or defense.

(2) Protective Orders. The Parties agree, therefore, to enter into such protective orders as are, or may become, necessary to assure that neither Party obtains access to proprietary business information that, in the judgment of the disclosing Party, would adversely affect the disclosing Party's legitimate business interests. Where appropriate, those protective orders shall include creating a category of discovery documents for "Attorney's Eyes Only," which may only be disclosed to counsel who agrees not to participate in, or provide any information to those involved in, the business negotiations or transactions between the Parties.

(3) Use Only For Arbitration. All discovery information including information for attorney's eyes only, shall be used solely and exclusively for arbitration of the disputes. At the conclusion of the arbitration, each Party shall return or destroy all "Attorneys' Eyes Only" documents obtained from the other Party during the course of the arbitration, and shall provide to the other Party an authorized representative's attestation indicating that all such information has been returned or destroyed.

(4) Filing Material Under Seal. The Parties agree that "Attorneys' Eyes Only" documents are likely to contain competitively sensitive price, cost, operational, and other confidential information and trade secrets in which the producing Party has a genuine and cognizable interest, and that if a competitor obtains access to this information, it could give the competitor unfair advantage in contract and price negotiations and possibly permit price-fixing and artificially inflated prices for health care services, all of which could cause serious harm to the disclosing Party and would be contrary to public interest. Therefore, the Parties agree to fully cooperate with each other in ensuring that discovery materials which are subject to protective orders and any information taken or derived therefrom (all of which is collectively referred to as "Protected Materials") are and remain sealed by a court or arbitrator. Such cooperation shall include but not be limited to, joining in any motion or application for an order that the Court/Arbitrator accept and seal such documents or information. All Protected Materials (including transcripts of depositions, exhibits, briefs, and memoranda), which are filed with a court or submitted to an arbitrator shall be filed in sealed envelopes or other appropriately sealed containers with a label that includes all of the following: the nature of the contents, the identity of the Party filing the materials, the words: "HIGHLY CONFIDENTIAL. TO BE FILED UNDER SEAL ONLY." (These words shall also be included on the first page of all Protected Material.)

F. Discovery. The Parties shall be allowed the following limited discovery: For each separate arbitration that both Parties agree involves less than \$500,000, each Party shall be entitled to receive only directly relevant documents and take two fact witness depositions. If an arbitration involves more than \$500,000, the Parties shall exchange only directly relevant

documents and be allowed to take four fact witness depositions. Fact witness depositions shall be conducted in one day, absent extraordinary circumstances. In any case, each Party shall be entitled to take the depositions of all of the opposing Party's experts. Any further discovery shall only be allowed by order of the Arbitrator(s) upon a showing of good cause. All disputes concerning the scope of allowable discovery shall be resolved in the sole discretion of the Arbitrator(s). All discovery shall be completed sixty (60) days prior to the arbitration hearing.

G. Voluntary Disclosure of Information. Thirty (30) days prior to the scheduled first day of the arbitration, each Party shall serve upon the other Party the documents it intends to rely upon or present at arbitration and a reasonably detailed statement of the expected testimony of witnesses, including expert witnesses (but not adverse witnesses). Within ten (10) days of the receipt of such documents from the other side, the receiving Party may provide additional documents or additional statements of the expected testimony of witnesses, including experts. This schedule may be modified by the Parties or the Arbitrator(s) as necessary to allow for an expeditious and orderly process.

H. Arbitration Hearing. It is the Parties' goal that any arbitration involving less than \$500,000 in controversy will be completed in not more than three full days; provided, however, that the Arbitrator shall have discretion to extend this time if necessary for a fair hearing of the dispute. An arbitration involving \$500,000 or more shall be conducted within such time as the Arbitrator(s) allow, but it is the intention of the Parties that the hearing be as streamlined as possible. The Arbitrator(s) may require, and the Parties shall provide, briefing of legal issues or presentation of additional evidence. Copies of documents may be admitted in evidence as originals, absent a showing by an objecting Party that the copy is unlike the original in some substantive way.

I. Arbitrators' Final Decision. The Arbitrator(s) shall have the power to grant all legal and equitable remedies, including but not limited to, injunctions, specific performance, reformation, cancellation, accounting and compensatory damages; provided, however, that the Arbitrators shall not be empowered to award punitive damages, penalties, forfeitures or attorney's fees. The Arbitrator(s) shall issue a written reasoned decision setting forth the Parties' contentions, findings of fact and conclusions of law applying California and applicable federal law (the "Decision") within thirty (30) days of the conclusion of the arbitration hearing. For disputes of \$500,000 or more, the Arbitrator(s) shall issue a tentative Decision within such thirty (30) day period and the Parties may each file a response of not more than ten (10) pages to the tentative Decision within ten (10) days of the date it is issued. At the request of either Party, the Arbitrator(s) shall conduct a hearing on the tentative Decision lasting not longer than one half day, which shall be held within thirty (30) days of the date of the tentative Decision or the earliest possible date thereafter that is mutually agreed to by the Parties and the Arbitrator(s). The Arbitrator(s) shall then have twenty (20) additional days to issue the Final Award. The Arbitrator's Final Award shall be conclusive and binding, and it may be confirmed thereafter as a judgment by the Superior Court of the State of California, subject only to challenge on the grounds set forth in California Code of Civil Procedure Section 1281 et. seq.

J. Venue. The arbitration shall be conducted in Alameda County, California, unless a different location is agreed to by the Parties. Any Party may be represented by counsel or other authorized representative.

K. Service. All notices and briefs shall be served by email-PDF. Voluminous documents shall be served via overnight. Service is deemed complete upon receipt.

8. Waiver of Rights. By agreeing to binding arbitration as set forth in this Schedule, the Parties acknowledge that they are waiving certain substantial rights and protections which otherwise may be available if a dispute between them were determined by litigation in a court, including without limitation the right to seek or obtain the items referenced in Section 7.I above, the right to a jury trial, and certain rights of appeal.

MEMORANDUM OF UNDERSTANDING

by and between

EDEN TOWNSHIP HEALTHCARE DISTRICT,

a California healthcare district

and

EDEN MEDICAL CENTER,

a California nonprofit public benefit corporation

and

SUTTER HEALTH,

a California nonprofit public benefit corporation

Draft Dated October 9, 2007

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