

800 North Main Street, Evansville IN

Offering Sheet Packet

**OFFERING SHEET FOR SALE OF REAL PROPERTY
BY THE EVANSVILLE REDEVELOPMENT COMMISSION**

The Evansville Redevelopment Commission ("Commission") hereby offers the property known as 800 N Main Street, Evansville, Indiana, located in the Jacobsville Redevelopment Area, for sale based on the specified terms and conditions:

Description: The property commonly known as 800 N Main Street and more particularly described as follows:

Parcel A:

Lots Three (3) and Four (4) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel B:

Lot Five (5) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel C:

Lot Six (6) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel D:

Lots One (1) and Two (2) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel E:

Lots Seven (7) and Eight (8) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel F:

Lots Nine (9), Ten (10) and Eleven (11) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Terms and Conditions:

Minimum Offering Price: \$335,000.00

Term: Public Sale

Limitations on Use: The property is subject to a long term Lease with Total Renal Care, Inc. and the terms of the current lease shall remain. A copy of the Lease is available for review.

Site Condition: The property is zoned C-2, light industrial district. The site consists of a rectangular shaped lot, 277' x 126.5' with 277' frontage on N Main Street and 126.5' frontage on

Columbia Street and Maryland Street with an alley running along the western edge of the building. The lot has an area of approximately 34,902 square feet or .80 acres.

Building Condition: The property contains a one-story, rectangular concrete block building with a glass and metal entry way. The building footprint is approximately 10,554 square feet currently being operated as a dialysis center. The building was built in 1995, has a metal gable roof on a portion of the building plus a new EPDM roof, installed in 2016. There are 10 new windows and glass entry with automatic doors on the southeast end of the subject building. The 5 HVAC rooftop units were newly installed in 2017. The exterior of the building was painted in 2017. The building is 100% sprinkled.

Other Terms and Conditions: In addition to the foregoing conditions, the offer is subject to the following terms and conditions:

Bidders must affirm that they have become familiar with and are aware of:

- a. the present conditions of the real estate being offered for sale;
- b. the provisions of the Jacobsville Redevelopment Plan, a copy of which can be located at the Department of Metropolitan Development, Room 306 Civic Center Complex; and
- c. the current lease with Total Renal Care, Inc.

Written offers must be submitted using the form prescribed by the Redevelopment Commission, the form of which is attached hereto. Offers that are not complete with respect to the information required shall be rejected.

Submission of Proposals:

Written sealed offers to purchase will be received at the office of the Department of Metropolitan Development, Room 306, Civic Center Complex until 8:30 a.m. local time on Tuesday, April 5th, 2022. Proposals will be publicly opened and read aloud at a regular meeting of the Evansville Redevelopment Commission to be held at 8:30 a.m. on April 5th, 2022 in Room 301 of the Civic Center Complex.

Completed offers must include at least the following information:

- a. the offering price; and
- b. any proposal submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each beneficiary of the trust and settlor empowered to revoke or modify the trust.

Offerors shall agree to hold open their offers for a period of at least sixty (60) days after the date specified for the opening of offers (or the date the offer was received by the Redevelopment Commission if submitted after such opening date).

Maps and plats showing the size and location of the offered property are attached.

The Redevelopment Commission reserves the right to reject any and all offers and to enter into a sale agreement with the highest and best offeror in its sole discretion. The Redevelopment Commission reserves the right to waive any informalities in any offer. In determining the best offer, the Redevelopment Commission shall take into consideration the following factors:

1. the offeror's price;
2. the offeror's compliance with the requirement that trust beneficiaries and settlers be identified (as described above); and

3. Any factors that will assure the Redevelopment Commission that the sale, if made, will further the implementation of the redevelopment plan for the Jacobsville Redevelopment Area and best serve the interest of the tenant and the community from the standpoint of both human and economic welfare.

The Redevelopment Commission may request any offeror to submit additional information to clarify the offer after the date on which the offers are opened. The Redevelopment Commission reserves the right to make such investigations as it deems necessary to determine the ability of offeror to perform its obligations under this request.

Evansville Redevelopment Commission

**PROPOSAL TO SELL LAND FOR PRIVATE USE
Jacobsville Redevelopment Area**

To: Evansville Redevelopment Commission
306 Civic Center Complex
1 N.W. Martin Luther King, Jr. Blvd.
Evansville, IN 47708-1869

1. AUTHORITY FOR OFFER

Having become familiar with present conditions on the project site and the provisions of the Jacobsville Redevelopment Plan, the undersigned, hereinafter referred to as the "Offeror" offers and agrees to purchase from the Evansville Redevelopment Commission (hereinafter "Commission") 800 N Main Street, more particularly described as Parcel A: Lots Three (3) and Four (4) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana. Parcel B: Lot Five (5) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana. Parcel C: Lot Six (6) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana. Parcel D: Lots One (1) and Two (2) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana. Parcel E: Lots Seven (7) and Eight (8) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana. Parcel F: Lots Nine (9), Ten (10) and Eleven (11) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana, for the price of:

\$ _____

PLUS OTHER CONSIDERATION (if any):

(Attach other pages as necessary. Include evidence of fair market value of all other consideration.)

- 2. IF OFFER IS SUBMITTED BY A TRUST** as defined by IC 30-4-1-1(a), offeror shall enter the name of the trust in this space, and on an attachment, offeror must identify each beneficiary of the trust and settlor empowered to revoke or modify the trust.

Name of Trust (if any) _____

3. REJECTION AND WITHDRAWAL OF OFFERS:

It is agreed that this offer shall remain open for a period of sixty (60) days from the final date to accept offers as specified in the Notice of Sale of Real Estate (or the date the offer was received by the Department of Metropolitan Development, if submitted after the offer acceptance date) and shall remain in force thereafter until withdrawn by the Offeror in writing, and that the Commission may reject any and all Offers, and may waive any informalities therein. It is further agreed that this offer and all accompanying documents submitted by Offeror shall become the sole property of the Commission.

4. QUALIFICATIONS

It is agreed that the Commission shall have the right to make such investigation as it deems necessary to determine the ability of the Offeror to perform the obligations of this Proposal and that the Offeror shall, upon request, furnish the commission with such additional information as it may request to clarify this Proposal.

7. AFFIRMATION

Offeror hereby affirms that it is familiar with and is aware of: (a) the present condition of the real estate being offered for sale; (b) provisions of the lease with Total Renal Care, Inc. and (c) the provisions of the Jacobsville Redevelopment Plan (as amended) adopted by the Redevelopment Commission.

8. CERTIFICATION

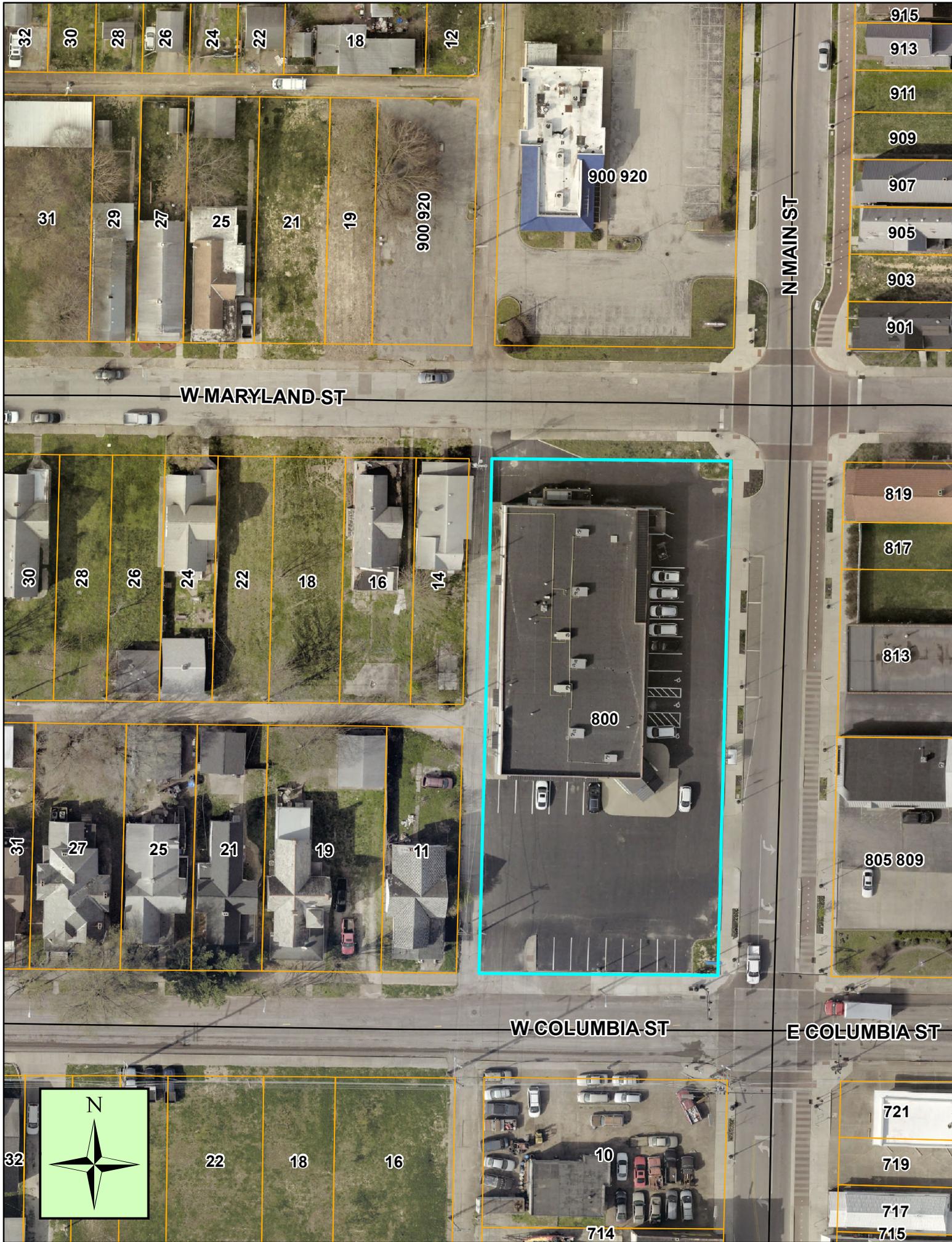
It is hereby certified that the above information is accurate and that the Offeror agrees to abide by the terms and conditions of the Offer and this Proposal, if accepted by the Evansville Redevelopment Commission.

Offeror: _____
Name of Firm or Individual (Type or Print)

By: _____
Signature of Offeror or authorized representative

Date Submitted: _____

Map of Property



W-MARYLAND-ST

N-MAIN ST

W COLUMBIA ST

E COLUMBIA ST



32 30 28 26 24 22 18 12

31 29 27 25 21 19 900 920

900 920

915
913
911
909
907
905
903
901

30 28 26 24 22 18 16 14

800

819
817
813

31 27 25 21 19 11

805 809

32 22 18 16

10 714

721
719
717
715

Copy of Current Lease

COMMENCEMENT DATE MEMORANDUM

With respect to that certain Lease Agreement ("Lease") dated March 11, 2017, between **City of Evansville by and through its Redevelopment Commission** ("Landlord") and **Total Renal Care, Inc.** ("Tenant"), whereby Landlord leased to Tenant and Tenant leased from Landlord space located at 800 N. Main Street, Evansville, Indiana 47714 (the "Premises"). Tenant and Landlord hereby acknowledge as follows:

- (1) Landlord delivered possession of the Premises to Tenant on March 27, 2017 (the "Possession Date").
- (2) The Term of the Lease commenced on November 1, 2017 (the "Commencement Date").
- (3) The Expiration Date of the Lease is October 31, 2027.
- (4) It is agreed that the first Lease Year shall end on October 31, 2018 and that each subsequent Lease Year shall end on October 31.
- (5) Tenant shall commence payment of Base Rent and Additional Rent on November 1, 2017.
- (6) The Premises contain 10,722 rentable square feet of space.
- (7) The last dates upon which the respective renewal options may be exercised are April 30, 2027, April 30, 2032, and April 30, 2037.

All capitalized terms herein, not otherwise defined herein, shall have the meaning assigned in the Lease.

IN WITNESS WHEREOF, this Commencement Date Memorandum is executed the date(s) set forth below.

LANDLORD:
City of Evansville by and through its Redevelopment Commission

By: 
Name: KELLEY COURES
Title: EXEC

Date: 11-1-2017

TENANT:
Total Renal Care, Inc.
a California corporation

By: _____
Name: Jason Moilanen
Title: Assistant General Counsel

Date: _____

LEASE AGREEMENT

BY AND BETWEEN

City of Evansville by and through its Redevelopment Commission

(“LANDLORD”)

AND

Total Renal Care, Inc.

(“TENANT”)

**FOR SPACE AT
800 N. Main Street, Evansville, IN 47714**

Dated: March 11, 2017

TABLE OF CONTENTS

Page

1.	Demise; Premises	1
2.	Term and Delivery of Premises.....	1
3.	Rent	2
4.	Renewals	2
5.	Condition of Premises	2
6.	Use of Premises	2
7.	Assignment/Subletting.....	3
8.	Operating Expenses and Utilities.....	4
9.	Intentionally Omitted.....	5
10.	Tenant Improvements/Signage	5
11.	Alterations	5
12.	Environmental	5
13.	Damage to Premises by Fire or Casualty	7
14.	Eminent Domain.....	8
15.	Right of Entry by Landlord	8
16.	Indemnity.....	9
17.	Default and Remedies	9
18.	Insurance	11
19.	Subrogation.....	12
20.	Repairs and Maintenance.....	12
21.	Brokers.....	12
22.	Emergency	12
23.	Title and Parking	13
24.	Compliance with Laws.....	13
25.	Intentionally Omitted.....	13
26.	Tenant to Subordinate	13
27.	Quiet Enjoyment.....	13
28.	Memorandum of Lease.....	14
29.	Notices	14
30.	Estoppel Certificate	14
31.	Landlord's Sale of the Building	14
32.	Tenant's Satellite and Cable Rights.....	14
33.	Regulatory Compliance	15
34.	Cooperation with Tenant's Cost Reporting Responsibilities	16
35.	Protected Health Information	16

TABLE OF CONTENTS

Page

36. Landlord’s Consent.....16

37. Surrender of Premises.....16

38. Holding Over17

39. Binding Effect17

40. Severability.....17

41. Applicable Law17

42. Force Majeure17

43. Complete Agreement.....17

44. Counterparts.....17

45. Incorporation of Exhibits17

EXHIBITS

EXHIBIT A- LEGAL DESCRIPTION/ BUILDING SITE PLAN

EXHIBIT B- PREMISES FLOOR PLAN

EXHIBIT C- FORM OF COMMENCEMENT DATE MEMORANDUM

EXHIBIT D- FORM OF SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

EXHIBIT E- FORM OF ESTOPPEL CERTIFICATE

EXHIBIT F- INTENTIONALLY OMITTED

EXHIBIT G- MEMORANDUM OF LEASE

DATA SHEET

Landlord: City of Evansville by and through its Redevelopment Commission

Address of Landlord: c/o Department of Metropolitan Development
Attn: Executive Director
One NW Martin Luther King, Jr. Blvd.
Room #306
Evansville, IN 47708

Address for Payment of Rent: c/o Department of Metropolitan Development
Attn: Executive Director
One NW Martin Luther King, Jr. Blvd.
Room #306
Evansville, IN 47708

Tenant: Total Renal Care, Inc.

Address of Tenant: c/o DaVita Healthcare Partners, Inc.
Attn: Real Estate Legal
2000 16th Street
Denver, CO 80202

Concurrently to:

relegal@davita.com, Subject: Evansville, IN (11342)

Premises Address: 800 N. Main Street, Evansville, IN 47714

Premises Rentable Area: approximately 10,722 rentable square feet

Building Rentable Area: approximately 10,722 rentable square feet

Base Rent for Term:

Period	Base Rent per s/f	Monthly Base Rent	Yearly Base Rent
Full months 1 through 120 inclusive, plus any partial month at the beginning of the Lease Term:	\$ 1.80	\$ 1,608.30	\$ 19,299.60

Options 1-3:

Period	Base Rent per s/f	Monthly Base Rent	Yearly Base Rent
Option 1			
Full months 121 through 180 inclusive:	\$ 1.98	\$ 1,769.13	\$ 21,229.56
Option 2			
Full months 181 through 240 inclusive:	\$ 2.18	\$ 1,947.83	\$ 23,373.96
Option 3			
Full months 241 through 300 inclusive:	\$ 2.40	\$ 2,144.40	\$ 25,732.80

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease"), made and entered into on March 11, 2017 (the "Effective Date"), by and between, City of Evansville, by and through its Redevelopment Commission, ("Landlord"), and Total Renal Care, Inc. ("Tenant").

WITNESSETH:

WHEREAS, Landlord desires to demise, lease and rent unto Tenant, and Tenant desires to rent and lease from Landlord space located at 800 N. Main Street, Evansville, IN 47714, as more particularly described on Exhibit A (the "Building"), together with all improvements thereon and appurtenant rights thereto including, without limitation, parking areas, easements, declarations and rights of way; and

WHEREAS, the Building contains approximately 10,722 rentable square feet (the "Building Rentable Area") and the leased premises (the "Premises") shall consist of approximately 10,722 rentable square feet (the "Premises Rentable Area") as more fully depicted on the floor plan attached as Exhibit B.

NOW, THEREFORE, for and in consideration of the mutual covenants, promises and agreements herein contained, Landlord does hereby demise, lease and rent unto Tenant and Tenant does hereby rent and lease from Landlord the Premises, under and pursuant to the following terms and conditions:

1. Demise; Premises. Landlord leases to Tenant, and Tenant leases from Landlord, the Premises and all easements and appurtenances related thereto, for the rents, covenants and conditions (including limitations, restrictions and reservations) hereinafter provided, together with parking for Tenant's employees, patients and invitees in the locations shown on Exhibit A and the right to use all Common Areas (as defined in Section 20.1(a)).

2. Term and Delivery of Premises.

2.1 **Term**. The term of this Lease shall be for 120 months (the "Term") and shall commence upon the earlier of the occurrence of the following two events (the "Commencement Date"): (i) the first day of the 8th month following the Possession Date, as hereafter defined; or (ii) that date that all of the following have occurred: (A) the Tenant Improvements (as defined in Section 10) have been completed in accordance with the final construction documents (except for nominal punch list items), (B) Tenant obtains the certificate of occupancy for the Premises from the applicable municipal authority in which the Premises is located, and (C) Tenant has obtained all necessary licenses and permits to operate its business. The expiration date of the Term shall be the last day of the 120 month following the Commencement Date (the "Expiration Date"), unless the Term is renewed in which event the Expiration Date shall extend to the end of such exercised renewal period(s). Each 12 month period beginning on the Commencement Date or any anniversary thereof shall hereinafter be called a "Lease Year." Upon determination of the Possession Date and Commencement Date, Landlord shall complete, execute and forward a Commencement Date Memorandum in the form attached as Exhibit C to Tenant for Tenant's approval and execution. In the event the Possession Date does not fall on the first day of the month, Base Rent and Additional Rent shall be prorated for any partial month and Tenant shall pay for such proration on the first day of the month following the Commencement Date.

2.2 **Estimated Possession Date; Delay in Delivery**. Landlord shall deliver possession of the Premises to Tenant on or before that date which is seven days following the Effective Date (the "Estimated Possession Date"). If the date Landlord actually delivers the Premises (the "Possession Date") is later than 30 days after the Estimated Possession Date (the "Outside Possession Date"), Tenant may elect one of the following remedies: (i) receive a rent credit in an amount equal to one day's Base Rent and Additional Rent (both as defined below, in an amount equal to the applicable rate for periods following any rent abatement) for each day or part thereof that the Possession Date is later than the Estimated Possession Date or (ii) terminate this Lease by written notice to Landlord. Tenant may, but shall not be obligated to, accept possession of the Premises prior to the Estimated Possession Date.

Furthermore, in no event shall the time period used for calculating the Commencement Date begin to accrue prior to the Estimated Possession Date.

3. Rent. Beginning on the Commencement Date, Tenant shall pay as initial annual base rent ("Base Rent") the amount set forth in the Data Sheet, in advance, on the first day of each calendar month during the Term, such monthly installment and any Additional Rent or other charges to be prorated for any partial calendar month in which the Commencement Date or Expiration Date occurs. As a condition to payment of Base Rent, Additional Rent, or other charges, Landlord shall provide Tenant with a completed Form W-9 Request for Taxpayer Information and Certification, a fully executed Commencement Date Memorandum, and for Additional Rent, Landlord's initial estimate of Operating Expenses. Upon any assignment by Landlord of its rights, title and interest in and to this Lease, Landlord shall cause such successor Landlord to deliver a completed Form W-9 to Tenant.

Actual rentable square footage for the Premises will be determined with all measurements computed in accordance with *Retail Buildings: Standard Method of Measurement (ANSI/BOMA Z65.5-2010)*, as promulgated by The Building Owners and Managers Association International. Tenant may elect to have the space measured prior to the Commencement Date or during the first Lease Year. If the rentable square footage is found to be greater or less than the rentable square footage shown in this Lease, Base Rent and other provisions of this Lease which are based on the Premises Rentable Area shall be adjusted accordingly.

Except as otherwise provided in this Lease, it is the intention of the parties that Landlord shall receive Base Rent, Additional Rent, and all sums payable by Tenant under this Lease free of all taxes, expenses, charges, damages and deductions of any nature whatsoever (except as otherwise provided herein).

4. Renewals. Subject to limitations contained in this Section 4, Tenant shall have the right and option to renew this Lease for up to three additional periods of five years each, immediately ensuing after the expiration of the initial Term and any subsequent renewal period by notifying Landlord in writing not less than six months before the expiration of the immediately preceding initial Term or subsequent renewal Term of Tenant's intention to exercise its option to renew. Notwithstanding prior delivery of such notice, the notice shall be effective, notwithstanding anything to the contrary in such notice, not earlier than six months before the expiration of the immediately preceding initial Term or subsequent renewal Term. In the event that Tenant so elects to extend this Lease, then, for such extended period of the Term, all of the terms, covenants and conditions of this Lease shall continue to be, and shall be, in full force and effect during such extended period of the Term, except that Base Rent shall be paid as set forth in the Data Sheet. Notwithstanding anything to the contrary in this Section 4, if during the first three years of the second renewal Term, Landlord's cumulative verifiable expenses relating to its maintenance and repair obligations during such three year period is equal to or greater than 125% of the Base Rent collected during such three year period, Landlord shall have the option of terminating the Lease at the end of such renewal Term. Landlord shall provide written notice of such termination not less than 18 months prior to the end of the then current term.

5. Condition of Premises. Except as set forth in this Lease, Landlord shall deliver the Premises in as-is, where-is condition as of the Possession Date except that the Premises shall be (a) free from all Hazardous Substances, including, but not limited to, asbestos and mold, (b) in compliance with all applicable Laws, and (c) free from all structural defects as of the Possession Date, and subject to Landlord's maintenance and repair obligations under this Lease.

6. Use of Premises. Tenant may occupy and use the Premises during the Term for purposes of the operation of an outpatient renal dialysis clinic, renal dialysis home training, aphaeresis services and similar blood separation and cell collection procedures, general medical offices, clinical laboratory, including all incidental, related and necessary elements and functions of other recognized dialysis disciplines which may be necessary or desirable to render a complete program of treatment to patients of Tenant and related office and administrative uses or for any other lawful purposes consistent with Landlord's redevelopment plan for the area (the "Permitted Use"). Tenant may operate during such days and hours as Tenant may determine, without the imposition of minimum or maximum hours of operation

by Landlord, and Tenant shall have exclusive use of and full-time access to the Premises, and may operate, up to 24 hours per day, seven days per week, year-round.

Landlord shall not sell, rent or permit any property owned, leased or controlled by Landlord or any affiliate of Landlord within a radius of five miles from the Premises to be occupied or used by a business that derives more than ten percent of its revenues from renal dialysis, renal dialysis home training, any aphaeresis service(s) or similar blood separation or cell collection procedures, except services involving the collection of blood or blood components from volunteer donors. In the event the radius restrictions are violated and Landlord has failed to promptly commence an action or proceeding (or arbitration, if applicable) against the violating owner, tenant or occupant or at any point in such action or proceeding (or arbitration, if applicable) fails to use commercially reasonable and good faith efforts to seek and obtain a temporary restraining order, preliminary injunction, permanent injunction or other court order or judgment enjoining or stopping such violation, then, in addition to all other rights at law and in equity, Tenant may, while such violation is continuing, reduce the Base Rent to an amount equal to 50% of the Base Rent for up to 24 installments of Base Rent. Thereafter, Tenant must either terminate this Lease or resume paying full Base Rent. Notwithstanding the foregoing, if any tenant or occupant in the restricted radius violates the restrictions contained in this paragraph and such violation also constitutes a violation of such tenant or occupant's lease or occupancy agreement, Tenant's right to abate rent as set forth above shall be delayed for a period not to exceed 12 months, provided Landlord has promptly commenced and diligently pursued all rights and remedies reasonably available to Landlord to enforce the terms of such lease or occupancy agreement to cause such violation to cease. If such violation has not ceased at the end of such 12 month period, Tenant shall be entitled to all remedies and rights available under this paragraph and the Lease.

In the event at any time after the Commencement Date the use of the Premises as a dialysis facility becomes illegal by reasons or acts not within Tenant's control, notwithstanding any other permitted uses, Tenant may terminate this Lease and, thereafter, neither party shall have any further obligations under this Lease after the date of termination, except those that expressly survive such termination.

Landlord hereby acknowledges that in order to provide a continuum of care to Tenant's patients, Tenant may delay the effective date of Tenant's termination of this Lease under any provision of this Lease giving Tenant the right to terminate until such time as Tenant has established an alternative location for the treatment of Tenant's patients and any such delay shall not operate as a waiver of Tenant's termination rights.

7. Assignment/Subletting. Except for a Permitted Transfer (as defined below), Tenant shall not assign this Lease, or sublet the Premises, or any part thereof, without Landlord's prior written consent which consent shall not be unreasonably withheld, conditioned or delayed. Prior to any sublease or assignment, Tenant shall first notify Landlord in writing of its election to sublease all or a portion of the Premises or to assign this Lease or any interest hereunder. At any time within 30 days after service of such notice, Landlord shall notify Tenant that it consents or refuses to consent to the sublease or assignment. A failure by Landlord to respond within such 30-day period shall be deemed to be a consent.

Notwithstanding the foregoing, no consent of Landlord is required for Tenant to assign, sublet or otherwise transfer (by operation of law or otherwise) this Lease or any of its rights hereunder to: (i) any person, corporation, partnership or other entity which acquires all or substantially all of the business or assets of Tenant or equity in Tenant; (ii) any person, corporation, partnership or other entity which controls, is controlled by or is under common control with Tenant; (iii) any affiliate (within the meaning of such term as set forth in Rule 501 of Regulation D under the Federal Securities Act of 1933, as amended) of Tenant; or (iv) any physician, person, corporation, partnership or other entity subleasing a portion of the Premises for purposes consistent with Tenant's Permitted Use (each a "Permitted Transfer").

No assignment, sublease or other transfer, in whole or in part, of any Tenant's rights or obligations under this Lease shall release Tenant hereunder and Tenant shall remain responsible for performing Tenant's obligations hereunder should Tenant's assignee, subtenant or transferee fail to perform any such obligations, unless specifically provided otherwise by Landlord in writing.

8. Operating Expenses and Utilities.

8.1 Beginning on the Possession Date, Tenant shall pay all Taxes (as defined below) and insurance premiums actually paid to a third party insurer for the Building ("Insurance"), in advance, in equal monthly installments at the time of the payment of Base Rent. Taxes and Insurance are collectively referred to as the "Operating Expenses." As used herein, all Operating Expenses shall be net of all rebates, fees and incentives that are paid by a provider or vendor to Landlord. Tenant's payments shall be based on Landlord's annual estimate of the Operating Expenses for the applicable calendar year in question. Promptly after the actual Operating Expenses for a calendar year are determined by Landlord, but in no event later than 180 days from the end of each calendar year, Landlord shall provide Tenant with a statement of such actual Operating Expenses for such calendar year (the "Annual Reconciliation Statement"). If the actual Operating Expenses for such calendar year are greater than the amount of Tenant's Proportionate Share of Operating Expenses previously paid by Tenant, Tenant, within 30 days of receipt of such Annual Reconciliation Statement, shall pay to Landlord any deficiency. If such statement shows an overpayment by Tenant, then any surplus paid by Tenant shall be credited to Tenant's next monthly installments of Base Rent and Operating Expenses or, if this Lease has expired or been terminated for reasons other than Tenant's breach or default, be paid to Tenant within 30 days after the end of the Term. The reconciliation obligations under this Section 8.1 shall survive the termination or expiration of this Lease.

"Taxes" shall mean real property taxes, public charges and assessments assessed or imposed during the Term upon the Building or land on which the Building is located; provided, however, that any one-time (as opposed to on-going) special assessment for public improvements having a useful economic life exceeding the remaining Term shall be prorated between Landlord and Tenant using a straight-line method, based on the proportion of that economic life falling within the remaining Term. Taxes shall not include any penalties or interest for late or partial payment nor any income, franchise, margin, inheritance, estate, transfer, excise, gift or capital gain taxes that are or may be payable by Landlord or that may be imposed against Landlord or against the rents payable hereunder. Landlord shall pay all Taxes prior to delinquency and take advantage of any savings in Taxes that may be achieved by early payment or payment in installments. Should Landlord choose not to contest any Taxes, Tenant shall have the right to contest the Taxes in Landlord's name and with Landlord's reasonable cooperation, at no expense to Landlord. Landlord, at Tenant's sole expense, shall join in any such contestation proceedings only to the extent that any Law shall so require Landlord's participation. If the assessed value of the Building is increased at any time during the Term by more than five percent and if such increase is due solely to the sale or transfer of ownership of the Building (as substantiated by the actual documentary records of the local tax assessor), then for purposes of determining the amount of Taxes, the assessed value of the Building shall be deemed to have been increased by only five percent by reason of such sale or transfer of ownership.

8.2 Tenant shall pay the cost of all utilities and other services necessary in the operation of the Premises, including but not limited to, gas, fuel oil, electrical, telephone and other utility charges. The Premises shall be separately metered for all utilities, including gas, water and electricity.

8.3 Landlord shall make available at the Building or other designated place near the Premises, true and accurate records of items that constitute Operating Expenses, calculated in accordance with prudent real estate management practices, consistently applied. Such records shall be open for inspection from time to time by Tenant or its duly authorized representative for a period of three years after receipt of Landlord's Annual Reconciliation Statement for such calendar year. If any audit of Landlord's submitted reports discloses an overcharge, Landlord shall promptly pay to Tenant, within 45 days demand by Tenant, the amount of such overcharge, and if such audit discloses an overcharge of more than seven percent, Landlord shall reimburse Tenant its actual costs incurred in connection with Tenant's review or audit.

8.4 Operating Expenses and other charges due from Tenant to Landlord pursuant to this Lease shall be deemed to be Additional Rent and, in the event that Base Rent shall be prorated or abated

pursuant to the terms of this Lease, then such Additional Rent shall be prorated or abated to the same extent and in the same manner, unless otherwise specifically provided for in this Lease.

9. Intentionally Omitted.

10. Tenant Improvements/Signage. Tenant shall construct its tenant improvements to the Premises and may construct and place a covered drop off canopy at the front entry door of the Premises (the "Tenant Improvements"). Tenant intends to install Tenant Improvements (including fixtures and equipment) that cost more than \$1,000,000 and shall install Tenant Improvements costing no less than \$500,000 prior to the Commencement Date.

Tenant shall contract for the installation of Tenant Improvements with a contractor of Tenant's choice. Landlord and Tenant shall mutually approve the plans and specifications of Tenant Improvements prior to the commencement of such work. Landlord shall not charge Tenant any fee or other charges for the supervision and/or overhead associated with the construction of Tenant Improvements.

Subject to compliance with all applicable Law, Tenant shall have the right to place a generator and biomedical waste container outside of and in close proximity to the Premises. In the event the generator is located within the Premises, Tenant, at Tenant's cost and expense, shall have the right to install exhaust venting for such generator from the interior of the Premises to the outside of the Building and a transfer switch to service the generator.

To the maximum extent permitted by applicable Laws, Landlord hereby waives any rights which Landlord may have, as to any of Tenant's furniture, fixtures, equipment, personal property, improvement and alterations, in the nature of a landlord's lien, security interest or otherwise and further waives the right to enforce any such lien or security interest.

Tenant shall have, at its sole cost and expense, the right to erect, affix and display such signage as Tenant may consider necessary or desirable on the exterior and interior walls, doors and windows of the Premises (including directional and designated parking signage in parking areas) and a sign on the exterior of the Building and a monument sign at locations on the Building as shall be agreed to by Landlord, in accordance with the rules and regulations of the Building. All such signs shall comply with all applicable zoning Laws. Tenant shall obtain Landlord's prior approval for signs on the exterior of the Building and each monument sign, which approval shall not be unreasonably withheld, conditioned or delayed, for the location and design of such signs.

11. Alterations. Tenant shall have the right to make such interior non-structural alterations, additions and improvements to the Premises ("Alterations") that it shall deem desirable for the operation of its business, without Landlord's consent, provided that any such Alterations shall not diminish the value of the Premises nor impair the structural integrity of the Premises or the Building. All Alterations shall be in conformance to applicable governmental codes. Any other alterations shall require Landlord's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

12. Environmental. Tenant shall not cause or permit any hazardous or toxic substances, materials or waste, including, without limitation, medical waste and asbestos ("Hazardous Substances") to be used, generated, stored or disposed of in, on or under, or transported to or from, the Premises in violation of any applicable local, state, and federal laws, ordinances, statutes, rules, regulations, executive orders, judgments, decrees, case law, and/or other determinations of an arbitrator or a court or other governmental authority, in each case applicable to or binding upon such person or any of its property or to which such person or any of its property is subject ("Laws"), whether now in existence or hereafter adopted, relating to Hazardous Substances or otherwise pertaining to the environment ("Environmental Laws"). Tenant shall periodically cause to be removed from the Premises such Hazardous Substances placed thereon by Tenant or Tenant's agents, servants, employees, guests, invitees or independent contractors in accordance with good business practices, such removal to be performed by persons or entities duly qualified to handle and dispose of Hazardous Substances. Without limiting the generality of the foregoing, Landlord acknowledges that the following Hazardous Substances, among others, are

required for Tenant's business operations: bleach, cidex, hibiclens, metricide, hydrogen peroxide and formaldehyde. Upon the expiration or earlier termination of this Lease, Tenant shall cause all Hazardous Substances placed on the Premises by Tenant to be removed from the Premises, at Tenant's cost and expense and disposed of in strict accordance with Environmental Laws.

Tenant shall be fully liable for all costs and expenses related to its use, storage, and disposal of Hazardous Substances at the Premises, and Tenant shall indemnify, defend (by counsel reasonably acceptable to Landlord) and hold the City of Evansville, Indiana, Landlord, its officers, agents, and employees harmless, from and against any and all claims, liabilities, penalties, fines, judgment, forfeitures, losses, costs (including clean-up costs) or expenses (including reasonable attorney's fees, consultant's fees and expert's fees) for the death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by (i) the presence after the Possession Date in, on, under or about the Premises of any Hazardous Substances caused by Tenant or its agents, servants, employees, guests, invitees or independent contractors; (ii) any discharge or release by Tenant or its agents, servants, employees, guests, invitees or independent contractors after the Possession Date in or from the Premises of any Hazardous Substances; (iii) Tenant's use, storage, transportation, generation, disposal, release or discharge after the Possession Date of Hazardous Substances to, in, on, under, about or from the Premises; or (iv) Tenant's failure to comply with any Environmental Law.

Landlord shall indemnify, defend (by counsel reasonably acceptable to Tenant) and hold Tenant, its officers, agents, and employees harmless, from and against any and all claims, liabilities, penalties, fines, judgment, forfeitures, losses, costs (including clean-up costs) or expenses (including reasonable attorney's fees, consultant's fees and expert's fees) for the death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by (i) the presence on or prior to the Commencement Date in, on, under or about the Premises, Building or the land on which the Building is located of any Hazardous Substances; (ii) any discharge or release on or prior to the Commencement Date in or from the Premises or Building of any noxious or Hazardous Substances; (iii) the use, storage, transportation, generation, disposal, release or discharge of Hazardous Substances by Landlord or its agents, servants, employees, guests, invitees, or independent contractors to, in, on, under, about or from the Premises, Building or the land on which the Building is located; or (iv) Landlord's failure to comply with any Environmental Law. Landlord agrees to remediate, at Landlord's cost and expense, immediately upon receipt of notice from Tenant any condition described in (i) through (iv) of the previous sentence. The indemnities set forth in this Section 12 shall survive termination or expiration of this Lease.

Landlord represents and warrants to Tenant that (i) to the best of Landlord's knowledge, there are no Hazardous Substances in, on, under or about the Premises or Building or the land on which the Building is located, including without limitation asbestos or mold, and (ii) Landlord has received no notice from any governmental or private entity relating to Hazardous Substances in, on, under or about the Premises, Building or the land on which the Building is located.

Landlord hereby covenants and agrees that if Tenant discovers mold at the Premises or Common Areas used by Tenant's patients which has been caused by the act or omission of Landlord or another tenant in the Building, Landlord shall, upon written notice from Tenant (which notice must include a report from an independent licensed environmental firm stating that mold exists), promptly remediate the mold and reimburse Tenant for the cost of the report. If Landlord disputes that Landlord is responsible for remediation under this Section, Landlord shall, within five days after receiving Tenant's notice, hire an independent licensed environmental firm, reasonably acceptable to Tenant, to promptly investigate the mold and determine if it was caused by the acts or omission of Landlord. If the environmental firm determines that mold does not exist in the applicable areas or that Landlord is not responsible for remediation of the mold pursuant to the terms of this Section 12, Landlord shall not be required to reimburse Tenant for the cost of its report to Landlord and shall not be required to remediate the mold. Otherwise, if Landlord shall not commence remediation within five days following written notice from Tenant or five days after the determination of the environmental firm, as applicable, and Tenant determines, in Tenant's reasonable discretion, that such remediation is necessary for the safety of

Tenant's patients and employees, Tenant may, at its option, after providing Landlord with two days' additional notice, cause such remediation work to be performed, at Landlord's cost and expense. Notwithstanding the foregoing, Landlord shall be deemed to have commenced remediation if it has contacted a contractor or specialist for a consultation relating the mold and has provided Tenant notice thereof. Upon the completion of the remediation work, Tenant shall furnish Landlord with a written statement of the cost of the remediation work, and Landlord shall reimburse Tenant for the actual and reasonable cost of such remediation work within 30 days of Landlord's receipt of Tenant's statement. Should Landlord fail to reimburse Tenant within the 30 day period, then Tenant may, at its option, offset such amount against Base Rent and Additional Rent. Notwithstanding the foregoing, if the remediation work cannot be substantially completed or is not completed within 75 days of Tenant's written notice of the mold to Landlord and Tenant, in Tenant's reasonable discretion, is unable to utilize the Premises, Tenant may elect, at its sole discretion, to receive two days of Base Rent and Additional Rent abatement for each day from the date five days after Landlord received the mold notice until the date of substantial completion of the mold remediation or, if Landlord is not attempting to complete the remediation work, terminate this Lease upon 30 days written notice to Landlord.

Tenant shall promptly deliver to Landlord copies of all notices made by Tenant to, or received by Tenant from, any state, county, municipal or other agency having authority to enforce any Environmental Law ("Enforcement Agency") or from the United States Occupational Safety and Health Administration concerning environmental matters or Hazardous Substances at the Premises, Building or the land on which the Building is located. Landlord shall promptly deliver to Tenant copies of all notices received by Landlord from any Enforcement Agency or from the United States Occupational Safety and Health Administration concerning environmental matters or Hazardous Substances at the Premises, Building or the land on which the Building is located.

13. Damage to Premises by Fire or Casualty. In the event the Premises shall be damaged by fire or other casualty during the Term, whereby the same shall be rendered untenable, then:

13.1 if the damage to the Premises is so substantial that either: (i) the repair, restoration or rehabilitation of such damage cannot reasonably be expected to be substantially completed within 180 days from the date of such damage or (ii) so much of the Premises is destroyed or rendered untenable by such fire or other casualty as to make use of the Premises as a dialysis facility operating at least 75% of the dialysis stations operating prior to the fire or casualty impracticable, then Tenant may elect to terminate this Lease by giving written notice to Landlord within 30 days of the date of such fire or casualty; or

13.2 if (i) the damage to the Premises is so substantial that the estimated repair costs exceed \$100,000.00 and such damage has occurred within the final 180 days of the then current Term and Tenant has not exercised its next available renewal option, if any or (ii) the Building is damaged to the extent of 50% or more of the monetary value thereof and Landlord elects not to rebuild the Building, then Landlord may elect to terminate this Lease by giving written notice to Tenant within 30 days of the date of such fire or casualty.

If not so terminated, Landlord shall proceed with all due diligence to repair, restore or rehabilitate the Premises, to substantially its former condition immediately prior to such damage or destruction, at Landlord's cost and expense. Notwithstanding the foregoing, in the event regulatory changes occurring on or after the Effective Date, applicable to sprinklers serving the Premises, require changes to the Premises or the Building in order for Tenant to continue operating its business, then Landlord shall incorporate such changes into the repair and restoration of the Premises.

If the Premises are rendered untenable by fire or other casualty, there shall be an abatement of Base Rent and Additional Rent due Landlord by Tenant for the period of time during which the Premises is untenable. If the restoration is not substantially completed within 210 days of such damage, Tenant shall have the option to terminate this Lease by written notice to Landlord. In the event of any termination of this Lease, Base Rent and Additional Rent shall be paid only to the date of such fire or casualty.

In the event that the Premises are partially but not substantially damaged by fire or other casualty, then Landlord shall immediately proceed with all due diligence to repair and restore the Premises to substantially its former condition immediately prior to such damage, at Landlord's cost and expense (excluding restoration of any Tenant Improvements or Alterations which are the responsibility of Tenant hereunder), and Base Rent and Additional Rent shall abate in proportion to that portion of the Premises that is untenable during the period of restoration. Notwithstanding the foregoing, in the event regulatory changes occurring on or after the Effective Date, applicable to sprinklers serving the Premises, require changes to the Premises or the Building in order for Tenant to continue operating its business, then Landlord shall incorporate such changes into the repair and restoration of the Premises.

Notwithstanding the foregoing provisions of this Section 13, in the event that insurance proceeds applicable to Alterations or tenant improvements constructed by Tenant at its expense are made available to Tenant, Tenant shall be responsible for restoring such Alterations or tenant improvements; provided, however, that Base Rent and Additional Rent abatement shall continue during such period of restoration so long as Tenant is diligently pursuing the completion of such restoration. In the event that Landlord does not restore the Premises, Tenant shall retain all insurance proceeds applicable to Alterations and tenant improvements constructed by Tenant at its expense.

14. Eminent Domain.

14.1 **Taking.** If by any lawful authority through condemnation or under the power of eminent domain: (i) the whole of the Premises shall be permanently taken; (ii) less than the entire Premises shall be permanently taken, but the remainder of the Premises are not, in Tenant's sole judgment, fit for Tenant to carry on the normal operation of Tenant's business therein; (iii) Tenant determines, in its sole judgment, that after such taking adequate parking space will not be available near the Premises; (iv) there is any substantial impairment of ingress or egress from or to or visibility of the Premises; (v) all or any portion of the Common Areas shall be taken resulting in a material interference with the operations of or access to Tenant's business; or (vi) a temporary taking of all or a material portion of the Premises continues for a period of one year, then in any such event, Tenant may terminate this Lease by written notice, effective as of the date of such taking, and Base Rent and Additional Rent shall be prorated as of the date of such termination.

14.2 **Rent Adjustment.** Unless this Lease is terminated as provided in Section 14.1, commencing on the date possession is acquired by a condemning authority, Base Rent and Additional Rent shall be reduced by the then applicable per rentable square foot Base Rent and Additional Rent multiplied by the number of rentable square feet taken, and Landlord shall promptly restore the Premises, common areas, and/or replace parking and access to the Premises, at Landlord's cost and expense, to a complete architectural unit (provided, however, in the event regulatory changes occurring on or after the Effective Date require changes to the Premises or the Building in order for Tenant to continue operating its business, then Landlord shall incorporate such changes into the repair and restoration of the Premises), in substantially the same condition that the same were in prior to such taking. During such restoration Base Rent and Additional Rent shall be abated to the extent the Premises are rendered not useable for the Permitted Use.

14.3 **Awards.** All compensation awarded or paid in any such eminent domain proceeding shall belong to and be the property of Landlord without any participation by Tenant, except that nothing contained herein shall preclude Tenant from prosecuting any claim directly against the condemning authority in such eminent domain proceeding for its relocation costs, its unamortized leasehold improvements and trade fixtures, loss of business and other damages recoverable under applicable Laws.

15. Right of Entry by Landlord. Subject to Landlord's obligations under Section 35, Landlord, or any of its agents, shall have the right to enter the Premises during all reasonable hours and upon at least 24 hours prior notice (except in cases of emergency) to perform its obligations under this Lease, examine the Premises or, in the six month period immediately preceding the Expiration Date, to exhibit the Premises to potential tenants. Landlord will use commercially reasonable efforts to perform any work to Premises

during hours that Tenant is not open for business (except in emergencies) unless Tenant, in the exercise of its reasonable discretion, otherwise agrees, except that Landlord shall not be required to incur overtime expenses in order to comply with this requirement. Any restoration work or alteration work at the Premises which is necessitated by or results from Landlord's entry, including, without limitation, any work necessary to conceal any element whose presence is permitted hereunder, shall be performed by Landlord at its expense. In the exercise of Landlord's rights pursuant to this Section, Landlord shall make all reasonable efforts to minimize interference with Tenant's operations. If Landlord's entry into the Premises interferes with the conduct by Tenant of its business to such an extent that Tenant, in the exercise of its reasonable business judgment, must close the entire Premises for three or more consecutive business days, then Base Rent and Additional Rent shall totally abate for each day or portion thereof that such interference continues past such three business days.

16. Indemnity. Tenant agrees to indemnify Landlord and save Landlord harmless from any and all liability, claims and loss for personal injury or property damage, or both, sustained or claimed to have been sustained by any person or persons, or property in, upon or about the Premises or Building caused or brought about by the act or neglect of Tenant or its agents, servants or employees. Landlord agrees to indemnify Tenant and save Tenant harmless from any and all liability, claims and loss for personal injury or property damage, or both, sustained or claimed to have been sustained by any person or persons, or property in, upon or about the Premises, Common Areas, Building or the land on which the Building is located caused or brought about by the act or neglect of Landlord or its agents, servants or employees. The indemnities set forth in this Section 16 shall survive termination or expiration of this Lease.

17. Default and Remedies.

(a) **Tenant Default and Landlord Remedies.** The following shall constitute an Event of Default under this Lease:

- (i) Tenant defaults in the payment of Base Rent or Additional Rent hereunder and such Base Rent or Additional Rent remains due and unpaid for ten business days following written notice of such default from Landlord to Tenant (provided that, if Landlord provides Tenant with notice of Tenant's failure to pay Base Rent or Additional Rent once, any subsequent failure to pay Base Rent or Additional Rent on the day it is due shall be an Event of Default);
- (ii) Tenant defaults in the performance of any other provisions of this Lease and such default is not cured within 30 days following written notice from Landlord specifying such default (unless such default is not reasonably capable of being cured within such 30 day period, Tenant is diligently prosecuting such cure to completion);
- (iii) Tenant makes any assignment of this Lease or any sublease of the Premises in violation of Section 7 of this Lease;
- (iv) a petition in bankruptcy is filed by or against Tenant or the guarantor of this Lease (provided Tenant or the guarantor, as applicable, shall have 60 calendar days to stay any involuntary proceeding); or
- (v) Tenant or the guarantor of this Lease makes an assignment for the benefit of its creditors, or a receiver is appointed for Tenant or its parent and such receiver is not dismissed within 60 days of its appointment.

(b) If an Event of Default occurs, then, Landlord, at its option, may:

- (i) Without declaring the Lease terminated, Landlord may enter upon and take possession of the Premises, and lock out, expel or remove Tenant and any other person who may be occupying all or any part of the Premises without being liable to Tenant for any claim for damages, and relet the Premises on behalf of Tenant and receive the rent directly by reason of the reletting.
- (ii) Landlord may terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to surrender the Premises, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises, and lock out, expel or remove Tenant, Tenant's personal property and any other person who may be occupying all or any part of the Premises without being liable to Tenant for any claim for damages.
- (iii) Pay any amount required to be paid by Tenant, or perform any obligation to be performed by Tenant (except for those related to (d) and (e) of this Section 17.1), and to do so, enter upon the Premises, by force if necessary, without being liable to Tenant for prosecution or any claim for damages therefor, and Tenant shall reimburse Landlord within 30 days after demand for any expenses which Landlord may incur in so paying or performing Tenant's obligations under this Lease.

(c) Upon termination of this Lease, Tenant shall pay to Landlord the Base Rent up to the time of such termination, in addition to any amounts payable by Tenant to Landlord pursuant to the immediately following paragraph.

(d) In the event of any such termination, Landlord may: (A) choose to have Tenant remain liable for, and pay on the days originally fixed for such payment hereunder, the full amount of all Base Rent as if this Lease had not been terminated; provided, however, if Landlord relets the Premises there shall be credited against such obligation the amount actually received by Landlord as a result of such reletting after deducting all costs and expenses incurred by Landlord in connection with reletting the Premises including, without limitation, all repossession costs, advertising costs, brokerage commissions, legal expenses, reasonable attorneys' fees, and expenses of preparation for such reletting (the "Reletting Costs") (but in no event shall Tenant be entitled to receive the excess, if any, of net rent collected by Landlord upon such reletting of the Premises); or (B) demand Tenant pay to Landlord on such demand, as and for liquidated and agreed damages for Tenant's default (for loss of a bargain and not as a penalty), all the aggregate Rent for the remaining balance of the then current Term, reduced to present value at the rate of two percent over the then current Prime Rate as published in the Wall Street Journal, less the fair market rental value of the Premises for the remaining balance of the Term that Tenant is able to reasonably prove, plus Reletting Costs and Rent accrued to the time of such termination, if any.

(e) Landlord shall make commercially reasonable efforts to mitigate any damages Landlord incurs as a result of Tenant's breach of this Lease, which obligation shall be satisfied by listing the Premises for rent with a real estate broker. Notwithstanding the foregoing, Landlord may relet the Premises for such rent and upon such terms as are not unreasonable under the circumstances. If the consideration collected by Landlord upon reletting the Premises pursuant to this Section is not sufficient to pay the full monthly amount of Base Rent and Additional Rent provided for in this Lease to be paid by Tenant, Tenant shall pay to Landlord the amount of each monthly deficiency upon demand.

(f) No acceptance by Landlord of a lesser sum than the rent then due shall be deemed to be other than on account of the earliest installment of such rent due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy in the Lease

provided. No action or inaction by Landlord shall constitute a waiver of an Event of Default by Tenant and no waiver of an Event of Default by Tenant shall be effective unless in writing signed by Landlord.

(g) In no event shall Tenant be liable for punitive damages, lost profits (except as provided in this Section 17.1), business interruption, speculative, consequential or other such damages incurred by Landlord.

17.2 Landlord Default and Tenant Remedies.

(a) Subject to the terms and provisions below, and in addition to any other remedy expressly available to Tenant pursuant to this Lease or at law or in equity, should Landlord fail to perform any term or covenant under this Lease or any other existing agreement between Landlord and Tenant, its parent company, subsidiaries or affiliates (each and any such failure, a "Landlord Default") and if any such Landlord Default is not cured and continues for 30 days (unless a shorter notice and cure period is expressly provided herein, in which case such shorter period shall govern) following written notice by Tenant to Landlord of such Landlord Default (unless such default is not reasonably capable of being cured within such expressed period and Landlord is diligently prosecuting such cure to completion), then Tenant shall have the option, (at Tenant's sole discretion), of (i) terminating this Lease, (ii) abating or withholding Base Rent and/or Additional Rent, or (iii) remedying such Landlord Default and, in connection therewith, incurring expenses for the account of Landlord, and any and all such sums expended or obligations incurred by Tenant in connection therewith shall be paid by Landlord to Tenant upon demand, and if Landlord fails to immediately reimburse and pay same to Tenant, Tenant may, in addition to any other right or remedy that Tenant may have under this Lease, deduct such amount from subsequent installments of Base Rent and Additional Rent that from time to time become due and payable by Tenant to Landlord hereunder. In all events Tenant shall have the right to remedy any Landlord Default without prior notice in the event of a bona fide emergency (so long as Tenant gives notice within a reasonable period of time thereafter) and invoice Landlord and abate Base Rent and Additional Rent in the manner set forth in the preceding sentences of this Section 17.2.

(b) In no event shall Landlord be liable for punitive damages, lost profits, business interruption, speculative, consequential or other such damages incurred by Tenant.

(c) If Landlord is or becomes a Referral Source (as defined in Section 33 below) and if this Lease is terminated for any reason before the first anniversary of the Commencement Date, then Landlord and Tenant shall not enter into any similar agreement with each other for the Premises before the first anniversary of the Commencement Date.

18. Insurance.

18.1 **Landlord's Insurance.** During the Term, Landlord shall procure and maintain in full force and effect with respect to the Building and the land on which the Building is located (i) a policy or policies of property insurance (including, to the extent required, sprinkler leakage, vandalism and malicious mischief coverage, and any other endorsements required by the holder of any fee or leasehold mortgage and earthquake, terrorism and flood insurance to the extent Landlord reasonably deems prudent and/or to the extent required by any mortgagee) for full replacement value; and (ii) a policy of commercial liability insurance in a minimum amount of \$1,000,000.00 per claim and \$5,000,000.00 in the aggregate for both bodily injury and property damage insuring Landlord's activities with respect to the Premises and the Building for loss, damage or liability for personal injury or death of any person or loss or damage to property occurring in, upon or about the Premises or the Building.

18.2 **Tenant's Insurance.** During the Term, Tenant shall procure and maintain in full force and effect with respect to the Building a policy or policies of property insurance for full replacement value and a policy of commercial general liability insurance in a minimum amount of \$1,000,000.00 per claim and \$5,000,000.00 in the aggregate for both bodily injury and property damage. The property insurance policy shall list Landlord as a loss payee, and the commercial general liability insurance policy shall list Landlord as an additional insured. In no event shall Tenant's insurance provide coverage or indemnity to

Landlord for any claim, loss, suit, action or other legal proceeding in which Landlord or its agents, servants, employees, guests, invitees, or independent contractors bear responsibility. Rather, it is the intent of this Section to provide general liability coverage to Landlord when it is made a party to a claim, loss, suit, action or other legal proceeding for which it bears no responsibility. In the event that both Landlord and Tenant bear responsibility for the claim, loss, suit, action or other legal proceeding, then each party will look to its own insurance for coverage. Tenant may carry any insurance required by this Lease under a blanket policy or under a policy containing a self-insured retention.

19. **Subrogation.** Each of the parties hereto hereby releases the other and the other's partners, agents and employees, to the extent of each party's property insurance coverage, from any and all liability for any loss or damage which may be inflicted upon the property of such party even if such loss or damage shall be brought about by the fault or negligence of the other party or its partners, agents or employees; provided, however, that this release shall be effective only with respect to loss or damage occurring during such time as the appropriate policy of insurance shall contain a clause to the effect that this release shall not affect said policy or the right of the insured to recover thereunder. If any policy does not permit such a waiver, and if the party to benefit therefrom requests that such a waiver be obtained, the other party agrees to obtain an endorsement to its insurance policies permitting such waiver of subrogation if it is commercially available and if such policies do not provide therefor. If an additional premium is charged for such waiver, the party benefiting therefrom, if it desires to have the waiver, agrees to pay to the other the amount of such additional premium promptly upon being billed therefor.

20. **Repairs and Maintenance.**

20.1 Landlord's Maintenance Responsibilities. Landlord shall, at its sole cost and expense, maintain and keep in good order and repair and promptly make any necessary replacements to the roof, roof membrane, roof covering, concrete slab, footings, foundation, structural components, exterior walls, loading areas, exterior doors and windows (except doors and windows installed by Tenant), flooring (except for floor covering), utility lines up to the point where such lines enter the Building, parking areas, access roads, driveways, entrances and exits, retaining walls, exterior facilities, roads and pathways, storm water system, sidewalks, direction signs and the like. Maintenance services shall include repair of the parking lot.

20.2 Tenant's Maintenance Responsibilities. Except for Landlord's obligations set forth above and except for any damage caused by the acts of negligence by Landlord or its agents, servants, employees, guests, invitees or independent contractors within the Premises, Tenant shall keep the interior, non-structural portions of the Premises, all HVAC systems installed by Tenant, landscaping, glass of all windows and doors, and the non-structural elements of all doors and entrances of the Premises in good order and condition, excepting normal wear and tear, fire, or acts of Landlord. Notwithstanding anything herein or in Section 20.1 to the contrary, Tenant shall be responsible for all snow removal on sidewalks and parking areas and for mowing and trimming the landscaping, when needed. The parties acknowledge that Tenant may install HVAC systems and shall maintain the HVAC systems in the Premises, regardless of whether it installed the HVAC systems or not. If Tenant elects to remove the HVAC units that are in the Premises as of the Effective Date, it will notify Landlord of its intent to do so and give Landlord the opportunity to take possession of and remove the HVAC units (in an expeditious manner). Notwithstanding the foregoing, if Landlord elects not to take possession of the current HVAC units, Landlord hereby releases its ownership interest in such HVAC units and shall have no further rights to such HVAC units.

21. **Brokers.** Landlord and Tenant each represent to the other that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, except for Cushman & Wakefield with Summit Real Estate Group, representing Tenant (the "Tenant's Broker"). Landlord shall pay Tenant's Broker a brokerage commission pursuant to a separate agreement. In the event Landlord does not timely pay Tenant's Broker such brokerage commission, Tenant may offset the amount of such brokerage commission against Base Rent and Additional Rent due Landlord.

22. Emergency. If Landlord is unable or unwilling to take action which it is obligated to take hereunder where an emergency has occurred with respect to the Premises and Tenant has used commercially reasonable efforts to notify Landlord of the emergency, then Tenant may take such action as is reasonably necessary to protect the Premises and persons or property in the Premises and Landlord shall, within 15 days after written notice thereof from Tenant reimburse Tenant for its reasonable out-of-pocket expenses incurred in curing such emergency; provided, however, should Landlord fail to reimburse Tenant within the 15 day period, then Tenant may, at its option, offset such amount against Base Rent and Additional Rent due under this Lease.

23. Title and Parking. Landlord hereby represents to Tenant that Landlord is the owner in fee simple of the Premises, including the Building and all improvements thereon and has the right and authority to enter into this Lease. Landlord hereby represents to Tenant that no covenants, restrictions, liens or other encumbrances affecting the real property upon which the Building is constructed interfere with or adversely affect Tenant's Permitted Use of the Premises. Landlord further represents that Landlord and those signatories executing this Lease on behalf of Landlord have full power and authority to execute this Lease.

Landlord shall not make any material modifications to the Building or Premises (including, without limitation, the parking areas, driveways and walks) without Tenant's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. Tenant shall be entitled to the exclusive use of the parking area.

24. Compliance with Laws. Both parties shall comply with all applicable Laws throughout the Term. Landlord represents and warrants to Tenant that as of the Commencement Date the Premises, the Building and the parking areas are in compliance with all Laws, including, without limitation, applicable zoning Laws and with all applicable instruments affecting title to the Premises. Landlord further represents that it has received no notices or communications from any public authority having jurisdiction alleging violation of any Laws relating to the Premises, the Building, or the Common Areas and has received no notices alleging violation of any title instrument. Without limiting the generality of the foregoing, Landlord represents that (i) the use of the Premises and the Building and improvements thereon for purposes of operation of a dialysis clinic and related medical and business offices is permitted by and will not violate private restrictions and (ii) as of the Possession Date, the Premises, the Building, and Common Areas comply with all applicable Laws relating to handicapped accessibility, including, without limitation, the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §§12101 *et seq.* (1990).

If at any time or from time to time any Alterations, including, without limitation, structural Alterations, are required in order for the Premises or Building to comply with any generally applicable Laws from time to time applicable to the Premises, Landlord shall promptly make such Alterations at its sole cost and expense. If at any time or from time to time any Alterations, including, without limitation, structural Alterations, are required in order for the Premises to comply with any Laws specifically applicable to the Premises due to Tenant's use and not due to any act by Landlord or another tenant, Tenant shall promptly make such Alterations, at its sole cost and expense.

25. Intentionally Omitted.

26. Tenant to Subordinate. Tenant shall, upon request of the holder of a mortgage or deed of trust in the nature of a mortgage on the Premises ("Mortgagee") subordinate any interest which it has by virtue of this Lease, and any extensions and renewals thereof to any mortgages or deeds of trust placed upon the Premises by Landlord, if and only if such Mortgagee shall execute, deliver and record in the appropriate registry of deeds a recognition and non-disturbance agreement in form and content provided in Exhibit D. Landlord shall, at or prior to the Commencement Date, secure from Landlord's present Mortgagee a non-disturbance agreement and Landlord shall secure from any future Mortgagee or lienholder of Landlord a non-disturbance agreement in a form substantially similar to Exhibit D. If Landlord shall not obtain such non-disturbance agreement, then this Lease shall not be subordinate to any such future lien, mortgage, or refinancing.

27. Quiet Enjoyment. Tenant shall, upon payment of the Base Rent and Additional Rent, quietly have and enjoy the Premises during the Term. Landlord agrees that Tenant shall have continuous, peaceful, uninterrupted and exclusive possession and quiet enjoyment of the Premises during the Term.

28. Memorandum of Lease. Concurrent with execution of this Lease, Landlord and Tenant will execute a recordable form of a memorandum or notice of this Lease in the form attached as Exhibit G. Tenant shall be responsible for the cost of recording the same. Upon Landlord's written request, Tenant shall execute and deliver to Landlord a Release of Memorandum of Lease ("Release"). Landlord shall be responsible for the cost of recording the Release.

29. Notices. All notices, demands and requests which may be or are required to be given by either party to the other shall be in writing and shall be either (i) sent by registered or certified mail, return receipt requested, postage prepaid or (ii) delivered, by hand, or (iii) sent by overnight courier such as Federal Express. All notices to Landlord should be addressed to Landlord at Department of Metropolitan Development, One NW Martin Luther King, Jr. Blvd, Room #306, Evansville, IN 47708, Attn: Executive Director; Telephone: (812) 436-7823; Email: kcoures@evansville.in.gov or at such other place as Landlord may from time to time designate in written notice to Tenant. All notices to Tenant shall be addressed to Tenant c/o DaVita Healthcare Partners, Inc., Attention: Real Estate Legal, 2000 16th Street, Denver, CO 80202, Telephone: (303) 876-2800, Facsimile: (855) 872-8592, with copy to: relegal@davita.com, Subject: Evansville, IN (11342), or to any such other place as Tenant may from time to time designate in written notice to Landlord. In addition, all correspondence to Tenant related to Taxes, Insurance, Base Rent or Additional Rent shall be sent to P.O. Box 1476, Tacoma, WA 98401-1476; Attention: Rent Department, with copy to RentDepartment@davita.com. Notwithstanding anything contained in this Lease to the contrary, any written notice by either Landlord or Tenant to the other party may be transmitted by electronic transmission, and that the electronic copies of such party's signature shall have the same effect as if it were an original signature, provided that Landlord or Tenant shall execute and deliver to the other party an original copy of the notice via one of the methods provided in this Section.

30. Estoppel Certificate. Each of Landlord and Tenant agrees at any time and from time to time upon not less than 15 business days' prior written request by the other to execute, acknowledge and deliver to the other an estoppel certificate in the form attached as Exhibit E certifying that (i) this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications), (ii) the dates to which Base Rent and other charges have been paid in advance, if any, and (iii) all of the defaults of Landlord or Tenant hereunder, if any, (and if there are no defaults a statement to that effect), it being intended that any such estoppel certificate delivered pursuant to this Section 30 may be relied upon by any prospective purchaser of the Premises or any mortgagee or assignee of any mortgage upon the fee or leasehold of the Premises or by any prospective assignee of this Lease or subtenant of the whole or any portion of the Premises and/or by other party interested in the Premises or any part thereof.

31. Landlord's Sale of the Building. Upon Landlord's transfer of interest in the Building and the Premises (the "Sale"), Landlord shall be released from all liability to Tenant and Tenant's successors and assigns arising from this Lease because of any act, occurrence or omission of Landlord occurring after such Sale, and Tenant shall look solely to Landlord's successor in connection with the same; provided, however, that Landlord shall not be released from liability to Tenant and Tenant's successors and assigns from its obligations under this Lease because of any act, occurrence or omission of Landlord occurring prior to such Sale or for any offsets due Tenant under this Lease in the event the successor in interest is a mortgagee which has not assumed liability for offsets, unless such liability is expressly assumed by Landlord's successor-in-interest in the Building and Premises. Within 30 days prior to the effective date of a Sale, Landlord shall notify Tenant whether Landlord's successor-in-interest and assignee to this Lease would or would not be a Referral Source as described in Section 33 below.

32. Tenant's Satellite and Cable Rights. Subject to Tenant's obligation to remove the satellite dish pursuant to Section 37, Tenant shall have the right to place a satellite dish on the roof and run appropriate electrical cabling from the Premises to such satellite dish and/or install cable service to the

Premises at no additional fee. Tenant will coordinate with Landlord's roofing contractor, at no cost to Landlord, in order to make sure that Tenant does not void any roofing warranty. Landlord shall reasonably cooperate with Tenant's satellite or cable provider to ensure there is no delay in acquiring such services. Landlord shall use commercially reasonable efforts to ensure that any subsequent rooftop user does not impair Tenant's data transmission and reception and shall cooperate with Tenant in eliminating any interference caused by any other party using the roof. Tenant shall also have the right to run appropriate electrical cabling from the Premises to connect its electrical generator and associated transfer switch.

33. **Regulatory Compliance.** Landlord represents and warrants to Tenant that Landlord is not a "referring physician" or a "referral source" as to Tenant for services paid for by Medicare or a state health care program, as the terms are defined under any federal or state health care anti-referral or anti-kickback, regulation, interpretation or opinion ("Referral Source"). Landlord covenants, during the Term, it will not knowingly (i) take any action that would cause it to become a Referral Source as to Tenant, or (ii) sell, exchange or transfer the Premises to any individual or entity who is a Referral Source as to Tenant without complying with all other provisions of this Lease.

In the event Landlord, or Landlord's successors or assigns, become a Referral Source as described in this Section 33 above, the following Sections 33.1 through 33.4 shall apply but shall have no effect until such time:

33.1 **Compliance.** Landlord and Tenant agree that it is not the purpose of this Lease to exert any influence over the reason or judgment of any party with respect to the referral of patients or other business between Landlord and Tenant, but that it is the parties' expectation that any referrals which may be made between the parties shall be and are based solely upon the medical judgment and discretion of the patient's physician. The parties further agree and acknowledge that (a) Base Rent is (i) set forth in advance; (ii) consistent with fair market value in an arms-length transaction; (iii) does not take into account the volume or value of any referrals or other business generated between the parties; and (iv) would be reasonable even if no referrals were made between the parties, and (b) Tenant's Proportionate Share does not exceed Tenant's pro-rata share for expenses and the Premises Rentable Area does not exceed the reasonable square footage needed for the legitimate business plans of Tenant.

33.2 **Representations.** Each party represents and warrants that: (i) it is not currently excluded from participation in any federal health care program, as defined under 42 U.S.C. Section 1320a-7b; (ii) it is not currently excluded, debarred, suspended, or otherwise ineligible to participate in Federal procurement and non-procurement programs; or (iii) it has not been convicted of a criminal offense that falls within the scope of 42 U.S.C. Section 1320a-7(a), but has not yet been excluded, debarred, suspended or otherwise declared ineligible (each, an "Exclusion"), and agrees to notify the other party within two (2) business days of learning of any such Exclusion or any basis therefore. In the event of learning of such Exclusion, either party shall have the right to immediately terminate this Lease without further liability. Landlord agrees that Tenant may screen Landlord against applicable Exclusive databases on an annual basis. Tenant shall have the right to terminate the Lease if a change in applicable health care laws or reimbursement systems affects the legality of the Lease. Landlord shall notify Tenant of, and cooperate with, any request from a duly authorized government representative (e.g., Secretary of HHS, Comptroller General) for access to books, documents and/or records related to the Lease, and to indemnify Tenant from any liability arising out of the party's refusal to grant such access.

33.3 **Compliance with Law.** The parties enter into this Lease with the intent of conducting their relationship in full compliance with applicable federal, state and local laws, including, without limitation, the Anti-Kickback Statute and agree and certify that neither party shall violate the Anti-Kickback Statute in performing under this Lease. Notwithstanding any unanticipated effect of any provisions of this Lease, neither party will intentionally conduct itself under the terms of this Lease in a manner that would violate any such law. Landlord agrees not to request an advisory opinion related to the legality of the Lease without the concurrence and approval of Tenant.

33.4 **Covered Person.** In the event Landlord or any of its members, partners, shareholders or trustees is now, or any time in the future becomes, a Covered Person (as defined below), Landlord acknowledged and agrees that each individual Covered Person shall also be subject to the following provisions. Upon notification by Tenant, each Covered Person shall: (i) participate in all compliance training (including on-line general compliance training on an annual basis) that Tenant provides to the Covered Person; (ii) complete all such training within the time frames required by Tenant; (iii) comply with policies and procedures designed to ensure compliance with relevant Federal health care program requirements applicable to Tenant and compliance programs applicable to Tenant, including its Code of Conduct; (iv) certify in writing or electronic form that the Covered Person read, understood and shall abide by the Code of Conduct and return such certification to Tenant within 30 days after being notified. The Covered Person shall report immediately to Tenant any suspected or known violations of Tenant's policies and procedures or of any violation of applicable federal healthcare program laws and regulations. Tenant shall provide to each Covered Person a copy of the applicable Code of Conduct and relevant policies and procedures designed to ensure compliance with relevant Federal health care program requirements. A "Covered Person" shall be defined as: (i) any individual or entity who provides patient care items or services or who perform billing or coding functions on behalf of DaVita Dialysis, or (ii) any DaVita Dialysis domestic dialysis joint venture partner or medical director for any domestic DaVita Dialysis clinic."

34. Cooperation with Tenant's Cost Reporting Responsibilities. Landlord's full cooperation with applicable authorities in connection with cost reporting is essential for Tenant's continued operation of its business. Therefore, Landlord agrees to provide to Tenant, within thirty (30) days of Tenant's request, any and all information that is reasonably necessary for Tenant to fulfill its cost reporting requirements to such applicable authorities.

35. Protected Health Information.

35.1 Landlord acknowledges and agrees that from time to time during the Term, Landlord and/or its employees, representatives or assigns may be exposed to, or have access to, Protected Health Information ("PHI"), as defined by HIPAA, 45 CFR Parts 160 and 164. Landlord agrees that it will not use or disclose, and Landlord shall cause its employees, or assigns not to use or disclose, PHI for any purpose unless required by the requirements of HIPAA and all other applicable medical privacy Laws. Landlord further agrees that, notwithstanding the rights granted to Landlord pursuant to this Lease, including Section 15, except when accompanied by an authorized representative of Tenant, neither Landlord nor its employees, agents, representatives or contractors shall be permitted to enter areas of the Premises designated by Tenant as location where patient medical records are kept or stored or where such entry is prohibited by applicable state or federal health care privacy Laws.

35.2 Subject to compliance with Landlord's legal obligations as a governmental entity, Landlord shall not disclose, and shall instruct its employees and representatives to not disclose, any "Confidential Information" of or pertaining to Tenant and shall not, without first obtaining Tenant's prior written consent, disclose to any person or organization, or use for its own benefit, any Confidential Information of or pertaining to Tenant during and after the Term, unless such Confidential Information is required to be disclosed by a court of competent jurisdiction or by any governmental authority. As used herein, the term "Confidential Information" shall mean any business, financial, personal or technical information relating to the business or other activities of Tenant that Landlord obtains in connection with the Lease. Tenant acknowledges that this Lease shall be generally available to the public for inspection due to Landlord's status as a governmental entity.

36. Consent. Unless otherwise expressly stated herein, whenever a party's consent is required under this Lease, such consent shall not be unreasonably withheld, conditioned or delayed, and such party's reasonable satisfaction shall be sufficient for any matters under this Lease.

37. Surrender of Premises. At the expiration of the Term, whether by expiration of time or otherwise, Tenant shall surrender the Premises to Landlord in broom clean condition free of debris and rubbish, excepting damage caused by reasonable wear and tear, fire, acts of God, Landlord, condemnation,

and/or other casualty or the elements. All alterations which may be made by Tenant shall be the property of Tenant and Tenant shall be entitled to remove from the Premises during the Term all tenant improvements and any and all furniture, removable trade fixtures, equipment and personal property ("Fixtures") installed or located on or in the Premises provided that Tenant repair any and all damage caused by the removal of the foregoing. Any tenant improvements or Fixtures which Tenant does not elect to remove at or prior to the expiration of the Term shall be surrendered with the Premises at the termination of this Lease. Notwithstanding the foregoing, upon the termination or expiration of this Lease, Tenant must remove any generator, satellite dish, or signs it may have installed and will repair any damages caused by the removal of the foregoing.

38. Holding Over. In the event Tenant remains in possession of the Premises after the expiration of the Term, or any extensions hereof without the written consent of Landlord, this Lease shall continue on a month-to-month basis, terminable by either party upon 30 days' prior written notice and Tenant shall be obligated to pay Base Rent at 110% of the then current rate (including all adjustments) and all other sums then payable hereunder prorated on a daily basis for each day that Landlord is kept out of possession of the Premises. Notwithstanding the foregoing, in the event that applicable Law, including without limitation applicable health care Law, limits the period of any such holdover, both parties shall comply with such applicable Law.

39. Binding Effect. All covenants, agreements, stipulations, provisions, conditions and obligations set forth herein shall extend to, bind and inure to the benefit of, as the case may require, the successors and assigns of Landlord and Tenant respectively, as fully as if any such successor or assign was referenced to wherever reference to Landlord or Tenant, as the case may be, occurs in this Lease.

40. Severability. If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by Law.

41. Applicable Law. The Laws of the State where the Premises is located shall govern the validity, performance and enforcement of this Lease, without regard to such State's conflict-of-law principles.

42. Force Majeure. Whenever a day is appointed herein on which, or a period of time is appointed within which, either party hereto is required to do or complete any act, matter or thing, the time for the doing or completion thereof shall be extended by a period of time equal to the number of days on or during which such party is prevented from, or is interfered with, the doing or completion of such act, matter or thing because of strikes, lock-outs, embargoes, unavailability of labor or materials, wars, insurrections, rebellions, civil disorder, declaration of national emergencies, acts of God or other causes beyond such party's reasonable control.

43. Complete Agreement. Any stipulations, representations, promises or agreements, oral or written, made prior to or contemporaneously with this agreement shall have no legal consequences and the only agreement made and binding upon the parties with respect to the leasing of the Premises is this Lease, as the complete and total integration of the intent and understanding of Landlord and Tenant. No amendment or modification of this Lease shall be valid or binding unless reduced to writing and executed by the parties hereto.

44. Counterparts. This Lease may be executed in any number of counterparts via electronic transmission or otherwise, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

45. Incorporation of Exhibits. This Lease is subject to the provisions of the attached Exhibits A-G inclusive, which exhibits are hereby made a part of this Lease.

[Signature pages follow.]

IN TESTIMONY WHEREOF, Landlord and Tenant have caused this Lease to be executed as a sealed instrument, effective as of the day and year first above written.

LANDLORD:

TENANT:

**City of Evansville, Indiana, by and through its
Redevelopment Commission,**

Total Renal Care, Inc., a California corporation

DocuSigned by:
Randy Aisman
By: _____
Name: Randy Aisman
Title: President, Redevelopment Commission
Date: March 11, 2017

DocuSigned by:
Kyle Clay
By: _____
Name: Kyle Clay
Title: Division Vice President
Date: March 11, 2017

*FOR TENANT'S INTERNAL USE
APPROVAL AS TO FORM ONLY:*

DocuSigned by:
Mike Geiger
By: _____
Name: Mike Geiger
Title: Assistant General Counsel

EXHIBIT A

LEGAL DESCRIPTION/BUILDING SITE PLAN

Parcel A:

Lots Three (3) and Four (4) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel B:

Lot Five (5) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Bok C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel C:

Lot Six (6) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel D:

Lots One (1) and Two (2) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel E:

Lots Seven (7) and Eight (8) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

Parcel F:

Lots Nine (9), Ten (10) and Eleven (11) in Plat of Block Seventeen (17) in Woodlawn, an addition to the City of Evansville, as per plat thereof, recorded in Plat Book C, Page 289, in the Office of the Recorder of Vanderburgh County, Indiana.

EXHIBIT B

PREMISES FLOOR PLAN



EXHIBIT C

FORM OF COMMENCEMENT DATE MEMORANDUM

With respect to that certain lease ("Lease") dated _____, between _____ ("Landlord") and _____ ("Tenant"), whereby Landlord leased to Tenant and Tenant leased from Landlord space located at _____ (the "Premises"). Tenant and Landlord hereby acknowledge as follows:

- (1) Landlord delivered possession of the Premises to Tenant on _____ (the "Possession Date").
- (2) The Term of the Lease commenced on _____ (the "Commencement Date").
- (3) The Expiration Date of the Lease is _____.
- (4) It is agreed that the first Lease Year shall end on _____ and that each subsequent Lease Year shall end on _____.
- (5) Tenant shall commence payment of Base Rent and Additional Rent on _____.
- (6) The Premises contain _____ rentable square feet of space.
- (7) The last dates upon which the respective renewal options may be exercised are _____, _____, _____, and _____.

All capitalized terms herein, not otherwise defined herein, shall have the meaning assigned in the Lease.

IN WITNESS WHEREOF, this Commencement Date Memorandum is executed the date(s) set forth below.

LANDLORD:

TENANT:

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

*FOR TENANT'S INTERNAL USE
APPROVAL AS TO FORM ONLY:*

By: _____

Name: _____

Title: Assistant General Counsel

EXHIBIT D

**FORM OF SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is entered into as of _____, 20__ (the "Effective Date"), between _____ (the "Mortgagee"), and _____ (the "Tenant").

WHEREAS, by Lease dated _____, 20__ (hereinafter called the "Lease"), _____ (hereinafter called "Landlord") has leased to Tenant and Tenant has rented from Landlord the approximately _____ rentable square feet of leased premises ("Tenant's Premises") located within the _____ as more fully described in Exhibit A attached hereto and incorporated by reference (such real property, including all buildings, improvements, structures and fixtures located thereon, "Landlord's Premises").

WHEREAS, Mortgagee has made a loan to Landlord in the original principal amount of \$ _____ (the "Loan"); and

WHEREAS, To secure the Loan, Landlord has encumbered Landlord's Premises by entering into that certain [Mortgage and Security Agreement] dated _____, in favor of Mortgagee (as amended, increased, renewed, extended, spread, consolidated, severed, restated or otherwise changed from time to time, the "Mortgage") recorded on _____, under Clerk's File No. _____, in the Official Public Records of Real Property of the County of _____, State of _____.

WHEREAS, Tenant desires that Mortgagee recognize Tenant's rights under the Lease in the event of foreclosure of Mortgagee's lien, and Tenant is willing to agree to attorn to the purchaser at such foreclosure if Mortgagee will recognize Tenant's right of possession under the Lease.

NOW, THEREFORE, for and in consideration of their respective covenants herein made and the receipt of other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Definitions.

The following terms shall have the following meanings for purposes of this Agreement.

1.1 *Foreclosure Event.* A "Foreclosure Event" means: (a) foreclosure under the Mortgage; (b) any other exercise by Mortgagee of rights and remedies (whether under the Mortgage or under applicable Law, including bankruptcy Law) as holder of the Loan and/or the Mortgage, as a result of which Successor Landlord becomes owner of Landlord's Premises; or (c) delivery by Landlord to Mortgagee (or its designee or nominee) of a deed or other conveyance of Landlord's interest in Landlord's Premises in lieu of any of the foregoing.

1.2 *Former Landlord.* A "Former Landlord" means Landlord and any other party that was a landlord under the Lease at any time before the occurrence of any attornment under this Agreement.

1.3 *Offset Right.* An "Offset Right" means any right or alleged right of Tenant to any offset, defense (other than one arising from actual payment and performance, which payment and performance would bind a Successor Landlord pursuant to this Agreement), claim, counterclaim, reduction, deduction or abatement against Tenant's payment of Rent or performance of Tenant's other obligations under the Lease, arising (whether under the Lease or other applicable law) from Landlord's breach or default under the Lease.

1.4. *Rent.* The “*Rent*” means any fixed rent, base rent or additional rent under the Lease.

1.5 *Successor Landlord.* A “*Successor Landlord*” means any party that becomes owner of Landlord’s Premises as the result of a Foreclosure Event.

1.6 *Termination Right.* A “*Termination Right*” means any right of Tenant to cancel or terminate the Lease or to claim a partial or total eviction arising (whether under the Lease or under applicable law) from Landlord’s breach or default under the Lease.

2. Subordination.

The Lease shall be, and shall at all times remain, subject and subordinate to the lien of the Mortgage, and all advances made under the Mortgage.

3. Non-disturbance, Recognition and Attornment.

3.1 *No Exercise of Mortgage Remedies Against Tenant.* So long as the Lease has not been terminated on account of Tenant’s default (an “Event of Default”), Mortgagee shall not name or join Tenant as a defendant in any exercise of Mortgagee’s rights and remedies arising upon a default under the Mortgage unless applicable law requires Tenant to be made a party thereto as a condition to proceeding against Landlord or prosecuting such rights and remedies. In the latter case, Mortgagee may join Tenant as a defendant in such action only for such purpose and not to terminate the Lease or otherwise adversely affect Tenant’s rights under the Lease or this Agreement in such action. If Mortgagee joins Tenant in such action, Landlord, by executing the Consent hereinafter set forth, agrees to indemnify, defend and hold Tenant harmless from and against any loss, cost or expense incurred or suffered by Tenant, including without limitation, legal fees, in being a party to or arising from such action, which indemnity shall survive termination or expiration of this Agreement.

3.2 *Non-disturbance and Attornment.* If the Lease has not been terminated on account of an Event of Default by Tenant, then, when Successor Landlord takes title to Landlord’s Premises: (a) Successor Landlord shall not terminate or disturb Tenant’s possession or quiet enjoyment of Tenant’s Premises under the Lease, except in accordance with the terms of the Lease and this Agreement; (b) Successor Landlord shall be bound to Tenant under all the terms and conditions of the Lease (except as provided in this Agreement); (c) Tenant shall recognize and attorn to Successor Landlord as Tenant’s direct landlord under the Lease as affected by this Agreement; and (d) the Lease shall continue in full force and effect as a direct lease, in accordance with its terms (except as provided in this Agreement), between Successor Landlord and Tenant.

3.3 *Further Documentation.* The provisions of Section 3 shall be effective and self-operative without any need for Successor Landlord or Tenant to execute any further documents. Tenant and Successor Landlord shall, however, confirm the provisions of Section 3 in writing upon request by either of them.

3.4 *Consent to Lease.* Mortgagee hereby consents to the Lease and all of the terms and conditions thereof.

4. Protection of Successor Landlord.

Notwithstanding anything to the contrary in the Lease or the Mortgage, Successor Landlord shall not be liable for or bound by any of the following matters:

4.1 *Claims Against Former Landlord.* Any Offset Right that Tenant may have against any Former Landlord relating to any event or occurrence before the date of attornment, including any claim for damages of any kind whatsoever as the result of any breach by Former Landlord that occurred before the date of attornment unless and to the extent that Mortgagee was furnished notice and opportunity to cure

the same. (The foregoing shall not limit Tenant's right to exercise against Successor Landlord any Offset Right otherwise available to Tenant because of events occurring after the date of attornment, if any).

4.2 *Prepayments.* Any payment of Rent that Tenant may have made to Former Landlord more than thirty (30) days before the date such Rent was first due and payable under the Lease with respect to any period after the date of attornment other than, and only to the extent that, the Lease expressly required such a prepayment.

4.3 *Payment; Security Deposit.* Any obligation: (a) to pay Tenant any sum(s) that any Former Landlord owed to Tenant or (b) with respect to any security deposited with Former Landlord, unless such security was actually delivered to Mortgagee.

4.4 *Lease.* Tenant hereby covenants and agrees that, so long as the Mortgage remains in force and effect:

- (a) No Modification, Termination or Cancellation. Tenant shall not consent to any material modification, termination or cancellation of the Lease without Mortgagee's prior written consent, which consent shall not be unreasonably withheld and shall be deemed given if Mortgagee fails to respond in writing within 15 days following receipt of written notice.
- (b) Notice of Default. Tenant shall notify Mortgagee in writing concurrently with any notice given to Landlord of any breach of or default by Landlord under the Lease. Tenant agrees that Mortgagee shall have the right (but not the obligation) to cure any breach or default specified in such notice within the time period set forth in the Lease for Landlord's performance.
- (c) Assignment of Rents. Upon receipt by Tenant of written notice from Mortgagee that Mortgagee has elected to terminate the license granted to Landlord to collect rents, as provided in the Mortgage, and directing Tenant to make payment thereof to Mortgagee, Tenant shall not be required to determine whether Landlord is in default under any obligations to Mortgagee before complying with such direction and shall not be liable to Landlord for failure to pay Landlord any sums that are paid instead to Mortgagee.

5. **Miscellaneous.**

5.1 *Notices.* All notices or other communications required or permitted under this Agreement shall be in writing and given by certified mail (return receipt requested) or by nationally recognized overnight courier service that regularly maintains records of items delivered. Notices shall be effective the next business day after being sent by overnight courier service, and three (3) business days after being sent by certified mail (return receipt requested). Unless and until notice of a change of address is given under this Agreement, notices or other communications shall be given to Mortgagee and Tenant, respectively, at the following address:

Mortgagee: _____

 Attn: _____

Landlord: _____

 Attn: _____

Tenant: _____
 c/o DaVita HealthCare Partners Inc.

Attention: Real Estate Legal
2000 16th Street
Denver, CO 80202

With a copy to: relegal@davita.com
Subject: [Clinic #, City, State]

5.2 *Successors and Assigns.* This Agreement shall bind and benefit the parties their successors and assigns, any Successor Landlord, and its successors and assigns.

5.3 *Entire Agreement.* This Agreement constitutes the entire agreement between Mortgagee and Tenant regarding the subordination of the Lease to the Mortgage and the rights and obligations of Tenant and Mortgagee as to the subject matter of this Agreement.

5.4 *Interaction with Lease and with Mortgage.* If this Agreement conflicts with the Lease, then this Agreement shall govern as between the parties to this Agreement and any Successor Landlord, including upon any attornment pursuant to this Agreement. This Agreement supersedes, and constitutes full compliance with, any provisions in the Lease that provide for subordination of the Lease to, or for delivery of non-disturbance agreements by the holder of the Mortgage. Mortgagee confirms that Mortgagee has consented to Landlord's entering into the Lease.

5.5 *Interpretation; Governing Law.* The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the internal laws of the State where the Premises is located, including its principles of conflict of laws.

5.6 *Amendments.* This Agreement may be amended, discharged or terminated, or any of its provisions waived, only by a written instrument executed by all parties to this Agreement.

5.7 *Execution.* This Agreement may be executed electronically and in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

5.8 *Representations.* Each party represents that it has full authority to enter into this Agreement and that those signatories executing this Agreement on its behalf have full power and authority to executed this Agreement. Mortgagee agrees to keep a copy of this Agreement in its permanent mortgage records with respect to the Loan. This Agreement shall be null and void unless Tenant receives a fully executed original counterpart hereof on or before the sixtieth (60th) day following the date of Tenant's execution.

5.9 *Recordation.* Upon full execution, this Agreement may be recorded in the real property records of the county in which the Premises is located by either party hereto, provided that the recording party delivers to the other party a copy of the recorded document. The recording party shall be responsible for the costs of recording this Agreement.

[Signature page follows.]

TENANT:

_____,
a _____

By: _____

Name: _____

Title: _____

Date: _____

STATE OF COLORADO)
) SS
COUNTY OF DENVER)

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ the _____, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

Exhibit A to
Subordination, Attornment and Non-Disturbance Agreement

Landlord's Premises

EXHIBIT E

FORM OF ESTOPPEL CERTIFICATE

THIS ESTOPPEL CERTIFICATE is made as of the ____ day of _____, 20____ by _____ in connection with that certain Lease Agreement dated _____ by and between _____, as Tenant and _____, as Landlord (the "Lease") for the premises located at _____ (the "Premises").

[Landlord/Tenant] hereby certifies to the best of [Landlord's/Tenant's] knowledge to _____ as follows:

1. The Lease consists of the following documents: [list documents]. There are no other oral or written agreements or understandings between Landlord and Tenant relating to the Premises.
2. To [Land/lord's/Tenant's] knowledge and belief, the information set forth below is true and correct as of the date hereof:
 - (a) Approximate square footage of the Premises: _____ rentable square feet
 - (b) Monthly installment of Rent as of the date hereof: \$_____
 - (c) Commencement Date: _____
 - (d) Termination date: _____
 - (e) Security deposit: _____
 - (f) Prepaid rent in the amount of: _____
 - (g) Renewal Options: _____
3. Tenant has accepted possession of the Premises and is in occupancy thereof under the Lease. As of the date hereof, the Lease is in full force and effect.
4. To the best of Tenant's/Landlord's actual knowledge and belief, without inquiry or investigation, there exists no default, no facts or circumstances exist that, with the passage of time or giving of notice, will or could constitute a default, event of default, or breach on the part of either Tenant or Landlord except _____.
5. No rent has been or will be paid more than 30 days in advance.
6. All legal notices to Tenant shall be sent to:

Tenant: _____
 c/o DaVita HealthCare Partners, Inc.
 Attention: Real Estate Legal
 2000 16th Street
 Denver, CO 80202

With a copy to: relegal@davita.com
 Subject: [Clinic #, City, State]

[Signature page follows.]

IN WITNESS WHEREOF, **[Tenant/Landlord]** has executed this Estoppel Certificate as of the date first above written.

[TENANT/LANDLORD]:

_____,
a _____

By: _____
Name: _____
Title: _____

EXHIBIT F

INTENTIONALLY OMITTED

EXHIBIT G

FORM MEMORANDUM OF LEASE

Prepared by and Return to:

Parcel ID: _____

MEMORANDUM OF LEASE

This Memorandum of Lease (this "Memorandum") is made and entered into this ____ day of _____, 20__, by and between _____, a _____ ("Landlord") and _____, a _____ ("Tenant"). Tenant and Landlord agree to and acknowledge the following matters:

1. Landlord and Tenant entered into that certain Lease Agreement dated as of _____, 20__ (the "Lease"), wherein Landlord has leased to Tenant, and Tenant has leased from Landlord, subject to the terms, covenants and conditions contained therein, space consisting of approximately _____ rentable square feet (the "Premises"), located at _____, as legally described on Exhibit A, attached and incorporated herein by reference (the "Property").

2. The term of the Lease is for an initial period of _____ months commencing upon the earlier of the Possession Date or the Commencement Date, as defined in the Lease, (the "Lease Term"), subject to a right to extend and renew the Lease for _____ successive additional periods of _____ months each.

3. Pursuant to the Lease, Tenant has a right of first option to lease adjacent premises located on the Property.

4. The Lease contains certain restrictions on Landlord's ability to sell, rent or permit any property owned, leased or controlled by Landlord or any affiliate of Landlord to a business that provides renal dialysis, renal dialysis home training, any aphaeresis service(s) or similar blood separation or cell collection procedures within a _____ mile radius of the Property.

5. The address of Landlord is _____.

6. The address of Tenant is 2000 16th Street, Denver, Colorado 80202, Attn: Real Estate Legal.

7. The purpose of this Memorandum is to give record notice to all persons that Tenant has a leasehold interest in the Premises with related use exclusivity rights, and right of first option pursuant to the Lease, in addition to other rights and obligations created therein, all of which are confirmed.

8. Any capitalized terms utilized herein that are not otherwise defined shall be deemed to have the same meaning as set forth in the Lease.

9. In the event of a conflict between the terms of the Lease and the terms of this Memorandum, the terms of the Lease shall control.

EXHIBIT A TO MEMORANDUM OF LEASE

Certificate Of Completion

Envelope Id: 169B61CAF5874066B63C32CA792BE961	Status: Completed
Subject: Please DocuSign this document: Lease Agreement Evansville Downtown IN 11342 Final.pdf	
Source Envelope:	
Document Pages: 40	Signatures: 3
Supplemental Document Pages: 0	Initials: 0
Certificate Pages: 5	
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Amanda Howe
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	2000 16th Street
	Denver, CO 80202
	amanda.howe@davita.com
	IP Address: 73.3.240.84

Record Tracking

Status: Original 3/10/2017 2:30:29 PM	Holder: Amanda Howe amanda.howe@davita.com	Location: DocuSign
--	---	--------------------

Signer Events

Signer Events	Signature	Timestamp
<p>Mike Geiger mike.geiger@davita.com Assistant General Counsel DaVita Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p>	<p>DocuSigned by: 2A4C065AEACD471...</p> <p>Using IP Address: 174.29.41.136 Signed using mobile</p>	<p>Sent: 3/10/2017 2:33:19 PM Viewed: 3/10/2017 10:21:40 PM Signed: 3/10/2017 10:21:53 PM</p>
<p>Kyle Clay kyle.clay@davita.com DVP Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 3/11/2017 5:26:58 AM ID: dfec3b75-a2f8-4067-8e02-16658bfe2172</p>	<p>DocuSigned by: 92691DD6B9234A8...</p> <p>Using IP Address: 74.83.122.254 Signed using mobile</p>	<p>Sent: 3/10/2017 10:21:54 PM Viewed: 3/11/2017 5:26:58 AM Signed: 3/11/2017 5:27:42 AM</p>
<p>Randall K. Alsman ralsman@dcmol.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 3/11/2017 11:36:34 AM ID: a9d0978a-2e7f-4bb7-ad05-e5df4971f0a7</p>	<p>DocuSigned by: 151F72BC5CFD496...</p> <p>Using IP Address: 162.227.158.25 Signed using mobile</p>	<p>Sent: 3/11/2017 5:27:43 AM Viewed: 3/11/2017 11:36:34 AM Signed: 3/11/2017 11:49:42 AM</p>

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Carbon Copy Events	Status	Timestamp
--------------------	--------	-----------

Nick Cirignano ncirignano@zsws.com Partner Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	COPIED	Sent: 3/11/2017 5:27:44 AM
--	---------------	----------------------------

Chelsea Vise Chelsea.Vise@davita.com Legal Administrative Assistant DaVita Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	COPIED	Sent: 3/11/2017 11:49:43 AM
---	---------------	-----------------------------

Notary Events	Timestamp
---------------	-----------

Envelope Summary Events	Status	Timestamps
-------------------------	--------	------------

Envelope Sent	Hashed/Encrypted	3/11/2017 11:49:43 AM
Certified Delivered	Security Checked	3/11/2017 11:49:43 AM
Signing Complete	Security Checked	3/11/2017 11:49:43 AM
Completed	Security Checked	3/11/2017 11:49:43 AM

Payment Events	Status	Timestamps
----------------	--------	------------

Electronic Record and Signature Disclosure
--

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, DaVita (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact DaVita:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: emily.briggs@davita.com

To advise DaVita of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at jennifer.vanhyning@davita.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from DaVita

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to emily.briggs@davita.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with DaVita

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to emily.briggs@davita.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify DaVita as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by DaVita during the course of my relationship with you.