

Original

11-119

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD  
APPLICATION FOR PERMIT

RECEIVED

SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION

DEC 14 2011

This Section must be completed for all projects.

HEALTH FACILITIES &  
SERVICES REVIEW BOARD

Facility/Project Identification

Facility Name: Silver Cross Renal Center West			
Street Address: 1051 Essington Road			
City and Zip Code: Joliet, Illinois 60435			
County: Will	Health Service Area	009	Health Planning Area: 009

Applicant /Co-Applicant Identification

[Provide for each co-applicant [refer to Part 1130.220].

Exact Legal Name: Total Renal Care, Inc.	
Address: 1551 Wewatta Street, Denver, CO 80202	
Name of Registered Agent: Illinois Corporation Service Company	
Name of Chief Executive Officer: Kent Thiry	
CEO Address: 1551 Wewatta Street, Denver, CO 80202	
Telephone Number: (303) 405-2100	

Type of Ownership of Applicant/Co-Applicant

<input type="checkbox"/> Non-profit Corporation	<input type="checkbox"/> Partnership	
<input checked="" type="checkbox"/> For-profit Corporation	<input type="checkbox"/> Governmental	
<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Other

- o Corporations and limited liability companies must provide an Illinois certificate of good standing.
- o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.

APPEND DOCUMENTATION AS ATTACHMENT-1 IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

Primary Contact

[Person to receive all correspondence or inquiries during the review period]

Name: Kara Friedman
Title: Attorney
Company Name: Polsinelli Shughart PC
Address: 161 North Clark Street, Suite 4200, Chicago, Illinois 60601
Telephone Number: 312-873-3639
E-mail Address: kfriedman@polsinelli.com
Fax Number:

Additional Contact

[Person who is also authorized to discuss the application for permit]

Name: Kelly Ladd
Title: Regional Operations Director
Company Name: DaVita Inc.
Address: 2659 North Milwaukee Avenue, 2 <sup>nd</sup> Floor, Chicago, Illinois 60647
Telephone Number: 815-459-4694
E-mail Address: Kelly.ladd@davita.com
Fax Number: 866-366-1681

**ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD  
APPLICATION FOR PERMIT**

**SECTION I. IDENTIFICATION, GENERAL INFORMATION, AND CERTIFICATION**

**This Section must be completed for all projects.**

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Name of Registered Agent: Illinois Corporation Service Company
Name of Chief Executive Officer: Kent Thiry
CEO Address: 1551 Wewatta Street, Denver, CO 80202
Telephone Number: (303) 405-2100

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Telephone Number: 815-459-4694
E-mail Address: Kelly.ladd@davita.com
Fax Number: 866-366-1681

**Post Permit Contact**

[Person to receive all correspondence subsequent to permit issuance-THIS PERSON MUST BE EMPLOYED BY THE LICENSED HEALTH CARE FACILITY AS DEFINED AT 20 ILCS 3960]

Name: Kelly Ladd
Title: Regional Operations Director
Company Name: DaVita Inc.
Address: 2659 North Milwaukee Avenue, 2 <sup>nd</sup> Floor, Chicago, Illinois 60647
Telephone Number: 815-459-4694
E-mail Address: Kelly.ladd@davita.com
Fax Number: 866-366-1681

**Site Ownership**

[Provide this information for each applicable site]

Exact Legal Name of Site Owner: Midwest Community Real Estate Corporation
Address of Site Owner: 1200 Maple Road, Joliet, IL 60432
Street Address or Legal Description of Site: 1051 Essington Road, Joliet, IL 60435
Proof of ownership or control of the site is to be provided as Attachment 2. Examples of proof of ownership are property tax statement, tax assessor's documentation, deed, notarized statement of the corporation attesting to ownership, an option to lease, a letter of intent to lease or a lease.
APPEND DOCUMENTATION AS <u>ATTACHMENT-2</u> , IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Operating Identity/Licensee**

[Provide this information for each applicable facility, and insert after this page.]

Exact Legal Name: Total Renal Care, Inc.
Address: 1551 Wewatta Street, Denver, CO 80202
<input type="checkbox"/> Non-profit Corporation <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> For-profit Corporation <input type="checkbox"/> Governmental <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other
<ul style="list-style-type: none"> <li>o Corporations and limited liability companies must provide an Illinois Certificate of Good Standing.</li> <li>o Partnerships must provide the name of the state in which organized and the name and address of each partner specifying whether each is a general or limited partner.</li> <li>o <b>Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.</b></li> </ul>
APPEND DOCUMENTATION AS <u>ATTACHMENT-3</u> , IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Organizational Relationships**

Provide (for each co-applicant) an organizational chart containing the name and relationship of any person or entity who is related (as defined in Part 1130.140). If the related person or entity is participating in the development or funding of the project, describe the interest and the amount and type of any financial contribution.

APPEND DOCUMENTATION AS ATTACHMENT-4, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Flood Plain Requirements**

[Refer to application instructions.]

Provide documentation that the project complies with the requirements of Illinois Executive Order #2005-5 pertaining to construction activities in special flood hazard areas. As part of the flood plain requirements please provide a map of the proposed project location showing any identified floodplain areas. Floodplain maps can be printed at [www.FEMA.gov](http://www.FEMA.gov) or [www.illinoisfloodmaps.org](http://www.illinoisfloodmaps.org). **This map must be in a readable format.** In addition please provide a statement attesting that the project complies with the requirements of Illinois Executive Order #2005-5 (<http://www.hfsrb.illinois.gov>).

APPEND DOCUMENTATION AS ATTACHMENT -5, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Historic Resources Preservation Act Requirements**

[Refer to application instructions.]

Provide documentation regarding compliance with the requirements of the Historic Resources Preservation Act.

APPEND DOCUMENTATION AS ATTACHMENT-6, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**DESCRIPTION OF PROJECT****1. Project Classification**

[Check those applicable - refer to Part 1110.40 and Part 1120.20(b)]

Part 1110 Classification:

- Substantive  
 Non-substantive

Part 1120 Applicability or Classification:  
[Check one only.]

- Part 1120 Not Applicable  
 Category A Project  
 Category B Project  
 DHS or DVA Project

**2. Narrative Description**

Provide in the space below, a brief narrative description of the project. Explain **WHAT** is to be done in **State Board defined terms**, **NOT WHY** it is being done. If the project site does NOT have a street address, include a legal description of the site. Include the rationale regarding the project's classification as substantive or non-substantive.

The proposed project contemplates a change in ownership of Silver Cross Renal Center West. Total Renal Care, Inc., a subsidiary of DaVita Inc., will acquire substantially all of the assets of Silver Cross Renal Center West from Silver Cross Hospital & Medical Center. The proposed transaction includes the sale of 3 in-center hemodialysis facilities to Total Renal Care, Inc. for approximately \$30 million.

Silver Cross Renal Center West is a 29 station in-center hemodialysis facility located at 1051 Essington Road, Joliet, Illinois 60435. The new operating entity will be Total Renal Care, Inc.

The acquisition is projected to be complete by June 30, 2012.

This project has been classified as non-substantive because it proposes a change of ownership, which constitutes a facility conversion under 77 Ill. Admin. Code 1110.40(b).

**Project Costs and Sources of Funds**

Complete the following table listing all costs (refer to Part 1120.110) associated with the project. When a project or any component of a project is to be accomplished by lease, donation, gift, or other means, the fair market or dollar value (refer to Part 1130.140) of the component must be included in the estimated project cost. If the project contains non-reviewable components that are not related to the provision of health care, complete the second column of the table below. Note, the use and sources of funds must equal.

Project Costs and Sources of Funds			
USE OF FUNDS	CLINICAL	NONCLINICAL	TOTAL
Preplanning Costs			
Site Survey and Soil Investigation			
Site Preparation			
Off Site Work			
New Construction Contracts			
Modernization Contracts			
Contingencies			
Architectural/Engineering Fees			
Consulting and Other Fees			
Movable or Other Equipment (not in construction contracts)			
Bond Issuance Expense (project related)			
Net Interest Expense During Construction (project related)			
Fair Market Value of Leased Space or Equipment			
Other Costs To Be Capitalized	\$20,044,698		\$20,044,698
Acquisition of Building or Other Property (excluding land)			
<b>TOTAL USES OF FUNDS</b>	<b>\$20,044,698</b>		<b>\$20,044,698</b>
SOURCE OF FUNDS	CLINICAL	NONCLINICAL	TOTAL
Cash and Securities	\$20,044,698		\$20,044,698
Pledges			
Gifts and Bequests			
Bond Issues (project related)			
Mortgages			
Leases (fair market value)			
Governmental Appropriations			
Grants			
Other Funds and Sources			
<b>TOTAL SOURCES OF FUNDS</b>	<b>\$20,044,698</b>		<b>\$20,044,698</b>
<b>NOTE: ITEMIZATION OF EACH LINE ITEM MUST BE PROVIDED AT ATTACHMENT-7, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.</b>			

**Related Project Costs**

Provide the following information, as applicable, with respect to any land related to the project that will be or has been acquired during the last two calendar years:

<p>Land acquisition is related to project      <input type="checkbox"/> Yes      <input checked="" type="checkbox"/> No</p> <p>Purchase Price:    \$ _____</p> <p>Fair Market Value: \$ _____</p>
<p>The project involves the establishment of a new facility or a new category of service  <input type="checkbox"/> Yes      <input checked="" type="checkbox"/> No</p> <p>If yes, provide the dollar amount of all <b>non-capitalized</b> operating start-up costs (including operating deficits) through the first full fiscal year when the project achieves or exceeds the target utilization specified in Part 1100.</p> <p>Estimated start-up costs and operating deficit cost is \$ _____.</p>

**Project Status and Completion Schedules**

<p>Indicate the stage of the project's architectural drawings:</p> <p><input checked="" type="checkbox"/> None or not applicable      <input type="checkbox"/> Preliminary</p> <p><input type="checkbox"/> Schematics      <input type="checkbox"/> Final Working</p>
<p>Anticipated project completion date (refer to Part 1130.140): <u>June 30, 2012</u></p>
<p>Indicate the following with respect to project expenditures or to obligation (refer to Part 1130.140):</p> <p><input type="checkbox"/> Purchase orders, leases or contracts pertaining to the project have been executed.</p> <p><input checked="" type="checkbox"/> Project obligation is contingent upon permit issuance. Provide a copy of the contingent "certification of obligation" document, highlighting any language related to CON Contingencies</p> <p><input type="checkbox"/> Project obligation will occur after permit issuance.</p>
<p>APPEND DOCUMENTATION AS <u>ATTACHMENT-8</u>, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.</p>

**State Agency Submittals**

<p>Are the following submittals up to date as applicable:</p> <p><input type="checkbox"/> Cancer Registry <b>NOT APPLICABLE</b></p> <p><input type="checkbox"/> APORS <b>NOT APPLICABLE</b></p> <p><input checked="" type="checkbox"/> All formal document requests such as IDPH Questionnaires and Annual Bed Reports been submitted</p> <p><input checked="" type="checkbox"/> All reports regarding outstanding permits</p> <p><b>Failure to be up to date with these requirements will result in the application for permit being deemed incomplete.</b></p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**Cost Space Requirements**

Provide in the following format, the department/area **DGSF** or the building/area **BGSF** and cost. The type of gross square footage either **DGSF** or **BGSF** must be identified. The sum of the department costs **MUST** equal the total estimated project costs. Indicate if any space is being reallocated for a different purpose. Include outside wall measurements plus the department's or area's portion of the surrounding circulation space. **Explain the use of any vacated space.**

Dept. / Area	Cost	Gross Square Feet		Amount of Proposed Total Gross Square Feet That Is:			
		Existing	Proposed	New Const.	Modernized	As Is	Vacated Space
<b>REVIEWABLE</b>							
Medical Surgical							
Intensive Care							
Diagnostic Radiology							
MRI							
Total Clinical							
<b>NON REVIEWABLE</b>							
Administrative							
Parking							
Gift Shop							
Total Non-clinical							
<b>TOTAL</b>							

APPEND DOCUMENTATION AS ATTACHMENT-9, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.



**Facility Bed Capacity and Utilization**

Complete the following chart, as applicable. Complete a separate chart for each facility that is a part of the project and insert following this page. Provide the existing bed capacity and utilization data for the latest **Calendar Year for which the data are available**. **Include observation days in the patient day totals for each bed service**. Any bed capacity discrepancy from the Inventory will result in the application being deemed **incomplete**.

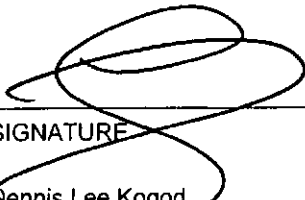
<b>FACILITY NAME:</b>		<b>CITY:</b>			
<b>REPORTING PERIOD DATES:</b>		<b>From:</b>	<b>to:</b>		
<b>Category of Service</b>	<b>Authorized Beds</b>	<b>Admissions</b>	<b>Patient Days</b>	<b>Bed Changes</b>	<b>Proposed Beds</b>
Medical/Surgical					
Obstetrics					
Pediatrics					
Intensive Care					
Comprehensive Physical Rehabilitation					
Acute/Chronic Mental Illness					
Neonatal Intensive Care					
General Long Term Care					
Specialized Long Term Care					
Long Term Acute Care					
Other ((identify))					
<b>TOTALS:</b>					

**CERTIFICATION**

The application must be signed by the authorized representative(s) of the applicant entity. The authorized representative(s) are:

- o in the case of a corporation, any two of its officers or members of its Board of Directors;
- o in the case of a limited liability company, any two of its managers or members (or the sole manager or member when two or more managers or members do not exist);
- o in the case of a partnership, two of its general partners (or the sole general partner, when two or more general partners do not exist);
- o in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- o in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of DaVita Inc. \*  
 in accordance with the requirements and procedures of the Illinois Health Facilities Planning Act. The undersigned certifies that he or she has the authority to execute and file this application for permit on behalf of the applicant entity. The undersigned further certifies that the data and information provided herein, and appended hereto, are complete and correct to the best of his or her knowledge and belief. The undersigned also certifies that the permit application fee required for this application is sent herewith or will be paid upon request.

  
 \_\_\_\_\_  
 SIGNATURE

Dennis Lee Kogod  
 \_\_\_\_\_  
 PRINTED NAME

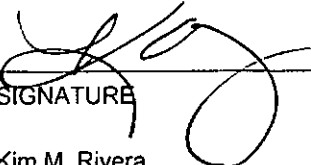
Chief Operating Officer  
 \_\_\_\_\_  
 PRINTED TITLE

Notarization:  
 Subscribed and sworn to before me  
 this \_\_\_\_\_ day of \_\_\_\_\_

Signature of Notary \_\_\_\_\_

Seal

*see attached*

  
 \_\_\_\_\_  
 SIGNATURE

Kim M. Rivera  
 \_\_\_\_\_  
 PRINTED NAME

Secretary  
 \_\_\_\_\_  
 PRINTED TITLE

Notarization:  
 Subscribed and sworn to before me  
 this 22 day of August, 2011

  
 \_\_\_\_\_  
 Signature of Notary

Seal

LINDA N. O'CONNELL  
 NOTARY PUBLIC  
 STATE OF COLORADO  
 MY COMMISSION EXPIRES 08-08-2015

\*Insert EXACT legal name of the applicant

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

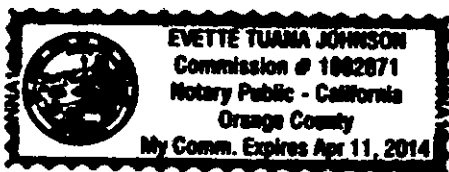
1 \_\_\_\_\_  
 2 \_\_\_\_\_  
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 5 \_\_\_\_\_  
 6 \_\_\_\_\_

Signature of Document Signer No. 1 \_\_\_\_\_ Signature of Document Signer No. 2 (if any) \_\_\_\_\_

State of California  
 County of LOS ANGELES

Subscribed and sworn to (or affirmed) before me  
 on this 10 day of AUGUST, 2011  
 by \_\_\_\_\_  
 Name of Signer DENNIS L. KOEHL

proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me (.) (.)



Place Notary Seal and/or Stamp Above

(and)  
 \_\_\_\_\_  
 Name of Signer

proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me.)

Signature \_\_\_\_\_  
 Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Further Description of Any Attached Document**

Title or Type of Document: Certification Admitt Association (DARTS) 1  
 Document Date: none Number of Pages: \_\_\_\_\_  
 Signer(s) Other Than Named Above: KIM RIVERA

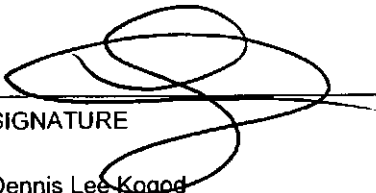
RIGHT THUMBPRINT OF SIGNER #1	RIGHT THUMBPRINT OF SIGNER #2
Top of thumb here	Top of thumb here

**CERTIFICATION**

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 \_\_\_\_\_  
 SIGNATURE

Dennis Lee Kogod  
 \_\_\_\_\_  
 PRINTED NAME

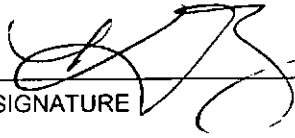
Chief Operating Officer  
 \_\_\_\_\_  
 PRINTED TITLE

Notarization:  
 Subscribed and sworn to before me  
 this \_\_\_\_\_ day of \_\_\_\_\_

Signature of Notary

Seal


*See attached*

  
 \_\_\_\_\_  
 SIGNATURE

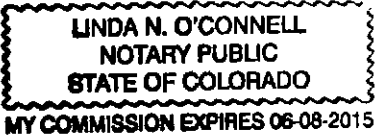
Kim M. Rivera  
 \_\_\_\_\_  
 PRINTED NAME

Secretary  
 \_\_\_\_\_  
 PRINTED TITLE

Notarization:  
 Subscribed and sworn to before me  
 this 22 day of August, 2011

  
 \_\_\_\_\_  
 Signature of Notary

Seal



\*Insert EXACT legal name of the applicant

# CALIFORNIA JURAT WITH AFFIANT STATEMENT

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

1  
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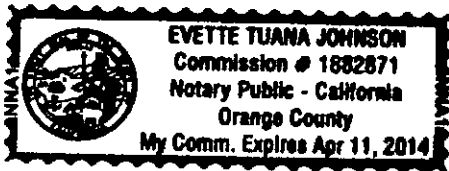
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6  
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Signature of Document Signer No. 1 \_\_\_\_\_ Signature of Document Signer No. 2 (if any) \_\_\_\_\_

State of California  
County of LOS ANGELES

Subscribed and sworn to (or affirmed) before me  
on this 19 day of AUGUST, 20 11  
by \_\_\_\_\_  
(1) Denise L. Kogod  
Name of Signer \_\_\_\_\_



Place Notary Seal and/or Stamp Above

proved to me on the basis of satisfactory evidence  
to be the person who appeared before me (.) (.)  
(and)  
(2) \_\_\_\_\_  
Name of Signer \_\_\_\_\_

proved to me on the basis of satisfactory evidence  
to be the person who appeared before me.)  
Signature Evette Tuana Johnson  
Signature of Notary Public \_\_\_\_\_

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Further Description of Any Attached Document

Title or Type of Document: CERTIFICATION LETTER  
Document Date: NONE Number of Pages: 1  
Signer(s) Other Than Named Above: KIM LIVATA

RIGHT THUMBPRINT OF SIGNER #1
Top of thumb here

RIGHT THUMBPRINT OF SIGNER #2
Top of thumb here

### SECTION III – BACKGROUND, PURPOSE OF THE PROJECT, AND ALTERNATIVES - INFORMATION REQUIREMENTS

This Section is applicable to all projects except those that are solely for discontinuation with no project costs.

#### Criterion 1110.230 – Background, Purpose of the Project, and Alternatives

READ THE REVIEW CRITERION and provide the following required information:

##### BACKGROUND OF APPLICANT

1. A listing of all health care facilities owned or operated by the applicant, including licensing, and certification if applicable.
2. A certified listing of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application.
3. Authorization permitting HFSRB and DPH access to any documents necessary to verify the information submitted, including, but not limited to: official records of DPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. **Failure to provide such authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.**
4. If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this criterion. In such instances, the applicant shall attest the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed, to update and/or clarify data.

**APPEND DOCUMENTATION AS ATTACHMENT-11, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-4) MUST BE IDENTIFIED IN ATTACHMENT 11.**

##### PURPOSE OF PROJECT

1. Document that the project will provide health services that improve the health care or well-being of the market area population to be served.
2. Define the planning area or market area, or other, per the applicant's definition.
3. Identify the existing problems or issues that need to be addressed, as applicable and appropriate for the project. [See 1110.230(b) for examples of documentation.]
4. Cite the sources of the information provided as documentation.
5. Detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being.
6. Provide goals with quantified and measurable objectives, with specific timeframes that relate to achieving the stated goals as appropriate.

For projects involving modernization, describe the conditions being upgraded if any. For facility projects, include statements of age and condition and regulatory citations if any. For equipment being replaced, include repair and maintenance records.

**NOTE: Information regarding the "Purpose of the Project" will be included in the State Agency Report.**

**APPEND DOCUMENTATION AS ATTACHMENT-12, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM. EACH ITEM (1-6) MUST BE IDENTIFIED IN ATTACHMENT 12.**

**ALTERNATIVES**

- 1) Identify **ALL** of the alternatives to the proposed project:

Alternative options **must** include:

- A) Proposing a project of greater or lesser scope and cost;
  - B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;
  - C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and
  - D) Provide the reasons why the chosen alternative was selected.
- 2) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of total costs, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation. **FOR EVERY ALTERNATIVE IDENTIFIED THE TOTAL PROJECT COST AND THE REASONS WHY THE ALTERNATIVE WAS REJECTED MUST BE PROVIDED.**
- 3) The applicant shall provide empirical evidence, including quantified outcome data that verifies improved quality of care, as available.

**APPEND DOCUMENTATION AS ATTACHMENT-13, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

**SECTION VI - MERGERS, CONSOLIDATIONS AND ACQUISITIONS/CHANGES OF OWNERSHIP**

This Section is applicable to projects involving merger, consolidation or acquisition/change of ownership.

**NOTE: For all projects involving a change of ownership THE TRANSACTION DOCUMENT must be submitted with the application for permit. The transaction document must be signed dated and contain the appropriate contingency language.**

**A. Criterion 1110.240(b), Impact Statement**

Read the criterion and provide an impact statement that contains the following information:

1. Any change in the number of beds or services currently offered.
2. Who the operating entity will be.
3. The reason for the transaction.
4. Any anticipated additions or reductions in employees now and for the two years following completion of the transaction.
5. A cost-benefit analysis for the proposed transaction.

**B. Criterion 1110.240(c), Access**

Read the criterion and provide the following:

1. The current admission policies for the facilities involved in the proposed transaction.
2. The proposed admission policies for the facilities.
3. A letter from the CEO certifying that the admission policies of the facilities involved will not become more restrictive.

**C. Criterion 1110.240(d), Health Care System**

Read the criterion and address the following:

1. Explain what the impact of the proposed transaction will be on the other area providers.
2. List all of the facilities within the applicant's health care system and provide the following for each facility.
  - a. the location (town and street address);
  - b. the number of beds;
  - c. a list of services; and
  - d. the utilization figures for each of those services for the last 12 month period.
3. Provide copies of all present and proposed referral agreements for the facilities involved in this transaction.
4. Provide time and distance information for the proposed referrals within the system.
5. Explain the organization policy regarding the use of the care system providers over area providers.
6. Explain how duplication of services within the care system will be resolved.
7. Indicate what services the proposed project will make available to the community that are not now available.

APPEND DOCUMENTATION AS ATTACHMENT-19, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.



The following Sections **DO NOT** need to be addressed by the applicants or co-applicants responsible for funding or guaranteeing the funding of the project if the applicant has a bond rating of A- or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application):

- Section 1120.120 Availability of Funds – Review Criteria
- Section 1120.130 Financial Viability – Review Criteria
- Section 1120.140 Economic Feasibility – Review Criteria, subsection (a)

**VIII. - 1120.120 - Availability of Funds**

The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources from the following sources, as applicable: Indicate the dollar amount to be provided from the following sources:

\$20,044,698	a)	Cash and Securities – statements (e.g., audited financial statements, letters from financial institutions, board resolutions) as to:
	1)	the amount of cash and securities available for the project, including the identification of any security, its value and availability of such funds; and
	2)	interest to be earned on depreciation account funds or to be earned on any asset from the date of applicant's submission through project completion;
_____	b)	Pledges – for anticipated pledges, a summary of the anticipated pledges showing anticipated receipts and discounted value, estimated time table of gross receipts and related fundraising expenses, and a discussion of past fundraising experience.
_____	c)	Gifts and Bequests – verification of the dollar amount, identification of any conditions of use, and the estimated time table of receipts;
_____	d)	Debt – a statement of the estimated terms and conditions (including the debt time period, variable or permanent interest rates over the debt time period, and the anticipated repayment schedule) for any interim and for the permanent financing proposed to fund the project, including:
	1)	For general obligation bonds, proof of passage of the required referendum or evidence that the governmental unit has the authority to issue the bonds and evidence of the dollar amount of the issue, including any discounting anticipated;
	2)	For revenue bonds, proof of the feasibility of securing the specified amount and interest rate;
	3)	For mortgages, a letter from the prospective lender attesting to the expectation of making the loan in the amount and time indicated, including the anticipated interest rate and any conditions associated with the mortgage, such as, but not limited to, adjustable interest rates, balloon payments, etc.;
	4)	For any lease, a copy of the lease, including all the terms and conditions, including any purchase options, any capital improvements to the property and provision of capital equipment;
	5)	For any option to lease, a copy of the option, including all terms and conditions.
_____	e)	Governmental Appropriations – a copy of the appropriation Act or ordinance accompanied by a statement of funding availability from an official of the governmental unit. If funds are to be made available from subsequent fiscal years, a copy of a resolution or other action of the governmental unit attesting to this intent;
_____	f)	Grants – a letter from the granting agency as to the availability of funds in terms of the amount and time of receipt;
_____	g)	All Other Funds and Sources – verification of the amount and type of any other funds that will be used for the project.
\$20,044,698	<b>TOTAL FUNDS AVAILABLE</b>	

**APPEND DOCUMENTATION AS ATTACHMENT-39, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.**

IX. 1120.130 - Financial Viability

All the applicants and co-applicants shall be identified, specifying their roles in the project funding or guaranteeing the funding (sole responsibility or shared) and percentage of participation in that funding.

**Financial Viability Waiver**

The applicant is not required to submit financial viability ratios if:

1. All of the projects capital expenditures are completely funded through internal sources
2. The applicant's current debt financing or projected debt financing is insured or anticipated to be insured by MBIA (Municipal Bond Insurance Association Inc.) or equivalent
3. The applicant provides a third party surety bond or performance bond letter of credit from an A rated guarantor.

See Section 1120.130 Financial Waiver for information to be provided

APPEND DOCUMENTATION AS ATTACHMENT-40, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

The applicant or co-applicant that is responsible for funding or guaranteeing funding of the project shall provide viability ratios for the latest three years for which audited financial statements are available and for the first full fiscal year at target utilization, but no more than two years following project completion. When the applicant's facility does not have facility specific financial statements and the facility is a member of a health care system that has combined or consolidated financial statements, the system's viability ratios shall be provided. If the health care system includes one or more hospitals, the system's viability ratios shall be evaluated for conformance with the applicable hospital standards.

Provide Data for Projects Classified as:	Category A or Category B (last three years)			Category B (Projected)
Enter Historical and/or Projected Years:				
Current Ratio				
Net Margin Percentage				
Percent Debt to Total Capitalization				
Projected Debt Service Coverage				
Days Cash on Hand				
Cushion Ratio				

Provide the methodology and worksheets utilized in determining the ratios detailing the calculation and applicable line item amounts from the financial statements. Complete a separate table for each co-applicant and provide worksheets for each.

2. Variance

Applicants not in compliance with any of the viability ratios shall document that another organization, public or private, shall assume the legal responsibility to meet the debt obligations should the applicant default.

APPEND DOCUMENTATION AS ATTACHMENT 41, IN NUMERICAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**X. 1120.140 - Economic Feasibility**

**This section is applicable to all projects subject to Part 1120.**

**A. Reasonableness of Financing Arrangements**

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

- 1) That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or
- 2) That the total estimated project costs and related costs will be funded in total or in part by borrowing because:
  - A) A portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or
  - B) Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.

**B. Conditions of Debt Financing**

This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

- 1) That the selected form of debt financing for the project will be at the lowest net cost available;
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.

**C. Reasonableness of Project and Related Costs**

Read the criterion and provide the following:

- 1. Identify each department or area impacted by the proposed project and provide a cost and square footage allocation for new construction and/or modernization using the following format (insert after this page).

COST AND GROSS SQUARE FEET BY DEPARTMENT OR SERVICE									
Department (list below)	A	B	C	D	E	F	G	H	Total Cost (G + H)
	Cost/Square Foot New	Mod.	Gross Sq. Ft. New	Circ.*	Gross Sq. Ft. Mod.	Circ.*	Const. \$ (A x C)	Mod. \$ (B x E)	
Contingency									
<b>TOTALS</b>									

\* Include the percentage (%) of space for circulation

**D. Projected Operating Costs**

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.

**E. Total Effect of the Project on Capital Costs**

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

APPEND DOCUMENTATION AS ATTACHMENT -42, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**XII. Charity Care Information**

Charity Care information **MUST** be furnished for **ALL** projects.

1. All applicants and co-applicants shall indicate the amount of charity care for the latest three audited fiscal years, the cost of charity care and the ratio of that charity care cost to net patient revenue.
2. If the applicant owns or operates one or more facilities, the reporting shall be for each individual facility located in Illinois. If charity care costs are reported on a consolidated basis, the applicant shall provide documentation as to the cost of charity care; the ratio of that charity care to the net patient revenue for the consolidated financial statement; the allocation of charity care costs; and the ratio of charity care cost to net patient revenue for the facility under review.
3. If the applicant is not an existing facility, it shall submit the facility's projected patient mix by payer source, anticipated charity care expense and projected ratio of charity care to net patient revenue by the end of its second year of operation.

Charity care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third-party payer. (20 ILCS 3960/3) Charity Care must be provided at cost.

A table in the following format must be provided for all facilities as part of Attachment 44.

CHARITY CARE			
	Year	Year	Year
Net Patient Revenue			
Amount of Charity Care (charges)			
Cost of Charity Care			

APPEND DOCUMENTATION AS ATTACHMENT-44, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.

**Section I, Identification, General Information, and Certification**  
**Applicants**

Certificates of Good Standing for DaVita Inc. and Total Renal Care, Inc. (the "Applicants" or "DaVita") are attached at Attachment – 1. Total Renal Care, Inc., a subsidiary of DaVita Inc., will acquire substantially all of the assets of Silver Cross Renal Center - West from Silver Cross Hospitals and Medical Centers, Inc. ("Silver Cross") DaVita Inc., as the parent corporation of Total Renal Care, Inc., is named as an applicant. DaVita Inc. does not do business in the State of Illinois. A Certificate of Good Standing for DaVita Inc. from the state of its incorporation, Delaware, is attached.

# Delaware

PAGE 1

## The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "DAVITA INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE THIRTIETH DAY OF NOVEMBER, A.D. 2010.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "DAVITA INC." WAS INCORPORATED ON THE FOURTH DAY OF APRIL, A.D. 1994.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.


AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

2391269 8300

101133217

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 8386715

DATE: 11-30-10



*To all to whom these Presents Shall Come, Greeting:*

*I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that*

TOTAL RENAL CARE, INC., INCORPORATED IN CALIFORNIA AND LICENSED TO TRANSACT BUSINESS IN THIS STATE ON MARCH 10, 1995, APPEARS TO HAVE COMPLIED WITH ALL THE PROVISIONS OF THE BUSINESS CORPORATION ACT OF THIS STATE RELATING TO THE PAYMENT OF FRANCHISE TAXES, AND AS OF THIS DATE, IS A FOREIGN CORPORATION IN GOOD STANDING AND AUTHORIZED TO TRANSACT BUSINESS IN THE STATE OF ILLINOIS.

*In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this 18TH day of OCTOBER A.D. 2010*



*Jesse White*

SECRETARY OF STATE

Authentication #: 1029100457  
Verify at [www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)



**Section I, Identification, General Information, and Certification**  
**Site Ownership**

A copy of the lease between Midwest Community Real Estate Corporation and Silver Cross is attached at Attachment – 2.

**MEDICAL OFFICE LEASE**

**LANDLORD:**

**MIDWEST COMMUNITY REAL ESTATE CORPORATION**

**TENANT:**

**SILVER CROSS HOSPITAL  
Renal West**

**DATED:**

**October 1, 2006**

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## MEDICAL OFFICE LEASE

THIS LEASE (the "Lease") is made as of this 1<sup>st</sup> day of October 2006 between MIDWEST COMMUNITY REAL ESTATE CORPORATION, an Illinois not-for-profit corporation ("Landlord") and the tenant listed below ("Tenant").

### Summary of Lease Terms

- A. **Landlord:** Midwest Community Real Estate Corporation, an Illinois not-for-profit corporation
- B. **Tenant:** Silver Cross Hospital, Renal West Center
- C. **Premises:** 8,691 usable square feet  
10,389 rentable square feet (in no event shall the loss factor exceed 25%)
- D. **Initial Annual Base Rental Rate:** \$10.30 per rentable square foot. See Exhibit C for rental schedule for years one (1) through five (5).
- E. **Security Deposit:** Waived.
- F. **Tenant's Prorata Share:** 22.7% (based upon total rentable square footage of 45,838)
- G. **Term:** The initial five (5) year term (the "Initial Term") commencing as of the Commencement Date.
- H. **Approximate Commencement Date:** June 1, 2006 subject to the terms of Section 1.01 hereof.
- I. **Use:** Medical Offices, subject to the express restrictions hereinafter provided.
- J. **Guarantors:** Silver Cross Hospital

TENANT WARRANTS AND REPRESENTS TO LANDLORD THAT TENANT (OR, IF TENANT IS A CORPORATION, PARTNERSHIP OR LIMITED LIABILITY COMPANY, EACH OF THE OWNERS OR PHYSICIAN EMPLOYEES THAT CONDUCT BUSINESS FROM THE PREMISES FROM TIME TO TIME) IS A MEMBER OF THE MEDICAL STAFF OF SILVER CROSS HOSPITAL AND MEDICAL CENTERS ("SILVER CROSS").

THE TERMS AND PROVISIONS SET FORTH BELOW THE SIGNATURES OF LANDLORD AND TENANT (INCLUDING, WITHOUT LIMITATION, ARTICLES 1 THROUGH 30 AND EXHIBITS A THROUGH C) ARE INCORPORATED IN THIS SUMMARY PAGE AS IF FULLY SET FORTH HEREIN. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE TERMS AND PROVISIONS OF THIS SUMMARY PAGE AND THE TERMS AND PROVISIONS SET FORTH BELOW THE SIGNATURE SECTION HEREOF, THE TERMS AND PROVISIONS SET FORTH BELOW THE SIGNATURES SHALL CONTROL.

IN WITNESS WHEREOF, LANDLORD AND TENANT HAVE EXECUTED THIS LEASE AS OF THE DATE FIRST ABOVE WRITTEN.

Tenant:

\_\_\_\_\_  
\_\_\_\_\_

By: William Brouder  
Its: CFO

Landlord:

MIDWEST COMMUNITY REAL ESTATE CORPORATION, an Illinois not-for-profit corporation

By: William Brouder  
Its: T

## RECITALS

Landlord is the owner or the master tenant of a medical office building containing approximately 45,838 square feet (the "Building") commonly known as Silver Cross Professional Building – Joliet, IL. The Building, the land upon which it is built (the "Land"), associated parking facilities and any fixtures, machinery, equipment, apparatus and other personal property located thereon or therein and used in connection therewith are hereinafter collectively referred to as the "Property". Landlord wishes to lease to Tenant, and Tenant wishes to lease from Landlord, 10,389 rentable feet of space in the Building for use as medical offices. Landlord reserves the right to construct additional buildings and improvements upon or about the Building and to lease portions of the Building for purposes other than medical offices.

NOW THEREFORE, in consideration of the mutual covenants herein contained, Landlord and Tenant agree as follows:

### ARTICLE I: GRANT; TERM OF LEASE; PERMITTED USE

#### 1.01. Grant.

Landlord does hereby lease to Tenant, and Tenant does hereby hire and take from Landlord the portion of the Building depicted on the site plan attached as Exhibit "A" containing 10,389 rentable square feet (the "Premises") for a term (as sooner terminated as hereinafter provided, the "Term") commencing on June 1, 2006 (the "Commencement Date") and ending on the September 30, 2011. Tenant has inspected the Property and the Premises and accepts the condition of the Premises in its "as is" condition.

If Landlord for any reason whatsoever cannot deliver possession of the Premises to Tenant on or before the Commencement Date above, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom. Under such circumstances, the rent provided for herein shall not commence until possession of the Premises is made available to Tenant. No such failure to give possession on the date provided above for commencement of the term hereof shall affect the validity of this Lease or the obligations of Tenant hereunder. If the Premises are ready for occupancy prior to the Commencement Date and Tenant occupies the Premises prior to such date, the term of this Lease shall commence on such occupancy date (and end on the date stated above) and Tenant shall pay rental for such period of occupancy at a rate proportionate to the rent reserved herein. Notwithstanding the above, if Landlord, through no fault of Tenant, fails to deliver possession of the Premises to Tenant within ninety (90) days of the Commencement Date, Tenant may elect to terminate this Lease by written notice thereof sent to Landlord within 15 days after the expiration of such ninety (90) day period. This Section 1.01(b) shall have no application if Tenant is currently occupying the Premises as a tenant.

1.02. Use. Subject to the provisions of law and of this Lease, Tenant will use the Premises solely as physicians' or medical-professional offices and for no other purpose without the written consent of Landlord. Notwithstanding the foregoing, (i) Tenant shall not use the Premises for any unlawful, illegal or immoral purpose or act or for the performance of abortions or for assistance in suicides, (ii) Tenant shall not install diagnostic or therapeutic radiological equipment on the Premises except with the written consent of Landlord, and then may install such equipment only if the installation complies with the minimum protective safety requirements as prescribed by the federal government, State of Illinois, and local authority and applicable insurance requirements, and (iii) Tenant agrees that neither Tenant nor any subtenant or occupant of the Premises shall operate radiological services, pathological services or laboratory, a physical therapy center, surgical facilities or other out-patient diagnostic and treatment services and facilities for the use of the physicians (collectively, the "Use Restrictions") unless Landlord and each give prior written consent (which consent shall not be unreasonably withheld by either Landlord and unless such services compete with any services provided by or its affiliates in the Building, in which event consent may be withheld in Landlord's sole discretion). Tenant covenants and agrees that at all times during the Term, as extended or renewed, Tenant (or, if Tenant is a corporation, partnership or limited liability company, each of the owners and physician employees that conduct business from the Premises from time to time) shall be a member in good standing of the medical staff of Silver Cross. Nothing contained in this Section 1.02 shall be construed or interpreted so as to prevent Tenant from offering professional physician services that are (i) at the time of the execution of this Lease, routinely performed by Tenant from the Premises in the ordinary course of Tenant's business, or (ii)



routinely performed in the ordinary course of similar medical practices in the Illinois area in office settings, for the term of this agreement. Landlord acknowledges that certain ancillary services, devices, equipment and facilities are commonly offered from physician's offices in the State of Illinois. As such, Landlord agrees to work cooperatively and in good faith with Tenant regarding issues subject to the restrictions and prohibitions set forth in this Section.

## ARTICLE 2: BASE RENT

2.01. **Lease Year.** "Lease Year" shall mean the period of twelve (12) full consecutive calendar months falling in each year of the Term commencing on the Commencement Date (in the case of the first Lease Year) and thereafter on each successive anniversary of the Commencement Date.

2.02. **Base Rent.** Tenant shall pay to Landlord at the place for notices to Landlord as provided in Article 22 below, or to such other place, or to such other person, firm or corporation and at such other place as Landlord shall designate from time to time by written notice, a monthly base rent ("Base Rent") in advance on the Commencement Date and thereafter on the first day of each calendar month of the Term. Base Rent shall be computed by multiplying the number of rentable square feet contained in the Premises by \$10.30 (the "Rental Rate") and dividing by twelve, subject to increase as provided in Section 3.03 hereof. See schedule C for Base Rent in year two (2) through seven (7). Base Rent shall be apportioned for partial months within a Lease Year.

## ARTICLE 3: ADDITIONAL RENT

**ARTICLE 3 IS NOT APPLICABLE IN THE INITIAL TERM OF THIS LEASE; HOWEVER, LANDLORD RESERVES THE RIGHT TO APPLY UPON RENEWAL.**

3.01. **Taxes.** Subject to Section 3.08 below, Tenant shall pay Landlord an amount equal to Tenant's Prorata Share of "Taxes" (as defined in Section 3.08 below) paid by Landlord during each calendar year of the Term.

3.02. **Operating Expenses.** Subject to Section 3.08 below, Tenant shall pay Landlord an amount equal to Tenant's Prorata Share of "Operating Expenses" (as defined in Section 3.08 below) incurred or authorized by Landlord.

3.03. **Manner of Payment.** Taxes, Operating Expenses and Base Rent shall be paid in the following manner:

(a) Landlord may reasonably estimate in advance the amounts Tenant shall owe for Taxes and Operating Expenses for any full or partial calendar year of the Term. In such event, Tenant shall pay such estimated amounts, on a monthly basis, on or before the first day of each calendar month, together with Tenant's payment of Base Rent. Such estimate may be reasonably adjusted from time to time by Landlord.

(b) Within 120 days after the end of each calendar year, or as soon thereafter as practicable, Landlord shall provide a statement (the "Statement") to Tenant showing: (a) the amount of actual Taxes and Operating Expenses for such calendar year, with a listing of amounts for major categories of Operating Expenses, and such amounts for the Base Years, (b) any amount paid by Tenant towards Taxes and Operating Expenses during such calendar year on an estimated basis and (c) any revised estimate of Tenant's obligations for Taxes and Operating Expenses for the current calendar year.

(c) If the Statement shows that Tenant's estimated payments were less than Tenant's actual obligations for Taxes and Operating Expenses for such year, Tenant shall pay the difference. If the Statement shows an increase in Tenant's estimated payments for the current calendar year, Tenant shall pay the difference between the new and former estimates, for the period from January 1 of the current calendar year through the month in which the Statement is

sent. Tenant shall make such payments within thirty (30) days after Landlord sends the Statement.

(d) If the Statement shows that Tenant's estimated payments exceeded Tenant's actual obligations for Taxes and Operating Expenses, Tenant shall receive a credit for the difference against payments of Rental next due. If the Term shall have expired and no further Rental shall be due, Tenant shall receive a refund of such difference, within thirty (30) days after Landlord sends the Statement.

(e) As soon as practical after each Adjustment Date, Landlord shall provide a notice to Tenant showing the computation of the Base Rent for the new Lease Year.

(f) No delay by Landlord in providing the Statement (or separate statements or notices) shall be deemed a default by Landlord or a waiver of Landlord's right to require payment of Tenant's obligations for actual or estimated Taxes or Operating Expenses.

**3.04. Proration; Additional Rent Maximum.** Subject to section 3.08 below. If the Term commences other than on January 1, or ends other than on December 31, Tenant's obligations to pay estimated and actual amounts towards Taxes and Operating Expenses for such first or final calendar years shall be prorated to reflect the portion of such years included in the Term. Such proration shall be made by multiplying the total estimated or actual (as the case may be) Taxes and Operating Expenses, for such calendar years, by a fraction, the numerator of which shall be the number of days of the Term during such calendar year, and the denominator of which shall be 365.

**3.05. Landlord's Records.** Landlord shall maintain records respecting Taxes and Operating Expenses and determine the same in accordance with sound accounting and management practices, consistently applied. Although this Lease contemplates the computation of Taxes and Operating Expenses on a cash basis, Landlord shall make reasonable and appropriate accrual adjustments to ensure that each calendar year includes substantially the same recurring items. Landlord reserves the right to change to a full accrual system of accounting so long as the same is consistently applied and Tenant's obligations are not materially adversely affected. Tenant or its representative shall have the right to examine such records upon reasonable prior notice specifying such records Tenant desires to examine, during normal business hours at the place or places where such records are normally kept by sending such notice no later than thirty (30) days following the furnishing of the Statement. Tenant may take exception to matters included in Taxes or Operating Expenses, or Landlord's computation of Tenant's Prorata Share of either, by sending notice specifying such exception and the reasons therefore to Landlord no later than sixty (60) days after Landlord makes such records available for examination. Such Statement shall be considered final, except as to matters to which exception is taken after examination of Landlord's records in the foregoing manner and within the foregoing times. Tenant acknowledges that Landlord's ability to budget and incur expenses depends on the finality of such Statement, and accordingly agrees that time is of the essence of this Section. If Tenant takes exception to any matter contained in the Statement as provided herein, Landlord shall refer the matter to an independent certified public accountant, whose certification as to the proper amount shall be final and conclusive as between Landlord and Tenant. Tenant shall promptly pay the cost of such certification unless such certification determines that Tenant was overbilled by more than 4%. Pending resolution of any such exceptions in the foregoing manner, Tenant shall continue paying Tenant's Prorata Share of Taxes and Operating Expenses in the amounts determined by Landlord, subject to adjustment after any such exceptions are so resolved.

**3.06. Additional Rent.** Subject to section 3.08 below. Tenant covenants to pay, in accordance with this Lease, all Taxes, Operating Expenses, Base Rent and all sums, costs, expenses and payments which Tenant under any of the provisions of this Lease assumes or agrees to pay and all expenditures and all costs and expenses, including reasonable attorney's fees, which Landlord makes or incurs as permitted by this Lease in curing any condition or event which constitutes or would, after notice or lapse of time, or both, constitute an Event of Default (as defined in Section 21.01) by Tenant, together with interest at the "Default Rate" from the date Landlord makes any such expenditures (all of the foregoing amounts are herein sometimes collectively referred to as "Additional Rent"). The obligations of Tenant to pay Additional Rent shall survive the expiration or termination of the Term. The Default Rate shall be six

percent in excess of the rate most recently listed at the time payment is due in *The Wall Street Journal* (or comparable national financial publication) as the "prime rate", but in no event shall the Default Rate exceed the highest rate of interest which may be legally payable at the time payment is due. If the aggregate gross space in the Building is not one-hundred percent (100%) occupied by tenants during all or a portion of any year during the Term hereof, then Landlord shall make an appropriate adjustment to such year of those components of Taxes and Operating Expenses which may vary depending upon the occupancy level of the Building, employing generally accepted accounting practices, so that all of such Taxes and Operating Expenses paid or incurred by Landlord are ratably allocated to the tenants then occupying space in the Building. Any such adjustments shall also be deemed taxes levied or assessed against the Building and expenses paid or incurred by Landlord and included in Taxes and Operating Expenses for such year, as if the Building had been one-hundred percent (100%) occupied and such taxes were levied or assessed in such year and the Landlord had paid or incurred such expense.

**3.07. No Set-off.** Landlord shall have all the rights and remedies provided for in this Lease and by law in the case of nonpayment of Base Rent or Additional Rent (sometimes collectively referred to as "Rental"). All Rentals shall be paid in such United States of America coin or currency as at the time of payment shall be legal tender for the payment of public and private debts. All Rentals shall be paid as in this Lease provided, without notice or demand and without abatement, deduction, counterclaim or setoff.

**3.08. Definitions Relating to Additional Rent.**

"Taxes" - all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary (including without limitation, real estate taxes, general and special assessments, transit taxes, water and sewer rents, taxes based upon the receipt of rent including gross receipts or sales taxes applicable to the receipt of rent or service or value added taxes (unless required to be paid by Tenant under this Lease), personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, appurtenances, furniture and other personal property used in connection with the Property which Landlord shall pay during any calendar year, any portion of which occurs during the Term (without regard to any different fiscal year used by such government or municipal authority) because of or in connection with the ownership, leasing and operation of the Property. Notwithstanding the foregoing, there shall be excluded from Taxes all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's general or net income (as opposed to rents, rent taxes, receipts or income attributable to operations at the Building). If the method of taxation of real estate prevailing at the time of execution hereof shall be, or has been altered, so as to cause the whole or any part of the taxes now, hereafter or heretofore levied, assessed or imposed on real estate to be levied, assessed or imposed on Landlord, wholly or partially, as a capital levy or otherwise, or on or measured by the rents received therefrom, then such new or altered taxes attributable to the Property shall be included within the term "Taxes", except that the same shall not include any enhancement of said tax attributable to other income of Landlord. Any expenses incurred by Landlord in attempting to protest, reduce or minimize Taxes shall be included in Taxes in the calendar year such expenses are paid. If Taxes for any period during the Term or any extension thereof, shall be increased after payment thereof by Landlord, for any reason including without limitation error or reassessment by applicable governmental or municipal authorities, Tenant shall pay Landlord upon demand Tenant's Prorata Share of such increased Taxes. Tenant shall pay increased Taxes whether Taxes are increased as a result of increases in the assessments or valuation of the Building or Land (whether based on a sale, change in ownership or refinancing of the Building or Land or otherwise), increases in the tax rates, reduction or elimination of any rollbacks or other deductions available under current law, scheduled reductions of any tax abatement, as a result of the elimination, invalidity or withdrawal of any tax abatement, or for any other cause whatsoever. Notwithstanding the foregoing, if any Taxes shall be paid based on assessments or bills by a governmental or municipal authority using a fiscal year other than a calendar year, Landlord may elect to average the assessments or bills for the subject calendar year, based on the number of months of such calendar year included in each such assessment or bill.

"Operating Expenses" - all expenses, costs and amounts (other than Taxes) of every kind and nature which Landlord shall pay during any calendar year any portion of which occurs during the Term,

because of or in connection with the ownership, management, repair, maintenance, replacements, restoration and operation of the Property, including without limitation, any amounts paid for:

- (a) utilities for the Property, including but not limited to electricity, power, gas, steam, oil or other fuel, water, sewer, lighting, heating, air conditioning and ventilating,
- (b) permits, licenses and certificates necessary to operate, manage and lease the Property,
- (c) insurance applicable to the Property, including, but not limited to the amount of coverage Landlord is required to provide under this Lease and loss of rents insurance,
- (d) supplies, tools, equipment and materials used in the operation, repair and maintenance of the Property,
- (e) accounting, legal, inspection, consulting, and other services,
- (f) any equipment rental (or installment equipment purchase or equipment financing agreements), or maintenance and servicing agreements,
- (g) wages, salaries and other compensation and benefits for all persons engaged in the operation, maintenance or security of the Property, and employer's Social Security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages, salaries, compensation and benefits,
- (h) payments under any easement, operating agreement, declaration, restrictive covenant, or instrument pertaining to the sharing of costs in any existing or planned development,
- (i) operation, repair and maintenance of all systems and equipment and components thereof, janitorial service, alarm and security service, fire protection, window cleaning, trash removal, elevator maintenance, cleaning of building walls, replacement of wall and floor coverings, ceiling tiles and fixtures in lobbies, corridors, restrooms and other common or public areas or facilities, and roof repairs and replacements,
- (j) capital expenditures under \$10,000.00 in any single instance and capital expenditures made to reduce Operating Expenses, or to comply with any "Requirements" (as defined in Article 12), or for replacements deemed necessary by Landlord or its Mortgagee to preserve the value of the Property or for additions or new improvements of non-structural items located in the common areas of the Property required to keep such areas in good condition; provided, all such permitted capital expenditures (together with reasonable financing charges) shall be amortized for purposes of this Lease over the useful life of each respective improvement, and
- (k) the management fee paid to Landlord's management agent, which management fee is to be in lieu of all salaries and employment expenses of any on-site manager and all general overhead of operating the central offices of Landlord and the manager of the Building, in the initial amount of five percent (5%) of all gross rental revenues received from tenants of the Building, subject to adjustment based upon the prevailing ordinary and customary management fees being charged from time to time in the Joliet, Illinois area.

Notwithstanding the foregoing, Operating Expenses shall not include: depreciation, interest and amortization on mortgages, and other debt costs or ground lease payments, if any; legal fees in connection with leasing, tenant disputes or enforcement of leases; real estate brokers' leasing commissions; improvements or alterations to tenant spaces; the cost of providing any service directly to and paid directly by, any tenant; any costs expressly excluded from Operating Expenses elsewhere in this Lease; costs of any items to the extent Landlord receives reimbursement from insurance proceeds or from a third party (such proceeds to be deducted from Operating Expenses in the year in which received); or "excess overhead and profit charge", which shall mean: amounts paid to subsidiaries or affiliates of Landlord for services on or to the Building, including management fees, to the extent only that the cost of such services exceed customary and ordinary competitive costs of such services were they not so rendered by a subsidiary or affiliate.

## ARTICLE 4: MANAGEMENT OF THE PROPERTY; COMMON AREAS

4.01. **Definition of Common Areas.** The "Common Areas" shall consist of all areas and facilities within the Building available to all tenants and occupants in the Building, their employees, agents, customers, licensees and invitees subject to those reasonable rules and regulations promulgated by Landlord for the use of such Common Areas.

### 4.02. Use of Common Areas.

(a) Subject to Section 4.01 hereof, Tenant and its officers, employees, agents, customers and invitees shall have the non-exclusive right, in common with Landlord and all others to whom Landlord has granted or may hereafter grant rights, to use the Common Areas, subject to such reasonable regulations as from time to time Landlord may uniformly impose on all tenants of the Building. Tenant shall abide by such regulations established for use of the Common Areas and shall use reasonable efforts to cause its licensees, officers, employees, agents, contractors, customers and invitees to conform thereto. Landlord reserves the right at all times to determine the nature and extent of all Common Areas and shall have exclusive control and management thereof.

(b) At any time and after reasonable notice to Tenant, Landlord may temporarily close any Common Areas to make such repairs or changes thereto as Landlord in its judgment deems necessary or desirable, provided that if Landlord shall close any Common Areas for such purposes, Landlord agrees to use due diligence to minimize any disruption to Tenant and the conduct of its business in the Premises.

(c) Tenant shall not interfere, at any time, with the rights of Landlord or other tenants, occupants and their respective officers, licensees, employees, agents, contractors, customers and invitees, to use any part of the Common Areas.

## ARTICLE 5: UTILITIES AND OTHER SERVICES

5.01. **Utility Payments.** Effective upon the Commencement Date and throughout the Tenant's occupancy of the Premises, whether during or after the Term, Tenant shall pay directly for all telephone and communication systems, alarm and other security services installed into and serving the Premises, janitorial, cleaning and all other equipment and systems installed by Tenant in or about the Premises.

5.02. **Waiver.** In no event shall Landlord be responsible nor liable for any damages or injuries sustained by Tenant or those claiming by, through or under Tenant, on account of the interruption, discontinuance, quality or quantity of any utility used in or for the Premises, whether or not supplied by Landlord, and notwithstanding the reason or cause of such interruption, discontinuance, quality or quantity of such service. In the event of a discontinuance or interruption of any utility service as a result of a line break or other occurrence on or about the Common Areas, Landlord shall use reasonable efforts to restore such services as soon as reasonably possible.

5.03. **Landscaping and Snow Removal.** All exterior landscaping and snow removal shall be the sole responsibility and liability of the Landlord pursuant to the Easements. The cost of such services paid for by Landlord, if any, shall be included as Operating Expenses.

5.04 **Additional Services.** Landlord will provide the following services on all days excepting Sundays, Christmas Day, New Year's day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and other holidays as determined by Landlord from time to time, as follows:

(a) Janitor services in and about the Common Areas (but excluding the Premises).

(b) Heat on Monday through Friday from 7:00 a.m. to 8:00 p.m. (and on Saturdays not otherwise a holiday from 8:00 a.m. to 3:00 p.m.) whenever such heat shall be required for the comfortable occupation and use of the Premises.

(c) Electricity for all Common Areas, and electricity to the Premises for heating and air-conditioning only. The Premises shall be separately metered for Tenant's electrical needs, and Tenant shall be solely responsible for the cost of any and all electrical needs not expressly agreed to be provided by Landlord hereunder.

(d) Air-conditioning, when necessary in Landlord's judgment for normal comfort and humidity in occupation of the Premises on Monday through Friday from 7:00 a.m. to 8:00 p.m. (and on Saturdays not otherwise a holiday from 8:00 a.m. to 3:00 p.m.). Where Tenant's use or occupation of the Premises in Landlord's discretion requires supplementary or additional facilities to those normal for other tenants, Landlord may provide or install the same at Tenant's cost and expense. In the event that mechanical cooling will be required for air-conditioning at hours other than specified above and other than times required for operation of the Building, Landlord may supply such mechanical cooling and Tenant shall pay for any increased costs incurred by Landlord. The above cost will be shared when cooling is requested upon reasonable notice by more than one tenant.

(e) City water from the regular Building outlets for drinking, lavatory and toilet purposes and to supply water to the Premises for normal and customary usage.

(f) Adequate passenger elevator service (if currently installed in building) at all times and freight elevator service on weekends and other times by special permission of the Landlord subject to scheduling by Landlord, except when undergoing repairs or maintenance.

(h) In the event that, by agreement with Tenant, the Landlord furnishes extra or additional services or utilities to be paid for by Tenant, a failure to pay for such services or utilities within thirty days after notice shall authorize Landlord to discontinue such services or utilities and shall allow Landlord, in Landlord's discretion without further notice, to terminate the agreement for such extra or additional services. No such discontinuance or termination shall result in any liability of Landlord to Tenant, or be deemed to be an eviction or disturbance of Tenant's use or possession of the Premises, or relieve Tenant of the obligation to pay all rent when due or from any other obligation of Tenant under this Lease.

(i) Above services may not, at Landlord's option, be rendered if Tenant is under default under any covenants of this Lease.

#### **ARTICLE 6: INTEREST AND LATE CHARGES**

If payment of any Rental or other sums required to be paid by Tenant to Landlord under this Lease shall become overdue beyond ten (10) days after the date on which they are due and payable as in this Lease provided, and if Landlord gives written notice thereof to Tenant, then a late charge of three percent (3%) of the sums so overdue shall become immediately due and payable to Landlord as liquidated damages for Tenant's failure to make prompt payment and said late charges shall be payable on the first day of the month next succeeding the month during which such late charges become payable. No failure by Landlord to insist upon the strict performance by Tenant of Tenant's obligations to pay late charges or interest shall constitute a waiver by Landlord of its rights to enforce the provisions of this section in any instance thereafter occurring. Rental not paid within fifteen (15) days of its due date shall bear interest at the Default Rate from the date when the same is payable under the terms of this Lease until the same shall be paid, which interest is in addition to the late charge.

#### **ARTICLE 7: CASUALTY DAMAGE**

If the Premises or any common areas of the Property providing access thereto shall be damaged by fire or other casualty, Landlord shall use available insurance proceeds to restore the same. Such restoration shall be to substantially the condition prior to the casualty, except for modifications required by zoning and building codes and other Requirements or by any Mortgagee, any other modifications to the common areas deemed desirable by Landlord (provided access to the Premises is not materially impaired), and except that Landlord shall not be required to repair or replace any of Tenant's furniture, furnishings, fixtures or equipment, or any alterations or improvements in excess of any work performed and paid for by Landlord under any separate agreement signed by the parties in connection herewith. Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant's business resulting in any way from such damage or the repair thereof. However, Landlord shall allow Tenant a proportionate abatement of Rental during the time and to the extent the Premises are unfit for occupancy for the purposes permitted under this Lease and not occupied by Tenant as a result thereof. Notwithstanding the foregoing to the contrary, Landlord may elect to terminate this Lease by notifying Tenant in writing of such termination within sixty (60) days after the date of damage (such termination notice to include a termination date providing at least ninety (90) days for Tenant to vacate the Premises), if the Property shall be damaged by fire or other casualty or cause such that: (a) repairs to the Premises and access thereto cannot reasonably be completed within 180 days after the casualty without the payment of overtime or other premiums, (b) more than 25% of the Premises is affected by

the damage, and fewer than 24 months remain in the Term, or any material damage occurs to the Premises during the last 12 months of the Term, (c) any Mortgagee shall require that the insurance proceeds or any portion thereof be used to retire the Loan, or the damage is not fully covered by Landlord's insurance policies, or (d) the cost of the repairs, alterations, restoration or improvement work would exceed 25% of the replacement value of the Building, or the nature of such work would make termination of this Lease necessary or convenient. Tenant agrees that Landlord's obligation to restore, and the abatement of Rental provided herein, shall be Tenant's sole recourse in the event of such damage, and waives any other rights Tenant may have under any applicable Law to terminate the Lease by reason of damage to the Premises or Property. Tenant acknowledges that this Article represents the entire agreement between the parties respecting damage to the Premises or Property.

#### ARTICLE 8: ASSIGNMENT, SUBLEASING

**8.01. Prohibited Assignments.** This Lease shall not be sold, assigned, pledged or otherwise transferred, whether by operation of law or otherwise, nor shall Tenant sublet the Premises without Landlord's prior written consent (such consent not to be unreasonably withheld); provided, however, Tenant shall have the right, without the consent of Landlord but with written notice to Landlord delivered not later than ten (10) business days following the effective date of such transaction, to assign or sublet the entire Premises to a Permitted Assignee (as hereinafter defined), provided that such assignment or subletting shall not relieve Tenant of primary liability for performance of Tenant's obligations hereunder and in the event of any assignment hereunder, and such Permitted Assignee assumes, pursuant to an assignment agreement in form and substance reasonably satisfactory to Landlord, the obligations of Tenant hereunder. As used herein, a "Permitted Assignee" shall mean (i) any entity owned or controlled by Tenant, (ii) any entity of which Tenant is a wholly-owned subsidiary (at any level), (iii) any entity which is under common ownership or control with Tenant, (iv) any entity into which Tenant is merged or consolidated or which consolidates into Tenant or (v) any entity acquiring substantially all of the assets of Tenant, provided, however, any entity which is a competitor of Landlord, Silver Cross or Hospital, or an affiliate of any competitor of Landlord, Silver Cross or Hospital, as determined by Landlord, shall not be a Permitted Assignee. If Tenant is a corporation whose stock is not publicly traded, any transaction or series of transactions (including, without limitation, any dissolution, merger, consolidation or other reorganization of Tenant, or any issuance, sale, gift, transfer or redemption of any capital stock of Tenant, whether voluntary, involuntary or by operation of law, or any combination of any of the foregoing transactions) resulting in the transfer of control of Tenant, other than by reason of death, shall be deemed to be a voluntary assignment of this Lease by Tenant subject to the provisions of this Article 8, provided, however, the addition only of new shareholders shall not require the consent of Landlord. If Tenant is a partnership, any transaction or series of transactions (including without limitation any withdrawal or admittance of a partner or a change in any partner's interest in Tenant, whether voluntary, involuntary or by operation of law, or any combination of any of the foregoing transactions) resulting in the transfer of control of Tenant, other than by reason of death, shall be deemed to be a voluntary assignment of this Lease by Tenant subject to the provisions of this assignment of this Lease by Tenant subject to the provisions of this Article 8, provided, however, the addition of new partners shall not require Landlord's consent. If Tenant is a corporation, the addition of new shareholders or a change or series of changes in ownership of stock which would result in direct or indirect change in ownership by the stockholders or an affiliated group of stockholders of less than fifty (50%) percent of the outstanding stock as of the date of the execution and delivery of this Lease shall not be considered a change of control. As used in this Section 8.01, the term "control" means possession of the power to vote not less than a majority interest of any class of voting securities and partnership or limited liability company interests or to direct or cause the direction (directly or indirectly) of the management or policies of a corporation, or partnership or limited liability company through the ownership of voting securities, partnership interests or limited liability company interests, respectively.

**8.02. Permitted Assignments.** (a) Notwithstanding the provisions of Section 8.01 above, Landlord will consent to an assignment of all of Tenant's right, title and interest in the Lease to a proposed assignee ("Assignee") if and only if Landlord, in its reasonable discretion, determines that the following conditions have been satisfied: (i) Tenant shall have delivered written notice to Landlord, together with a copy of the proposed assignment agreement at least thirty (30) days but no more than one hundred twenty (120) days prior to the commencement date of the proposed assignment; (ii) pursuant to the assignment agreement, Tenant shall remain liable for all of the agreements, obligations and liabilities on the part of the tenant hereunder to be observed, performed and kept, whether past, present or future; (iii) pursuant to the assignment agreement the Assignee shall assume all of the agreements, obligations and liabilities of the tenant hereunder accruing after the commencement date of the proposed assignment, and the Assignee shall expressly agree to continue a lawful use of the Premises consistent with other tenants of the Building or such other general office use as Landlord, in its reasonable discretion, deems compatible with any other tenants of the Building; (iv) Landlord

shall have received satisfactory assurance regarding the business reputation and character of the Assignee, including financial reports demonstrating that Assignee has a sufficient net worth to perform the Tenant's obligations under Lease; and (v) no condition or event which constitutes or would, after notice or lapse of time, or both, constitute an Event of Default shall have occurred either on the date Tenant delivers notice of the proposed assignment or on the commencement date of the proposed assignment. If Landlord consents to the proposed assignment, Tenant and Assignee shall execute and deliver the assignment agreement to Landlord in form suitable for recordation and otherwise as herein required. If Tenant or Assignee fail to satisfy the conditions herein contained, Landlord's withholding of consent to the proposed assignment shall not be deemed unreasonable. Landlord will consent to a proposed sublease of the Premises, provided Tenant complies with the requirements of this Section (substituting sublease for assignment where applicable) and provided the proposed subtenant shall agree to attorn to Landlord following any termination of this Lease with Tenant and otherwise satisfies the standards set forth in this Section with respect to a proposed assignee. If Landlord fails to consent to or disapprove the proposed subtenant or assignee in accordance with the standards set forth above within thirty (30) days after receipt of Tenant's notice of its intention to assign or sublet this Lease and furnishing of all required information, such silence shall be deemed to be the giving of consent by Landlord to such proposed transfer and the waiving of Landlord's right to recapture the Premises set forth in Section 8.03 below.

(b) Notwithstanding any provision of Section 8.02(a) above, Tenant shall have no right to make (and Landlord shall have the absolute right to refuse consent to) any assignment of this Lease or sublease of any portion of the Premises if the proposed assignee or sublessee is an entity: (a) with which Landlord is already in negotiation as evidenced by the issuance of a written proposal from such proposed assignee; (b) is already an occupant of the Building unless Landlord is unable to provide the amount of space required by such occupant; (c) is a governmental agency; (d) is incompatible with the uses of other tenants then in the Building; or (e) would subject the Premises to a use which would: (i) involve a material increase of wear and tear on the Building; (ii) violate any exclusive right granted to another tenant of the Building; or (iii) require any substantial addition to or modification of the Premises or the Building in order to comply with building code or other governmental requirements; Tenant expressly agrees that Landlord shall have the absolute right to refuse consent to any such assignment or sublease and that for the purposes of any statutory or other requirement of reasonableness on the part of Landlord such refusal shall be reasonable.

**8.03. Recapture Rights.** In addition to Landlord's right to approve of any subtenant or assignee, Landlord shall have the option, in its sole discretion, in the event of any proposed subletting of the entire Premises or assignment of the Lease (other than in the case of a Permitted Assignee), to terminate this Lease, or in the case of a proposed subletting of less than the entire Premises, to recapture the portion of the Premises to be sublet, as of the date the subletting or assignment is to be effective. The option shall be exercised, if at all, by Landlord giving Tenant written notice given within ten (10) business days following Landlord's receipt of Tenant's written notice as required under Section 8.02 above. If this Lease shall be terminated with respect to the entire Premises pursuant to this Section, the Term of this Lease shall end on the date stated in Tenant's notice as the effective date of the sublease or assignment as if that date had been originally fixed in this Lease for the expiration of the Term. If Landlord recaptures under this Section only a portion of the Premises, the rent to be paid from time to time during the unexpired Term shall abate proportionately based on the proportion by which the approximate square footage of the remaining portion of the Premises shall be less than that of the Premises as of the date immediately prior to such recapture. Tenant shall, at Tenant's own cost and expense, discharge in full any outstanding commission obligation which may be due and owing as a result of any proposed assignment or subletting, provided the Premises are not recaptured pursuant to this Section 8.03 and rented by Landlord to the proposed tenant or any other tenant.

**8.04. Option Rights.** All lease renewal option rights or space option rights and termination rights granted to Tenant by this Lease, or addendum or amendment to this Lease or letter of agreement shall not be exercisable except by the original Tenant named in this Lease or by a Permitted Assignee or other assignee to whom Tenant, in accordance with this Lease, has assigned all of Tenant's right, title and interest in this Lease. Consent by Landlord to any assignment or subletting shall not include consent to the assignment or transferring of any of said options, right, privileges or services to any assignee of less than all of Tenant's interest in the Premises or to any subtenant. Unless expressly agreed in writing by Landlord to the contrary, every sublease of any of the Premises and the rights of the sublessee under the sublease shall be subordinate to this Lease and the rights of Landlord under this Lease and shall not survive termination of this Lease or of Tenant's rights to possession under this Lease, and each sublease shall so provide.

**8.05. Landlord's Costs.** Tenant will pay to Landlord within seven (7) days of written demand a sum equal to all of Landlord's costs, including reasonable attorney's fees paid to outside counsel, incurred in



investigating and considering any proposed or purported assignment or pledge of this Lease or sublease of any of the Premises, provided that Landlord shall consent to such assignment, pledge or sublease. Any purported sale, assignment, mortgage, transfer of this Lease or subletting which does not comply with the provisions of this Article 8 shall be void.

#### ARTICLE 9: SUBORDINATION

9.01. **Subordination.** This Lease is subject and subordinate to all encumbrances now or hereafter placed (each a "Mortgage") upon the Property, Building, leasehold interest or part thereof and all renewals, modifications, consolidations, replacements or extensions thereof and all other encumbrances and matters of public record applicable to the Property. This Section is self-operative and no further instrument or subordination is required. If any foreclosure proceedings are initiated by the holder of any of such indebtedness (the "Holder" or "Mortgagee") or a deed in lieu is granted, Tenant agrees, upon written request of any such Holder or any purchaser at foreclosure sale, to attend and pay Rental to such party and to execute and deliver any instruments necessary or appropriate to evidence or effectuate such attornment (provided such Holder or purchaser shall agree to accept this Lease and not disturb Tenant's occupancy, so long as Tenant does not default and fail to cure within the time permitted hereunder). However, in the event of attornment, no Holder shall be: (i) liable for any act or omission of Landlord, or subject to any offsets or defenses which Tenant might have against Landlord (prior to such Holder becoming Landlord under such attornment), (ii) liable for any security deposit or bound by any prepaid Rental not actually received by such Holder, or (iii) bound by any future modification of this Lease not consented to by such Holder. Any Holder may elect to make this Lease prior to the lien of its Mortgage, by written notice to Tenant, and if the Holder of any prior mortgage shall require, this Lease shall be prior to any subordinate Mortgage. Tenant agrees to give any Holder by certified mail, return receipt requested, a copy of any notice of default served by Tenant upon Landlord, provided that prior to such notice Tenant has been notified in writing (by way of service on Tenant of a copy of an assignment of leases, or otherwise) of the address of such Holder. Tenant further agrees that if Landlord shall have failed to cure such default within the times permitted Landlord for cure under this Lease, any such Holder whose address has been provided to Tenant shall have an additional period of thirty (30) days in which to cure (or such additional time as may be required due to causes beyond such Holder's control, including time to obtain possession of the Property by power of sale or judicial action). Tenant shall execute such documentation as Landlord may reasonably request from time to time, in order to confirm the matters set forth in this Article in recordable form, and if Tenant fails to do so within ten (10) days after demand in writing, Tenant hereby irrevocably appoints Landlord as its attorney in fact for Tenant with full power and authority to execute and deliver in the name of Tenant any such documents. Tenant agrees to execute amendments to this Lease from time to time, within fifteen (15) days after written request to do so by any Holder, provided, such amendments will not modify or amend any material economics terms of this Lease.

#### ARTICLE 10: REPAIRS

10.01. **Premises.** Throughout the Term, Tenant, at its sole cost and expense, shall take good care of the Premises, including, without limiting the generality of the foregoing, all equipment, fixtures, heating, ventilating and air conditioning systems installed by Tenant and serving the Premises only (but not heating, ventilating and air-conditioning systems currently existing or serving more than just the Premises) and articles of personal property therein or thereon and will put, keep and maintain the same in the same order and condition as on the Commencement Date, and make all repairs therein and thereon, ordinary and extraordinary, and unforeseen and foreseen, necessary to keep the same in the same order and condition as on the Commencement Date. When used in this paragraph, the term "repairs" shall include all necessary replacements, renewals, alterations and additions. Tenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement and maintenance of the Premises, (other than repairs or replacements of structural items which are Landlord's responsibility), and all repairs made by Tenant shall be equal in quality and class to the original work. Tenant shall not commit or suffer, and shall use all reasonable precaution to prevent waste, damage or injury to all of the same. Tenant's obligations hereunder shall include, but not be limited to, Tenant's trade fixtures and equipment, security gates, extinguishers and fire protection systems and other systems and equipment which serve the Premises exclusively whether located within or outside the Premises.

10.02. **Building.** Throughout the Term, Landlord shall be responsible for maintaining the roof and exterior facade of the Building (including tuckpointing and downspouts), underground or otherwise concealed plumbing and exterior walls (excluding window glass, plate glass and all doors), heating, ventilating and air conditioning systems and equipment serving multiple tenant suites and common areas of the Building, foundation and all other structural elements, all to substantially the same condition as existed at the

Commencement Date, ordinary wear and tear excepted, and also for performing any structural work inside or outside the Premises which may be required for purposes of bringing the Building (including the Premises) into compliance with the ADA. Landlord shall have the right to make any replacements deemed necessary by Landlord or its Mortgagee to preserve the value of the Property, including, without limitation, any additions or new improvements of items located in the Common Areas required to keep such areas in good condition. Except as herein provided, Landlord shall have no duty or obligation to make any alteration, change, improvement, replacement or repair to, or to demolish the Building, the Premises or any part thereof. Tenant acknowledges that, except as provided for in this Section 10.02, no representations, statement, or warranties, express or implied have been made by or on behalf of Landlord in respect of the condition of the Premises, or the use or occupation that may be made thereof, and that Landlord shall in no event whatsoever be liable to Tenant for any damages for lost profit or other consequential damages suffered or incurred by Tenant as a result of any latent or patent defects therein. All costs, fees and expenses incurred by Landlord in the performance of its duties under this Section 10.02.

## ARTICLE 11: CHANGES AND ALTERATIONS

11.01. **Tenant Alterations.** Tenant shall not voluntarily demolish, replace or alter the Premises, or any part thereof without Landlord's prior written consent, which shall not be unreasonably withheld by Landlord. If Tenant desires to make any changes or alterations to all or any portion of the Premises, which shall in any instance cost more than \$10,000.00 ("Tenant's Work"), Landlord will consent to Tenant's Work if and only if Tenant shall comply with the following requirements.

(a) Tenant shall have procured and paid for, so far as the same may be required from time to time, all permits and authorizations of all municipal departments and governmental subdivisions having jurisdiction. Landlord shall not unreasonably refuse to join in the application for any such permit or authorization. Copies of all required permits and authorizations shall be delivered to Landlord prior to the commencement of Tenant's Work.

(b) Tenant's Work shall be made promptly (unavoidable delays excepted) and in a good and workmanlike manner and in compliance with all applicable permits and authorizations and building and zoning laws and with all other laws, ordinances, orders, rules, regulations and requirements of all municipal and governmental departments, commissions, boards and offices having jurisdiction.

(c) The cost of Tenant's Work shall be paid in cash or its equivalent, or pursuant to valid and effective waivers of lien with copies thereof delivered to Landlord, so that at all times the Premises shall be free of liens for labor and materials supplied or claimed to have been supplied to the Premises.

(d) All Tenants' Work shall be performed by a general contractor selected or approved by Landlord in writing. Tenant or its contractor shall have delivered to Landlord insurance policies or certificates therefore issued by responsible insurers, bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to Landlord of such payments, for Workmen's Compensation insurance, covering all persons employed in connection with the work and with respect to whom death or bodily injury claims could be asserted against Landlord, Tenant or the Premises, and unless the liability insurance then in effect with respect to the Premises shall cover the risk, owner's protective liability insurance expressly covering the additional hazards resulting from Tenant's Work with limits not less than those, and otherwise subject to the same conditions and requirements, set forth in Section 12.01 with respect to the liability insurance required thereunder. If under the provisions of any fire, liability or other insurance policy or policies then covering the Premises, or any part thereof, any consent to Tenant's Work by said insurance company or companies issuing such policy or policies shall be required to continue and keep such policy or policies in full force and effect, Tenant shall obtain such consents and pay any additional premiums or charges therefor that may be imposed by said insurance company or companies.

(e) At least 10 days before the commencement of Tenant's Work, Tenant shall furnish to Landlord the following items (provided, however, these items shall not be applicable to work costing less than \$5,000 which does not relate to structure, the roof or any building system [such as electrical, HVAC or plumbing systems]):

(i) complete plans and specifications for Tenant's Work prepared by an architect whose qualifications shall meet with the reasonable satisfaction of Landlord and which plans and specifications shall meet with the reasonable approval of the Landlord, together with the approval thereof by any governmental board, bureau or body then exercising jurisdiction with regard to such

work, plans and specifications, which plans and specifications shall be and become the sole and absolute property of Landlord if for any reason this Lease shall be terminated;

(ii) a fixed sum contract in assignable form made with a reputable and responsible builder selected or approved in writing by Landlord, providing for the erection, completion and terms of payment for all work, labor and materials necessary to construct Tenant's Work as depicted in said plans and specifications or, in the alternative, a cost-plus contract in assignable form made with a reputable and responsible builder, providing for the erection, completion and terms of payment for all work, labor and materials necessary to construct Tenant's Work depicted in said plans and specifications, within a fixed period, together with the certificate of an architect who shall meet with the reasonable satisfaction of Landlord, estimating in reasonable detail the cost of Tenant's Work as depicted in said plans and specifications within the fixed period in said contract provided; and

(iii) an assignment of the contract so furnished, duly executed and acknowledged by Tenant, by its terms to be effective upon any termination of this Lease, or upon Landlord's reentry upon the Premises following an Event of Default by Tenant, prior to the complete performance of such contract, such assignment to also include the benefit of all payments made on account of said contract including payments made prior to the effective date of such assignment.

(f) Tenant's Work shall be carried out under the supervision of an architect selected by Tenant and approved in writing by Landlord, which consent shall not be unreasonably withheld. Within thirty (30) days after completion of Tenant's Work, Tenant, at its expense, shall cause as-built plans showing all of Tenant's Work performed in the Premises to be delivered to Landlord for Landlord to retain with the permanent records of the Building.

**11.02. Landlord Alterations.** Landlord hereby reserves the right at any time and from time to time to make alterations or additions to the Property. Any changes, alterations or additions to the Property, and any other work undertaken by Landlord under this Lease, shall be performed or constructed by Landlord so as to minimize interference with Tenant's operation at the Premises, provided, however, in no event shall any such changes, alterations or additions performed by Landlord entitle Tenant to a reduction or abatement of any Rental due hereunder unless Tenant shall be deprived of the use of the Premises for more than 2 consecutive business days, in which event Base Rent shall thereafter abate until Tenant's use is restored.

#### **ARTICLE 12: INSURANCE; REQUIREMENTS OF PUBLIC AUTHORITIES AND UNDERWRITERS**

**12.01. Tenant Insurance.** Tenant shall maintain during the Term comprehensive (or commercial) general liability insurance, with limits of not less than \$2,000,000 combined single limit for personal injury, bodily injury or death, or property damage or destruction (including loss of use thereof) for any one occurrence. Tenant shall also maintain during the Term worker compensation insurance as required by statute, and primary, noncontributory, "all-risk" property damage insurance covering Tenant's personal property, business records, fixtures and equipment for, damage or other loss caused by fire or other casualty or cause including, but not limited to, vandalism and malicious mischief, theft, water damage of any type, including sprinkler leakage, bursting or stoppage of pipes, explosion, business interruption, and other insurable risks in amounts not less than the full insurable replacement value of such property and full insurable value of such other interests of Tenant (subject to reasonable deductible amounts). Landlord shall maintain during the Term comprehensive (or commercial) general liability insurance, with limits of not less than \$2,000,000 combined single limit for personal injury, bodily injury or death, or property damage or destruction (including loss of use thereof) for any one occurrence. Landlord shall also maintain during the Term worker compensation insurance as required by statute, and primary, non-contributory, extended coverage or "all-risk" property damage insurance, in an amount equal to at least ninety percent (90%) of the full insurable replacement value of the Property (exclusive of the costs of excavation, foundations and footings, and such risks required to be covered by Tenant's insurance, and subject to reasonable deductible amounts), or such other amount necessary to prevent Landlord from being a co-insured, and such other coverage as Landlord shall deem appropriate or that may be required by any Mortgagee.

Tenant shall provide Landlord with certificates evidencing such coverage (and, with respect to liability coverage, showing Landlord and such other parties as Landlord may designate from time to time as additional insureds) prior to the Commencement Date, which shall state that such insurance coverage may not be changed or canceled without at least twenty (20) days' prior written notice to Landlord, and shall provide renewal certificates to Landlord at least twenty (20) days prior to expiration of such policies. Landlord may periodically, but not more often than every two years, require that Tenant reasonably increase the

forementioned coverage. Except as provided to the contrary herein, any insurance carried by Landlord or Tenant shall be for the sole benefit of the party carrying such insurance. Any insurance policies hereunder may be "blanket policies." All insurance required hereunder shall be provided by responsible insurers and Tenant's insurer shall be reasonably acceptable to Landlord. By this Article, Landlord and Tenant intend that their respective property loss risks shall be borne by responsible insurance carriers to the extent above provided, and Landlord and Tenant hereby agree to look solely to, and seek recovery only from, their respective insurance carriers in the event of a property loss to the extent that such coverage is agreed to be provided hereunder. The parties each hereby waive all rights and claims against each other for such losses, and waive all rights of subrogation of their respective insurers, provided such waiver of subrogation shall not affect the right of the insured to recover thereunder. The parties agree that their respective insurance policies are now, or shall be, endorsed such that said waiver of subrogation shall not affect the right of the insured to recover thereunder.

**12.02. Compliance with Laws.** During the Term, Tenant, at its own cost and expense, promptly shall comply with any and all present and future laws, rules, orders, ordinances, regulations, statutes and requirements (collectively, the "Requirements"), as the same relate to Tenant's or its assignee's particular use and occupancy of the Premises, irrespective of the nature of the work required to be done, extraordinary as well as ordinary, of federal, state, city, county, or other governmental, public or quasi-public authorities now existing or hereafter created, and of any and all of their departments and bureaus, and of any applicable Fire Rating Bureau, or other body exercising similar functions, to or affecting the Premises or with respect to the condition, equipment, maintenance, use or occupation of the Premises; and Tenant shall also comply with any and all provisions and requirements of any fire, liability or other insurance policy carried by Landlord applicable to the Building as the same relate to Tenant's or its assignee's particular use of the Premises.

#### **ARTICLE 13: DISCHARGE OF LIENS**

**13.01. No Liens.** Tenant shall not create or permit to be created or to remain, and shall discharge (as provided in Subsection 13.02 below), any lien, encumbrance or charge (levied on account of any Imposition or any mechanic's, laborer's or materialman's lien, conditional sale, title retention agreement or chattel mortgage, or otherwise) which might be or become a lien, encumbrance or charge upon the Premises or any part thereof, and Tenant shall not suffer any other matter or thing whereby the estate, rights and interest of Landlord in the Premises or any part thereof might be impaired.

**13.02. Discharge.** If any mechanic's, laborer's or materialman's lien shall at any time be filed against the Premises or any part thereof (not due to Landlord's acts), then Tenant, within thirty (30) days after notice of the filing thereof, or such shorter period as may be required by any Mortgagee, shall cause the same to be discharged of record which may be accomplished by deposit, bonding proceedings or obtaining title insurance over such lien. If Tenant shall fail to cause such lien to be discharged within the period aforesaid, then, after notice to Tenant and in addition to any other right or remedy, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, or by obtaining title insurance and in any such event Landlord shall be entitled if Landlord so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by the Landlord and all costs and expenses incurred by Landlord in connection therewith, together with interest thereon at the Default Rate from the respective dates of Landlord's making of the payment or incurring of the cost and expense, shall constitute Additional Rent payable by Tenant within thirty (30) days after demand.

**13.03. No Consent of Landlord.** Nothing in this Lease contained shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Premises or any part thereof except as may be specifically consented to by Landlord, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any lien against the Premises or any part thereof. Notice is hereby given that Landlord shall not be liable for any work performed or to be performed at the Premises for Tenant, or any materials furnished or to be furnished at the Premises for Tenant, upon credit, and that no mechanic's or other lien for such work or materials shall attach to or affect the estate or interest of Landlord in and to the Premises.

#### **ARTICLE 14: ENVIRONMENTAL PROVISIONS**

Except in the ordinary course of Tenant's business and in compliance with all applicable Environmental Laws (as hereinafter defined), Tenant shall not, and shall not direct, suffer or permit any of its agents, contractors, employees, licensees or invitees to at any time handle, use, manufacture, store or dispose of in or about the Premises, the Building or Common Areas any (collectively "Hazardous Materials") flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or wastes, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances (collectively "Environmental Laws"). Tenant shall not suffer or permit any Hazardous Materials to be handled, stored, used, sold or disposed of in or about its Premises, the Building or Common Areas, except in connection with (i) the customary use of medical products and drugs in a physician's office and (ii) the customary use of products for general office, retail and maintenance purposes (such as aerosol cans containing insecticides, toner for copiers, paints, paint remover and the like). Tenant shall handle, store, use, sell and dispose of Hazardous Materials in or about the Premises, Building and Common Areas in such manner as complies in full with all Environmental Laws and in any event shall not suffer or permit the Premises, the Building or any of the Land or the environment to become contaminated with any Hazardous Materials. Tenant shall hold Landlord and each Landlord Indemnitee harmless from and defend them against any and all loss, claims, liability or costs (including reasonable court costs and attorney's fees) incurred by reason of (x) any actual or asserted failure of Tenant, its agents, contractors, employees, licensees or invitees, at any time, to fully comply with all applicable Environmental Laws or (y) the presence, handling, use or disposition in or about the Premises of any Hazardous Materials (even though permissible under all applicable Environmental Laws) or (z) any actual or asserted failure of Tenant to keep, observe, or perform any provision of this Section 14.

#### **ARTICLE 15: LANDLORD NOT LIABLE FOR INJURY OR DAMAGE**

In no event whatsoever shall Landlord, except in the case of its own acts or omissions of negligence (or the acts of its agents, employees or contractors), be liable for any injury or damage to any property or to any person happening on, in or about the Premises nor for any injury or damage to the Premises, nor to any property, whether belonging to Tenant or any other person, caused by any fire, wind, breakage, leakage, defect or bad condition in any part or portion of the Building, or from water, rain or snow that may leak into, issue or flow from any part of the Building or Premises from the drains, pipes, or plumbing work of the same, or from any place or quarter, or due to the use, misuse or abuse of all or any of the elevators, hatches, openings, installations, stairways or hallways of any kind whatsoever which may exist or hereafter be erected or constructed on the Building, or from any kind of injury which may arise from any other cause whatsoever on the Building or Premises. The provisions hereof permitting Landlord to enter and inspect the Premises are made for the purpose of enabling Landlord to become informed as to whether Tenant is complying with the agreements, terms, covenants and conditions hereof, and to do such acts as Tenant shall fail to do. In all cases where Landlord, as a result of its own acts or omissions of negligence, may become liable for damages sustained by Tenant, Tenant agrees that any recovery for its damages shall be limited to the amount of damages in excess of amounts for which Tenant is compensated through proceeds of insurance or for which Tenant would have been so compensated had Tenant maintained insurance in the amounts and types required of Tenant in Article 12 of this Lease.

#### **ARTICLE 16: MUTUAL INDEMNIFICATION**

**16.01. Tenant Indemnity.** To the extent not expressly prohibited by law, and notwithstanding anything to the contrary, Tenant agrees to hold harmless and indemnify Landlord and its members, agents, servants and employees (each, a "Landlord Indemnitee") from any claims and liabilities, including reasonable attorneys' fees, expenses and court costs, for death or injury to all persons or loss of or damage to or theft of property occurring in or about the Premises during the Term, including claims and liabilities arising from Tenant's occupancy of the Premises or the conduct of its business or from any activity, work or thing done, permitted, or suffered by Tenant, its agents, contractors or employees in or about the Premises. In case any such action, suit or proceeding is brought against a Landlord Indemnitee, Tenant will, at Tenant's expense, by counsel approved by Landlord (which approval shall not be unreasonably withheld), resist and defend such action, suit or proceeding.

**16.02. Landlord Indemnity.** To the extent not expressly prohibited by law, and notwithstanding anything to the contrary, Landlord agrees to hold harmless and indemnify Tenant and its officers, directors, shareholders, agents and employees (each, a "Tenant Indemnitee") from any claims and liabilities, including

reasonable attorneys' fees, expenses and court costs, for death or injury to third parties or loss of or damage to or theft of property occurring in or about the Building (excluding the Premises) or Common Areas, including claims and liabilities occurring on the Premises prior to the beginning of the Term. In case any such action, suit or proceeding is brought against a Tenant Indemnitee, Landlord will, at Landlord's expense, by counsel approved by Tenant (which approval shall not be unreasonably withheld), resist and defend such action, suit or proceeding.

**16.03 Survival.** The provisions of this Article and the provisions of all other indemnity provisions elsewhere contained in this Lease shall survive the expiration or earlier termination of this Lease.

#### **ARTICLE 17: LANDLORD'S RIGHT OF INSPECTION**

Tenant shall permit Landlord and its agents or representatives to enter the Premises at all reasonable times after prior notice (except in the case of an emergency, when no notice shall be required) for the purpose of (a) inspecting the same (b) showing same to prospective purchasers, tenants or lenders, and (c) making any necessary repairs thereto and performing any work therein that may be necessary by reason of Tenant's failure to make any such repairs or perform any such work.

#### **ARTICLE 18: LANDLORD'S RIGHT TO PERFORM TENANT'S COVENANTS**

**18.01. Right to Perform.** If at any time Tenant shall fail to make any other payment or perform any act on its part to be made or performed, then after twenty (20) days' written notice to Tenant (or without notice in case of an emergency) and without waiving or releasing Tenant from any obligation of Tenant contained in this Lease, Landlord may (but shall be under no obligation to) make any such payment or perform any such act on Tenant's part to be made or performed as in this Lease provided, and may enter upon the Premises for the purpose and take all such action thereon as may be necessary therefore.

**18.02. Tenant Payment.** Tenant shall pay to Landlord, within thirty (30) days after demand, all sums so paid by Landlord and all reasonable costs and expenses incurred by Landlord in connection with the performance of any such act, together with interest thereon at the Default Rate from the respective dates of Landlord's making of each such payment. Any payment or performance by Landlord pursuant to the foregoing provisions of this Article 18 shall not be nor be deemed to be a waiver or release of the breach or default of Tenant with respect thereto or of the right of Landlord to terminate this Lease, institute summary proceedings or take such other action as may be permissible hereunder if any default by Tenant shall occur.

#### **ARTICLE 19: HOLDING OVER**

Tenant shall pay Landlord for each day Tenant retains possession of the Premises or part of them after termination of this Lease by lapse of time or otherwise at the rate ("Holdover Rate") which shall be 150% of the amount of the Base Rent for the last period prior to the date of such termination plus all Additional Rent owing in payment of Taxes and Operating Expenses, prorated on a daily basis, provided, however, if Tenant retains possession of the Premises after the expiration of the Term, the Holdover Rate shall be reduced to 125% if Landlord shall have failed to deliver a notice to Tenant no later than six (6) months prior to such expiration therein specifying the expiration date of this Lease (the "Expiration Notice"). Tenant shall also pay all reasonable and actual damages sustained by Landlord by reason of such retention, and shall indemnify and hold Landlord harmless from any loss or liability resulting from such holding over and/or failure to surrender the Premises when and in the condition required by Article 26 hereof. Landlord may give notice to Tenant of Landlord's election that such holding over shall constitute renewal of this Lease for a period from month to month or six (6) months, whichever shall be specified in such notice, in either case at the Holdover Rate, but if the Landlord does not so elect, no such renewal shall result notwithstanding acceptance by Landlord of rent after such termination; and instead, a tenancy at sufferance at the Holdover Rate shall be deemed to have been created, provided, however, Landlord may not make the election described in this sentence if such holding over occurs after the expiration of the Term and Landlord has failed to timely serve the Expiration Notice upon Tenant. In any event, no provision of this Article shall be deemed to waive Landlord's right of reentry or any other right under this Lease or at law.

#### **ARTICLE 20: QUIET ENJOYMENT**

Landlord covenants that Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the Term, subject, however, to the exceptions, reservations, terms and conditions of this Lease, including any encumbrance created or suffered by Landlord to which this Lease is made subject and subordinate as herein provided.

#### ARTICLE 21: DEFAULTS; REMEDIES

21.01. **Events of Default.** Each of the following events shall be an "Event of Default" hereunder:

(a) Failure of Tenant to pay any installment of Rental or any part thereof (including but not limited to failure to make any deposit required pursuant to Article 3 hereof) or any other payments of money, costs, or expenses herein agreed to be paid by Tenant, when due, and the continuance of such failure for a period of 10 days after written notice from Landlord specifying such failure:

(b) Failure to observe or perform one or more of the other terms, conditions, covenants or agreements of this Lease and the continuance of such failure for a period of thirty (30) days after written notice by Landlord specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done or removed, as the case may be, within such 30 day period, in which case no default shall be deemed to exist so long as Tenant shall have commenced curing the same within such thirty (30) day period and shall diligently and continuously prosecute the same to completion);

(c) (i) The filing of an application by Tenant for a consent to the appointment of a receiver, trustee or liquidator of itself or of substantially all of its assets; or

(ii) The filing by Tenant of a voluntary petition in bankruptcy or the filing of a pleading in any court of record admitting in writing its inability to pay its debts as they become due; or

(iii) The making by Tenant of a general assignment for the benefit of creditors; or

(iv) The filing by Tenant of an answer admitting the material allegations of or consenting to or defaulting in answering a petition filed against it in any bankruptcy proceeding;

(e) The entry of an order, judgment or decree by any court of competent jurisdiction adjudging Tenant a bankrupt or appointing a receiver, trustee or liquidator of it, or all of its assets, and such order, judgment or decree continuing unstayed and in effect for any period of sixty (60) consecutive days;

(f) If Tenant shall abandon the Premises;

(g) If this Lease or the estate of Tenant hereunder shall be transferred to or assigned to or subleased to or shall pass to or devolve upon, any person or party, except in a manner herein expressly permitted;

(h) If a levy under execution or attachment shall be made against Tenant or its property and such execution or attachment shall not be vacated or removed by court order, bonding or otherwise within a period of thirty (30) days;

21.02. **Termination.** If an Event of Default shall occur, at any time thereafter, at its option Landlord may give written notice to Tenant stating that this Lease, and the Term shall terminate on the date specified in such notice, and upon the date specified in such notice, this Lease, the Term hereunder, and all rights of Tenant shall terminate as if that date were the date herein fixed for the termination of the Term, and Tenant shall quit and surrender the Premises but Tenant shall remain liable as hereinafter provided.

21.03. **Continued Liability.** If any Event of Default shall occur, after five (5) days prior written notice, Landlord may, after due process of law, re enter and repossess the Premises, and Tenant shall nevertheless remain liable as hereinafter provided for the remainder of the Term. If Landlord shall so re enter, at its option, Landlord may repair and alter the Premises in such manner as Landlord may deem necessary or advisable, and/or let or relet the Premises or any parts thereof for the whole or any part of the remainder of the Term or for a longer period, in Landlord's name or as agent of Tenant, and out of any rent collected or received as a result

of such letting or reletting Landlord shall first, pay to itself the cost and expense of retaking, repossessing, repairing and/or altering the Premises, and the cost and expense of removing all persons and property therefrom; second, pay to itself the cost and expense sustained in securing any new tenants, and if Landlord shall maintain and operate the Premises, the cost and expense of operating and maintaining the Premises; and, third, pay to itself any balance remaining on account of the liability of Tenant to Landlord. No re entry by Landlord, whether had or taken under summary proceedings or otherwise, shall absolve or discharge Tenant from liability hereunder. Landlord shall in no way be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due on any such reletting, provided that Landlord shall use due diligence to mitigate its damages and relet the Premises. Should any rent so collected by Landlord after the aforementioned payments be insufficient to fully pay to Landlord a sum equal to all such Rental and other payments and charges reserved herein, Tenant shall pay the deficiency on the rent days herein specified.

**21.04. Acceleration.** Upon the occurrence of any continuing Event of Default, Landlord shall have the election in place and instead of again holding Tenant liable on the several rent days, forthwith to terminate this Lease and recover against Tenant, as damages for loss of the bargain and not as a penalty, in addition to any other damages becoming due hereunder, an aggregate sum which, at the time of such termination of this Lease or of such recovery of possession of the Premises by Landlord, as the case may be, represents the then present worth of the excess, if any (assuming a discount rate of five percent (5%) per annum), of the aggregate of the Rental and all other payments and charges payable by Tenant hereunder that would have accrued for the balance of the Term over the aggregate rental value of the Premises (such rental value to be computed on the basis of a Tenant paying not only a rent to Landlord for the use and occupation of the Premises, but also the Additional Rent and other payments and charges as are required to be paid by Tenant under the terms of this Lease) for the balance of the Term.

**21.05. Deficiency or Damages.** Landlord, at Landlord's election from time to time may bring a suit or suits for the recovery of such deficiency or damages, or for a sum equal to any installment or installments of Rental, Taxes and other charges hereunder. Nothing herein contained shall be deemed to require Landlord to await the date whereon this Lease or the Term would have expired by limitation had there been no such default by Tenant or termination.

**21.06. No Limitation.** Nothing in this Article contained shall limit or prejudice the right of Landlord to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding an amount equal to the maximum allowed by any statute or rule of law governing such proceeding and in effect at the time when such damages are to be proved, whether or not such amount be greater, equal to or less than the amount of the damages referred to in any of the preceding paragraphs of this Article.

**21.07. No Waiver.** No receipt of monies by Landlord from Tenant after termination of this Lease, or after the giving of any notice of termination of this Lease, shall reinstate, continue or extend the Term or affect any notice theretofore given to Tenant, or operate as a waiver of the right of Landlord to enforce the payment of Rental and other sum or sums of money and other charges herein reserved and agreed to be paid by Tenant then due or thereafter falling due, or operate as a waiver of the right of Landlord to recover possession of the Premises by proper remedy, except as herein otherwise expressly provided or as provided by law, it being agreed that after the service of notice to terminate this Lease or the commencement of suit or summary proceedings, or after final order or judgment for the possession of the Premises, Landlord may demand, receive and collect any monies due or thereafter falling due without in any manner affecting such monies collected being deemed payments on account of the use and occupation of said Premises, or at the election of Landlord, on account of Tenant's liability hereunder.

**21.08. No Waiver.** No failure by Landlord to insist upon the strict performance of any covenant, agreement, term or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rental during the continuance of any such breach shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Lease to be performed or complied with by Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Landlord. No waiver of any breach shall affect or alter this Lease, but each and every covenant, agreement, term and condition of this Lease on the part of Tenant to be kept and performed shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

**21.09. Injunction.** If any breach or threatened breach by Landlord or Tenant of any of the covenants, agreements, terms or conditions contained in this Lease shall occur, the other party shall be entitled to enjoin



such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as though re entry, summary proceedings, and other remedies were not provided for in this Lease.

21.10. **Cumulative Rights.** Each right and remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

21.11. **Landlord Lien; Costs and Jury Waiver.** The Rental hereunder and each and every installment thereof, and all costs, reasonable attorneys' fees or other expenses which Landlord may incur in enforcing the provisions of this Lease, or on account of any delinquency of Tenant in carrying out the provisions of this Lease, shall be and they hereby are declared to constitute a valid lien upon the interest of Tenant in this Lease. If, at any time during the Term hereof (or thereafter), either Landlord or Tenant institutes any action or proceeding or asserts any counterclaim against the other relating to the provisions of this Lease or any default hereunder, the unsuccessful party in such action or proceedings agrees to reimburse the successful party for their reasonable expense of attorneys' fees, costs, expenses and disbursements incurred by the successful party before, during and after trial and on appeal. All of the sums paid or obligations incurred by either party as aforesaid with interest and costs shall be paid by the unsuccessful party within thirty (30) days after the entry of any such judgment. **IN THE INTEREST OF OBTAINING A SPEEDIER AND LESS COSTLY HEARING OF ANY DISPUTE, THE PARTIES HEREBY IRREVOCABLY WAIVE THE RIGHT TO TRIAL BY JURY.**

**ARTICLE 22: NOTICES**

Whenever it is provided herein that notice, demand, request or other communication shall or may be given to or served upon either of the parties by the other, and whenever either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or the Premises, each such notice, demand, request or other communication shall be in writing and, any law or statute to the contrary notwithstanding, shall be effective for any purpose if given or served as follows:

(a) If by Landlord, by mailing the same to Tenant by certified or registered mail, postage prepaid, addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(the giving of notice to Tenant's counsel is intended as a courtesy only, and the failure to give any such notice shall not invalidate any notice given only to Tenant);

(b) If by Tenant, by mailing the same to Landlord by certified or registered mail, postage prepaid, addressed as follows:

Midwest Community Real Estate Corporation  
1200 Maple Road  
Joliet, Illinois 60432  
Attention: William Brownlow

(the giving of notice to Landlord's counsel is intended as a courtesy only, and the failure to give any such notice shall not invalidate any notice given only to Tenant); or at such other address as either party from time to time, may designate by notice given to the other party as herein provided. Every notice, demand, request or other

communication hereunder shall be deemed to have been given or served at the time and date set forth on the registry receipt. Either party may change the place to which notice shall be sent by notice as herein provided.

#### **ARTICLE 23: EMINENT DOMAIN**

**23.01. Taking.** If more than twenty-five percent (25%) of the Premises shall be taken by any public authority under the power of eminent domain, or similar proceeding or conveyance in lieu thereof, or (ii) less than twenty-five percent (25%) of the Premises shall be taken by any public authority under the power of eminent domain, or similar proceeding or conveyance in lieu thereof and such taking shall materially, adversely affect Tenant's ability to operate its business from the Premises, then either Landlord or Tenant, by written notice to the other party, delivered on or before the day of surrendering possession to the public authority, may terminate this Lease. Tenant shall pay the Base Rent and Additional Rent up to the date possession shall be taken by the public authority with an appropriate refund by Landlord of such Rental as may have been paid in advance for any period subsequent to the date possession is taken.

**23.02. Awards.** All compensation awarded for any taking under the power of eminent domain, whether for the whole or a part of the Premises or the Land or Building, shall be the property of Landlord, whether such damages shall be awarded as compensation for diminution in the value of the leasehold or to the fee of the Land or Building, or otherwise, and Tenant hereby assigns to Landlord all of the Tenant's rights, title and interest, in and to any and all such compensation; provided, however, that Tenant may pursue a separate award to recover such damages as may represent the costs of Tenant's moving expenses and improvements to the Premises paid for by Tenant (but excluding improvements paid for by Landlord as part of the TI Budget), provided that such separate award shall not reduce the award or judgment recoverable by Landlord.

**23.03. Restoration.** If neither Landlord nor Tenant elect to terminate the Lease as provided in Section 23.01, Landlord shall proceed to make all necessary repairs or alterations to the Building so as to constitute the remaining Premises a complete architectural unit within one hundred eighty days (180) after the day possession shall be taken by the public authority; provided, however, in no event shall Landlord be obligated to undertake any such repairs and alterations beyond the amount of Landlord's awards retained by Landlord.

**23.04. Base Rent.** If this Lease shall not be terminated following any partial taking, then the Term shall cease only to the portion so taken, as of the day possession shall be taken by such public authority, and Tenant shall pay the Rental up to that date with appropriate refund by Landlord of such Rental as may have been paid in advanced for said portion taken, for any period subsequent to the date possession is taken, and thereafter the Base Rent shall be adjusted for the size of the remaining Premises. Base Rent, as so adjusted, shall abate during restoration by Landlord and until the substantial completion of Landlord's restoration.

#### **ARTICLE 24: ESTOPPEL CERTIFICATES**

Annually and whenever requested by Landlord in connection with any sale or refinancing of the Land and the Building, upon not less than thirty (30) days' prior notice from Landlord, Tenant shall execute, acknowledge and deliver to Landlord or any other party specified by Landlord, a statement in writing certifying that 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) and the dates to which the Rental, Taxes and other charges have been paid in advance, if any, and stating whether or not to the best knowledge of the signer of such certificate Tenant or Landlord is in default in performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant to this Article may be relied upon by any prospective purchaser of the fee or any mortgagee thereof or any assignee of any Mortgagee.

#### **ARTICLE 25: LANDLORD'S CONSENT**

The granting of any consent by Landlord to Tenant to perform any act of Tenant requiring Landlord's consent under the terms of this Lease, or the failure on the part of Landlord to object to any such action taken by Tenant without Landlord's consent, shall not be deemed a waiver by Landlord of its rights to require such consent for any further similar act by Tenant, and Tenant hereby expressly covenants and warrants that as to all matters requiring Landlord's consent under the terms of this Lease Tenant shall secure such consent for each and every happening of the event requiring such consent, and shall not claim any waiver on the part of

Landlord of the requirement to secure such consent. Landlord's consent under the terms of this Lease must be in writing in order to be enforceable against and binding upon Landlord.

#### **ARTICLE 26: SURRENDER AT END OF TERM**

26.01. **Surrender.** On the last day of the Term or upon any earlier termination of this Lease, or upon any reentry by Landlord upon the Premises pursuant to Article 21 hereof, Tenant shall well and truly surrender and deliver up to Landlord the Premises and all articles of personal property and equipment (excluding Tenant's machinery, equipment, trade fixtures and other personal property belonging to Tenant as can be removed without damaging or leaving incomplete the Premises or the Building) without fraud or delay and in good order, condition and repair, reasonable wear and tear and casualty excepted, free and clear of all lettings and occupancies and free and clear of all liens and encumbrances other than those, if any, existing at the date hereof, or created by Landlord, without any payment or allowance whatever by Landlord on account of or for any repairs, alterations, additions, improvements, installations, equipment and fixtures erected or maintained in the Premises or the Building at the time of the surrender or for the contents thereof, or fixtures, or articles of personal property or equipment therein or appurtenances thereto, whether or not the same or any part thereof shall have been constructed by, paid for or purchased by Tenant, and all of the foregoing shall belong to Landlord and remain on and be surrendered with the Premises as a part thereof, at the expiration of the Lease. Tenant shall pay to Landlord the costs and expenses incurred by Landlord in repairing any damage caused to the Premises by Tenant.

26.02. **Personal Property.** Any personal property of Tenant which shall remain on the Premises after the termination of this Lease and the removal of Tenant from the Premises, at the option of Landlord, may be deemed to have been abandoned by Tenant and either may be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may see fit. Landlord shall not be responsible for any loss or damage occurring to any property owned by Tenant.

26.03. **Survival.** The provisions of this Article 26 shall survive any termination of this Lease.

#### **ARTICLE 27: NO ORAL AGREEMENTS**

This Lease contains all the promises, agreements, conditions, inducements and understandings between Landlord and Tenant relative to the Premises and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, expressed or implied, between them other than as herein set forth.

#### **ARTICLE 28: INVALIDITY OF CERTAIN PROVISIONS**

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

#### **ARTICLE 29: MISCELLANEOUS**

29.01. **Captions.** The captions of this Lease are for convenience of reference only and in no way define, limit or describe the scope or intent of this Lease nor in any way affect this Lease. The words "herein", "hereof" and "hereunder" and words of similar import refer to this lease as a whole and not to any particular Section or subdivision thereof.

29.02. **Signage.** Tenant shall not erect, install, display, inscribe, paint or affix any sign, lettering or advertising medium to, upon or above the exterior of the Premises or the Building or elsewhere on the Property nor to the interior glass surface of any entrance door or window, without, in each instance, the prior written approval of Landlord. All signs approved by Landlord shall conform to all applicable ordinances regulating signage and Tenant, at its sole cost and expense, shall obtain all necessary government approvals for such signage. Landlord agrees to cooperate in good faith with Tenant in providing exterior signage including Tenant's name, subject to all applicable laws and ordinances.

29.03. **Modifications.** This Lease cannot be changed or terminated orally, but only by an instrument in writing executed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

**29.04. Governing Law , Binding Effects and Venue.** This agreement shall be governed by and construed in accordance with the laws of the State of Illinois. The agreements, terms, covenants and conditions herein shall bind and inure to the benefit of Landlord and Tenant and their successors and, except as otherwise provided herein, their assigns. TO THE MAXIMUM EXTENT PERMITTED BY LAW, TENANT HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS LEASE SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF WILL, STATE OF ILLINOIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BORROWER HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

**29.05. Financial Statements.** Tenant promptly shall furnish to Landlord' lender, from time to time, annually and whenever requested by Landlord in connection with any refinancing of the Land and Building, financial statements in form satisfactory to such lender reflecting Tenant's current financial condition, setting forth, without limitation thereby, Tenant's assets, liabilities, revenues, expenses and costs, and cash flow. If Tenant shall be a corporation, the stock of which is traded on a national securities exchange, this provision shall be satisfied by the submission of an annual report prepared for Tenant's shareholders. Tenant hereby consents to Landlord conducting a credit search on Tenant, and Landlord reserves the right and option to terminate this Lease within thirty (30) days from the date hereof if the results of any credit report on Tenant are unsatisfactory to Landlord, in its sole discretion.

**29.06. Strict Compliance.** Tenant shall strictly comply with all further rules and regulations for the use and occupancy of the Building as Landlord, in its sole discretion reasonably exercised, from time to time promulgates for the best interests of the Building, provided such rules and/or regulations do not materially interfere with Tenant's use of the Premises as intended hereby. Landlord shall have no liability for violation by any other tenant or occupant of the Building of any rules or regulations, nor shall such violation or the waiver thereof excuse Tenant from strict compliance therewith.

**29.07. Nuisance.** Tenant shall not injure, overload, deface, or otherwise harm the Premises or commit any nuisance; use the Premises for any extra-hazardous purpose or in any manner that will suspend, void or make inoperative any policy or policies of insurance carried by Landlord or in any manner which will increase the cost of any of Landlord's insurance; burn any trash or refuse within the Premises; sell, distribute or give away any alcoholic liquors or beverages; sell, distribute or give away any product which tends to create a nuisance in the Premises; make any use of the Premises which is improper, offensive, or contrary to any law, ordinance or regulation of any governmental authority; conduct or permit any going-out-of-business, bankruptcy, fire or auction sales in the Premises; use any advertising such as hand-bills, flashing or searchlights, loud speakers, phonographs, sound amplifiers or radio or television receiving equipment in a manner to be seen or heard outside the Premises; use any sidewalks, walkways or parking areas for the storage or disposal of trash or refuse or the keeping or displaying of any merchandise or other object (except in accordance with all applicable ordinances); use or permit the use or any portion of the Premises as living quarters, sleeping apartments, or lodging rooms; or use any machines or medical equipment which causes noise or vibration that may be transmitted to the structure of the Building or to any space therein to such a degree as to be objectionable to Landlord or to a tenant in the Building.

**29.08. Refuse.** Tenant shall not store garbage, refuse, trash and other waste in or about the Premises or Building, but shall keep such items in closed containers, in a clean and sanitary manner and in appropriate areas pending collection and disposal. Tenant shall store, dispose of and transport all medical hazardous waste in accordance with all applicable laws, ordinances and regulations and in full compliance with all rules promulgated from time to time by Landlord with respect thereto. Tenant shall use, at Tenant's cost, such pest and rodent extermination contractor as may from time to time be necessary to keep the Premises from becoming infested with insects, pests or other vermin. In the alternative, from time to time, Landlord may arrange for pest control and include the charges for such services in Operating Expenses.

**29.09 Landlord Definition.** The term "Landlord" shall mean only the interest of Landlord in the Building at the time in question so that, upon the occurrence of any sale or sales or transfer or transfers of the interest of Landlord hereunder, the seller or transferor shall be and hereby is entirely freed and relieved of all agreements, covenants and obligations of Landlord hereunder accruing from and after the date of such sale and transfer.

**29.10 No Recording.** Neither this Lease nor a memorandum of this Lease may be recorded without the prior written consent of Landlord.

**29.11 Security Deposit.** Waived.

**29.12 Tenant Representations and Warranties.** Tenant makes that following representations and warranties to Landlord and covenants with Landlord as follows:

(a) Tenant represents and warrants that it has no dealings with any real estate broker or agent in connection with this Lease, and Tenant covenants to pay, hold harmless and indemnify Landlord from and against any and all costs, expense or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Lease or the negotiation thereof arising out of any acts of Tenant.

(b) Tenant represents and warrants that its execution, delivery and performance of this Lease will not (i) conflict with or constitute an event of default under or result in a breach of or violation of the provisions of the organizational documents of Tenant, (ii) result in a violation of any applicable law, statute, ordinance or regulation of the United States or the State of Illinois (iii) result in a violation of any judgment, order, writ, injunction, decree or rule of any court, administrative agency or other governmental authority or any determination of any arbitrator, (iv) conflict with, constitute an event of default under or result in a breach of or a violation of the provisions of any agreement or other instrument to which Tenant or any of its affiliates are a party or by which their respective properties or assets are bound, including without limitation, any trust agreement, bond indenture, loan agreement, liquidity or credit agreement or similar instrument concerning the Tenant or any of its affiliates and regulating the nature, and amount of outstanding indebtedness which they may incur or to which their respective properties may be bound.

(c) Tenant shall hold harmless and indemnify Landlord (and any Landlord Indemnitees) from any claims and liabilities, including attorneys' fees, expenses and court costs which any Landlord Indemnitee shall suffer or incur as a result of Tenant's breach of the foregoing representations, warranties and covenants.

**29.13. Landlord Exculpation.** This Lease is executed by Midwest Community Real Estate Corporation. In no case shall any claim or liability or right of reimbursement be asserted against the Landlord or its officers, directors, employees or their successors and assigns, personally, and, in particular, without limiting the generality of the foregoing, there shall be no personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or implied, herein contained, and all personal liability of Landlord, its officers, directors, employees and their successors and assigns is hereby expressly waived by Tenant and every person now or hereafter claiming any right or security hereunder, and so far as Landlord, its officers, directors, employees or their successors and assigns are concerned, the owner of any indebtedness or liability accruing hereunder shall look solely to the Premises hereby leased for payment thereof.

**29.14 Relocation of Tenant.** Landlord shall have the right upon ninety (90) days written notice to relocate Tenant to another location of similar area and use in the Building, but in no event to another building. If Tenant is already in occupancy of the Premises, then in addition, Landlord shall pay the expense of Tenant for (i) moving from the Premises to the new premises, (ii) improving the new premises so that they are substantially similar to the Premises (including similar room number and sizes), and (iii) the reasonable direct and indirect out of pocket expenses incurred by Tenant arising as a result of the relocation. Landlord agrees to exercise such right in the exercise of its reasonable business judgment and to abate Tenant's Base Rent for the first three (3) months that Tenant occupies the new Premises. Landlord shall use all reasonable efforts to minimize any inconvenience to Tenant in relocating and shall cooperate with Tenant in all reasonable respects. If Landlord shall exercise the right hereunder, the new premises shall thereafter be deemed for the purposes of the Lease to be the Premises.

**29.15 Rules and Regulations.** Tenant covenants and agrees to comply with all rules and regulations which Landlord may adopt from time to time in the management and use of the Building the Common Areas and for the protection and welfare of the Building and its tenants and occupants, and require such compliance by Tenant's employees and agents. The initial rules and regulations are attached hereto and made apart hereof as Exhibit "B".

**29.16 Landlord Assignment.** Landlord may assign this Lease for any purpose or purposes (including, without limitation, for collateral purposes), from time to time without the consent of Tenant.

#### **ARTICLE 30: RENEWAL OPTION.**

**30.01 Renewal Option.** Tenant shall have the option (hereinafter referred to as the "Renewal Option") to renew the Initial Term for all of the Premises as of the expiration date of the initial Term, for one (1) additional period of five (5) years (said renewal is the "Renewal Term") upon the following terms and conditions:

A. Tenant gives Landlord written notice of its exercise of the Renewal Option at least six (6) months prior to the expiration of the initial Term.

B. Tenant is not in default under this Lease either on the date Tenant delivers the notice required under (A) above or at any time thereafter prior to the commencement of the Renewal Term.

C. All of the terms and provisions of this Lease (except this Section 30) shall be applicable to the Renewal Term.

**30.02. "As Is" Condition.** Tenant agrees to accept the Premises to be covered by this Lease during the Renewal Term in an "as is" physical condition and Tenant shall not be entitled to receive any allowance, credit, concession or payment from Landlord for the improvement thereof.

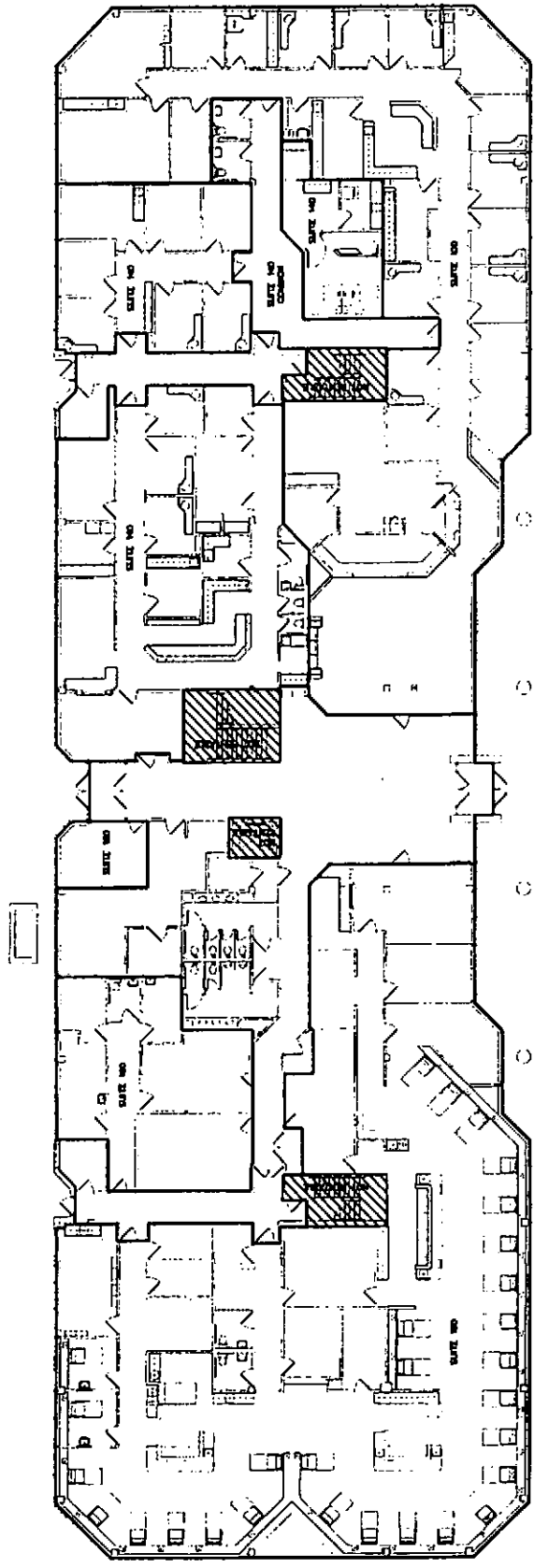
**30.03. Termination.** The Renewal Option herein granted shall automatically terminate upon the earliest to occur of (i) the expiration or termination of this Lease, (ii) the termination of Tenant's right to possession of the Premises, (iii) any assignment or subletting by Tenant, or (iv) the failure of Tenant to timely or properly exercise the Renewal Option.

**30.04. No Commissions.** Landlord and Tenant acknowledge and agree that no real estate brokerage commission or finder's fee shall be payable by Landlord in connection with any exercise by Tenant of the Renewal Option herein contained.

**Exhibit "A"**

**FLOOR PLAN OF PREMISES**

**See attached**



**S** STRONISLAND ARCHITECTS, AN  
**&** LAND PLANNERS  
**D** DE YOUNG  
 2000 S. W. 10TH AVE.  
 SUITE 1000  
 MIAMI, FL 33135  
 305.351.1000

**PORTABLE**  
 REST FLOOR PLATE  
 A BUT RESTROOM AREA  
 REST FLOOR RESTROOM

**USABLE**  
 SUITE NO. 01 AREA  
 SUITE NO. 02 AREA  
 SUITE NO. 03 AREA  
 SUITE NO. 04 AREA  
 SUITE NO. 05 AREA  
 REST FLOOR USABLE  
 REST FLOOR COMMON

21.00 SUPT.  
 617 SUPT.  
 23.34 SUPT.

1.50 SUPT.  
 1.75 SUPT.  
 8.89 SUPT.  
 10.87 SUPT.  
 3.405 SUPT.

ESSENTIAL BUILDING - FIRST FLOOR  
 CUSTOMER TRAFFIC AREA - 01/20/20



**Exhibit "B"**

**RULES AND REGULATIONS**

**See attached**

## Exhibit B

### Midwest Community Real Estate Corporation Building Occupancy Rules

The guidelines below are the minimum standards for each Tenant of Midwest Community Real Estate Corporation. These guidelines are in place in order to provide a clean, pleasant and safe environment for all Tenants. It is Midwest Community Real Estate Corporation's intent to enforce these guidelines so that all tenants can take pride in our buildings and suites when their visitors, clients, customers, patients, or personnel visit.

#### Housekeeping

- The Tenant is responsible for arranging for the cleaning of their space. The Tenant may choose their own housekeeping vendor or arrange for services through the Landlord's vendor. Whatever choice is made, the Tenant is responsible for ensuring that the following guidelines are met.
  - Cleaning hours should not interfere with normal business of other Tenants.
  - Flooring cleaned at least 3x per week, all other surfaces wiped down/dusted at least 3x per week.
  - All garbage cans must be emptied daily.
  - All medical waste containers must be emptied when 75% full.
  - Lab boxes will be placed in a designated area not visible to the public.
  - Bathrooms must be cleaned daily.
  - Common Area should be maintained and look professional and neat.

#### Building Common Areas

- The Landlord will maintain a decorative scheme in all building common areas of the building. Any embellishments you want added will need to be approved by the Landlord.
- Chairs, artwork, fixed equipment or shelving, and other furniture placed in common waiting rooms cannot be removed.
- The creation of sub-waiting areas in corridors is prohibited without prior approval.
- Placement of brochures and other patient information materials in the common area must be displayed in a professional manner and requires Landlord approval.

#### Artwork and Other Décor

- If landlord provided Artwork or any other décor in your space, this must remain. If Tenant would like to replace, Landlord must execute removal. It may be replaced with other tasteful décor of Tenant.
- No blinds, draperies, shutters or other interior window coverings that obstruct the window or are visible from the exterior of the premises may be installed without Landlord's prior written consent.

#### Smoking

- Silver Cross Hospital is a smoke-free environment and smoking is prohibited in and around all buildings.

### **Building Safety**

- A current map and evacuation routes are posted in each building in event of a weather-related or other disaster. You are responsible for informing staff and patients of these details. Staff should participate in building drills as scheduled.

### **Parking**

- "Customer" parking takes priority, staff should park in designated employee parking (if on Silver Cross Campus staff must obtain a parking decal from security department ext. 7301).

### **Meetings and Events**

- Use of building common areas for seminars and other events must be approved by the Landlord and cannot interfere with operations of other Tenants or other programs in the space. The space used must be cleaned after the event and any costs associated with the event are your responsibility.

### **Building Maintenance**

- Report all building problems (including maintenance and common area housekeeping) to Mark England, 815-740-7017. Expect a response within 24 hours.
- For after-hour emergencies that require immediate attention, contact Building Services at pager 815-241-6307.

### **Medical Emergencies**

- Call 911 for medical emergencies.

**Exhibit "C"**  
**RENTAL SCHEDULE**  
**See attached**

**Exhibit "C"**  
**Rental Schedule**  
**Silver Cross Professional Building - Essington - Suite 160**  
**Renal West**

Useable Square Feet            8,691  
Common Space Allocation    1,698  
**Total Rentable Square Feet**    10,389

	6/1/2006 - 9/30/2006	10/1/2006 - 9/30/2007	10/1/2007 - 9/30/2008	10/1/2008 - 9/30/2009	10/1/2009 - 9/30/2010	10/1/2010 - 9/30/2011
	Partial Year	Year 1	Year 2	Year 3	Year 4	Year 5
Base rent per square foot	\$ 10.30	\$ 10.52	\$ 10.74	\$ 10.97	\$ 11.20	\$ 11.43
Estimated CAM expense per square foot *	\$ 8.00	\$ 8.24	\$ 8.49	\$ 8.74	\$ 9.00	\$ 9.27
<b>Total Rent per square foot</b>	\$ 18.30	\$ 18.76	\$ 19.23	\$ 19.71	\$ 20.20	\$ 20.71
<b>Rentable Square Feet</b>	10,389	10,389	10,389	10,389	10,389	10,389
<b>Annual Rent</b>	\$ 190,150	\$ 194,902	\$ 199,776	\$ 204,765	\$ 209,894	\$ 215,132
<b>Monthly Rent</b>	\$ 15,848	\$ 16,242	\$ 16,648	\$ 17,064	\$ 17,491	\$ 17,928

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\*Does not include housekeeping expense

**Section I, Identification, General Information, and Certification**  
**Operating Identity/Licensee**

The Illinois Certificate of Good Standing for Total Renal Care, Inc. is attached at Attachment – 3.



To all to whom these Presents Shall Come, Greeting:

I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that .

TOTAL RENAL CARE, INC., INCORPORATED IN CALIFORNIA AND LICENSED TO TRANACT BUSINESS IN THIS STATE ON MARCH 10, 1995, APPEARS TO HAVE COMPLIED WITH ALL THE PROVISIONS OF THE BUSINESS CORPORATION ACT OF THIS STATE RELATING TO THE PAYMENT OF FRANCHISE TAXES, AND AS OF THIS DATE, IS A FOREIGN CORPORATION IN GOOD STANDING AND AUTHORIZED TO TRANACT BUSINESS IN THE STATE OF ILLINOIS.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this 18TH day of OCTOBER A.D. 2010



Jesse White

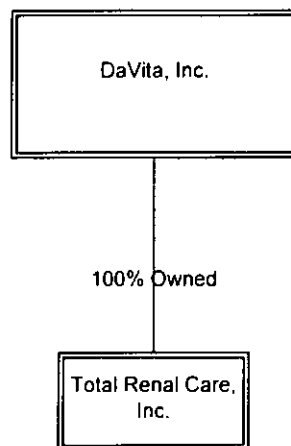
SECRETARY OF STATE

**Section I, Identification, General Information, and Certification**  
**Organizational Relationships**

The organizational chart for DaVita, Inc. and Total Renal Care, Inc. is attached at Attachment – 4.



# DaVita Organizational Chart



**Section I, Identification, General Information, and Certification**  
**Flood Plain Requirements**

The Applicants propose a change of ownership of Silver Cross Renal Center - West. The proposed project involves no construction or modernization. Accordingly, this criterion is not applicable.

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**Section I, Identification, General Information, and Certification**  
**Historic Resources Preservation Act Requirements**

The Applicants propose a change of ownership of Silver Cross Renal Center - West. The proposed project involves no construction or modernization. Accordingly, this criterion is not applicable.

Section I, Identification, General Information, and Certification  
Cost Space Requirements

Cost Space Table							
Dept. / Area	Cost	Gross Square Feet		Amount of Proposed Total Gross Square Feet That Is:			
		Existing	Proposed	New Const.	Modernized	As Is	Vacated Space
<b>CLINICAL</b>							
ESRD	\$20,044,698	10,389				10,389	
<b>Total Clinical</b>	<b>\$20,044,698</b>	<b>10,389</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10,389</b>	<b>0</b>
<b>NON CLINICAL</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Non-clinical</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>\$20,044,698</b>	<b>10,389</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10,389</b>	<b>0</b>

**Section III, Project Purpose, Background and Alternatives – Information Requirements**  
**Criterion 1110.230, Project Purpose, Background and Alternatives**

**Background of the Applicants**

The Applicants are fit, willing and able, and have the qualifications, background and character to adequately provide a proper standard of health care services for the community. DaVita is a leading provider of dialysis services in the United States and is committed to innovation, improving clinical outcomes, compassionate care, education and empowering patients, and community outreach. A copy of DaVita's 2010 Community Care report, some of which is outlined below, details DaVita's commitment to quality, patient centric focus and community outreach, was previously submitted on July 11, 2011 as part of Applicants' applications for Proj. Nos. 11-027 to 11-036. The proposed project includes the acquisition of three Silver Cross in-center dialysis facilities (collectively "Silver Cross Renal Centers") by Total Renal Care, Inc., a subsidiary of DaVita. The facilities will maintain their current locations, but will be fully integrated with DaVita and will implement DaVita's operational processes and quality initiatives.

DaVita has taken on many initiatives to improve the lives of patients suffering from chronic kidney disease ("CKD") and end stage renal disease ("ESRD"). These programs include the EMPOWER, IMPACT, CathAway, and transplant assistance programs. Information on the EMPOWER, IMPACT and CathAway programs are attached at Attachment – 11A.

While most patients are not aware of it, there are over 26 million people with CKD in the United States and that number is expected to rise. Current data reveals two trends, which help explain the growing need for dialysis services:

- The prevalence of identified CKD stages 1 to 4 has increased from 10% to 13.1% between 1988 and 2004<sup>1</sup>
- Increasing prevalence in the diagnosis of diabetes and hypertension, the two major causes of CKD<sup>2</sup>

Additionally, DaVita's EMPOWER program helps to improve intervention and education for pre-ESRD patients. Approximately 65% of CKD Medicare patients have never been evaluated by a nephrologist.<sup>3</sup> Timely CKD care is imperative for patient morbidity and mortality. Adverse outcomes of CKD can often be prevented or delayed through early detection and treatment. Several studies have shown that early detection, intervention and care of CKD may result in improved patient outcomes and reduce ESRD:

- Reduced GFR is an independent risk factor for morbidity and mortality,
- A reduction in the rate of decline in kidney function upon nephrologists referrals has been associated with prolonged survival of CKD patients,
- Late referral to a nephrologist has been correlated with lower survival during the first 90 days of dialysis, and
- Timely referral of CKD patients to a multidisciplinary clinical team may improve outcomes and reduce cost.

A care plan for patients with CKD includes strategies to slow the loss of kidney function, manage comorbidities, and prevent or treat cardiovascular disease and other complications of CKD, as well as ease the transition to kidney replacement therapy. Through the EMPOWER program, DaVita offers educational services to CKD patients that can help patients reduce, delay, and prevent adverse outcomes

<sup>1</sup> US Renal Data System, USRDS 2007 Annual Data Report: Atlas of Chronic Kidney Disease and End-Stage Renal Disease in the United States, Bethesda, MD: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases; 2007.

<sup>2</sup> Int'l Diabetes Found., *One Adult in Ten will have Diabetes by 2030* (Nov. 14, 2011), available at <http://www.idf.org/media-events/press-releases/2011/diabetes-atlas-5th-edition>.

<sup>3</sup> *Id.*

of untreated CKD. DaVita's EMPOWER program encourages CKD patients to take control of their health and make informed decisions about their dialysis care.

DaVita's IMPACT program seeks to reduce patient mortality rates during the first 90-days of dialysis through patient intake, education and management, and reporting. In fact, since piloting in October 2007, the program has not only shown to reduce mortality rates by 8 percent but has also resulted in improved patient outcomes.

DaVita's CathAway program seeks to reduce the number of patients with central venous catheters ("CVC"). Instead patients receive arteriovenous fistula ("AV fistula") placement. AV fistulas have superior patency, lower complication rates, improved adequacy, lower cost to the healthcare system, and decreased risk of patient mortality compared to CVCs. In July 2003, the Centers for Medicare and Medicaid Services, the End Stage Renal Disease Networks and key providers jointly recommended adoption of a National Vascular Access Improvement Initiative ("NVAII") to increase the appropriate use of AV fistulas for hemodialysis. The CathAway program is designed to comply with NVAII through patient education outlining the benefits for AV fistula placement and support through vessel mapping, fistula surgery and maturation, first cannulation and catheter removal. DaVita is an industry leader in the rate of fistula use and had the lowest day-90 catheter rates among large dialysis providers in 2010.

DaVita's transplant referral and tracking program ensures every dialysis patient is informed of transplant as a modality option and promotes access to transplantation for every patient who is interested and eligible for transplant. The social worker or designee obtains transplant center guidelines and criteria for selection of appropriate candidates and assists transplant candidates with factors that may affect their eligibility, such as severe obesity, adherence to prescribed medicine or therapy, and social/emotional/financial factors related to post-transplant functioning.

In an effort to better serve all kidney patients, DaVita believes in requiring that all providers measure outcomes in the same way and report them in a timely and accurate basis or be subject to penalty. There are four key measures that are the most common indicators of quality care for dialysis providers - dialysis adequacy, fistula use rate, nutrition and bone and mineral metabolism. Adherence to these standard measures has been directly linked to 15-20% fewer hospitalizations. On each of these measures, DaVita has demonstrated superior clinical outcomes, which directly translated into 7% reduction in hospitalizations among DaVita patients, the monetary result of which is \$509 million in savings to the health care system and the American taxpayer in 2010.

DaVita is also committed to sustainability and reducing its carbon footprint. In fact, it is the only kidney care company recognized by the Environmental Protection Agency for its sustainability initiatives. In 2010, DaVita opened the first LEED-certified dialysis center in the U.S. Furthermore, it saves approximately 8.5 million pounds of medical waste through dialyzer reuse and it also diverts 95% of its waste through composting and recycling programs. It has also undertaken a number of similar initiatives at its offices and is seeking LEED Gold certification for its corporate headquarters.

DaVita consistently raises awareness to community needs and makes cash contributions to organizations aimed at improving access to kidney care. In 2010, DaVita donated more than \$2 million to kidney disease- awareness organizations such as the Kidney TRUST, the National Kidney Foundation, the American Kidney Fund, and several other organizations. Its own employees assisted in these initiatives by raising more than \$3.4 million through Tour DaVita and DaVita Kidney Awareness Run/Walks.

DaVita does not limit its community engagement to the U.S. alone. It founded Bridge of Life, a 501(c)(3) nonprofit organization that operates on donations to bring care to those for whom it is out of reach. In addition to contributing dialysis equipment to DaVita Medical Missions, Bridge of Life has accomplished 18 Missions since 2006, with more than 75 participating teammates spending more than 650 days abroad. It provided these desperately needed services in Cameroon, India, Ecuador, Guatemala, and the Philippines, and trained many health care professionals there as well.

Neither the Centers for Medicare and Medicaid Services or the Illinois Department of Public Health has taken any adverse action involving civil monetary penalties or restriction or termination of participation in the Medicare or Medicaid programs against any of the applicants, or against any Illinois health care facilities owned or operated by the Applicants, directly or indirectly, within three years preceding the filing of this application.

1. Health care facilities owned or operated by the Applicants:

A list of health care facilities owned or operated by DaVita in Illinois is attached at Attachment – 11B.

Dialysis facilities are not subject to State Licensure.

2. Certification that no adverse action has been taken against any of the Applicants, or against any health care facilities owned or operated by the Applicants, directly or indirectly, within three years preceding the filing of this application is attached at Attachment – 11C.
3. An authorization permitting the Illinois Health Facilities and Services Review Board ("HFSRB") and the Illinois Department of Public Health ("IDPH") access to any documents necessary to verify information submitted, including, but not limited to: official records of IDPH or other State agencies; and the records of nationally recognized accreditation organizations is attached at Attachment – 11C.



Office of the Chief  
Medical Officer (OCMO)  
Allen F. Nisenson, MD  
Chief Medical Officer  
Meredith Mathews, MD  
Robert Provenzano, MD  
John Robertson, MD  
David B. Van Wych, MD

April 30, 2009

Dear Physicians:

As your partner, DaVita® and OCMO are committed to helping you achieve unprecedented clinical outcomes with your patients. As part of OCMO's Relentless Pursuit of Quality™, DaVita will be launching our top two clinical initiatives; IMPACT and CathAway™, at our annual 2009 Nationwide Meeting. Your facility administrators will be orienting you on both programs upon their return from the meeting in early May.



**IMPACT:** The goal of IMPACT is to reduce incident patient mortality. IMPACT stands for Incident Management of Patients Actions Centered on Treatment. The program focuses on three components: patient intake, education and management and reporting. IMPACT has been piloting since October 2007 and has demonstrated a reduction in mortality. The study recently presented at the National Kidney Foundation's Spring Clinical Meeting in Nashville, TN. In addition to lower mortality rates, patient outcomes improved - confirming this vulnerable patient population is healthier under DaVita's relentless pursuit of quality care.



**CathAway:** Higher catheter use is associated with increased infection, morbidity, mortality and hospitalizations <sup>(1)(2)</sup>. The 7-step Cathaway Program supports reducing the number of patients with central venous catheters (CVCs). The program begins with patient education outlining the benefits of fistula placement. The remaining steps support the patient through vessel mapping, fistula surgery and maturation, first cannulation and catheter removal. For general information about the CathAway program, see the November 2008 issue of QUEST, DaVita's Nephrology Journal.

Here is how you can support both initiatives in your facilities:

- **Assess incident patients regularly in their first 90 days:** Discuss patients individually and regularly. Use the IMPACT scorecard to prompt these discussions.
- **Adopt "Facility Specific Orders":** Create new facility specific orders using the form that will be provided to you.
- **Minimize the "catheter-removal" cycle time:** Review each of your catheter patients with your facility teammates and identify obstacles causing delays in catheter removal. Work with the team and patients to develop action plans for catheter removal.
- **Plan fistula and graft placements:** Start AV placement plans early by scheduling vessel mapping and surgery evaluation appointments for Stage 4 CKD patients. Schedule fistula placement surgery for those patients where ESRD is imminent in the next 3-6 months.



**Launch Kits:**

In May, Launch Kits containing materials and tools to support both initiatives will be arriving at your facilities. IMPACT kits will include a physician introduction to the program, step by step implementation plan and a full set of educational resources. FAs and Vascular Access Leaders will begin training on a new tool to help identify root-causes for catheter removal delays.

Your support of these efforts is crucial. As always, I welcome your feedback, questions and ideas. Together with you, our physician partners, we will drive catheter use to all-time lows and help give our incident patients the quality and length of life they deserve.

Sincerely,



Allen R. Nissenson, MD, FACP  
Chief Medical Officer, DaVita

- (1) Dialysis Outcomes and Practice Patterns Study (DOPPS): 2 yrs/7 Countries / 10,000 pts.  
(2) Pastan et al: Vascular access and increased risk of death among hemodialysis patients.



## EMPOWER®

EMPOWER® is an educational program by DaVita®. The program includes a series of free community based classes for patients with chronic kidney disease (CKD). These classes encourage you to take control of your kidney disease and prepare for dialysis by making healthy choices about your kidney care

### Taking Control Of Kidney Disease

Learn how to slow the progression of kidney disease.

- Kidney disease and related conditions
- Behavior modification
- Dietary guidelines
- Common medications
- Insurance choices
- Ways to cope with CKD
- Questions to ask your health care team

### Making Healthy Choices

Learn how to prepare for dialysis.

- Kidney disease and related conditions
- Behavior modification
- Dietary guidelines
- Common medications
- Treatments that allow you to stay active and continue to work
- Insurance choices
- Ways to cope with CKD
- Questions to ask your health care team

### Treatment Choices

An in-depth look at all of your treatment choices.

- Kidney disease and related conditions
- Treatments that allow you to stay active and continue to work
- Insurance choices
- Ways to cope with CKD
- Questions to ask your health care team

To register for a class, call 1-888-MyKidney (695-4363).

EMPOWER®  
1-888-MyKidney (695-4363) | DaVita.com/EMPOWER

*DaVita*®

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Dear Physician Partners:

IMPACT™ is an initiative focused on reducing incident patient mortality. The program provides a comprehensive onboarding process for incident patients, with program materials centered on four key clinical indicators—access, albumin, anemia, and adequacy.

**Medical Directors: How can you support IMPACT in your facilities?**

- Customize the new Standard Admission Order template into facility-specific orders. Drive use of the standard order with your attending physicians
- Review your facility IMPACT scorecard at your monthly QIFMM meeting
- Talk about IMPACT regularly with your attending physicians

**Attending Physicians: How can you support IMPACT in your facilities?**

- Use the IMPACT scorecard to assess incident patients
- Educate teammates about the risk incident patients face and how IMPACT can help

**How was IMPACT developed? What are the initial results?**

From October 2007 to April 2009, IMPACT was piloted in DaVita® centers. Early results, presented at the National Kidney Foundation's Spring Clinical Meeting in Nashville, TN this April, showed an 8% reduction in annualized mortality. In addition to lower mortality, IMPACT patients showed improvements in fistula placement rates and serum albumin levels. The results are so impressive that we are implementing this program throughout the Village.

Your support of this effort is crucial.

If you have not seen the IMPACT order template and scorecard by the end of June, or if you have additional questions about the program, email [impact@davita.com](mailto:impact@davita.com). Together we can give our incident patients the quality and length of life they deserve.

Sincerely,

Dennis Kogod  
Chief Operating Officer

Allen R. Nissenson, MD, FACP  
Chief Medical Officer

Corporate Office | 601 Howe Blvd | El Segundo, CA 90245 | 1-800-513-4122 | [www.davita.com](http://www.davita.com)



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*Davita*®



FOR IMMEDIATE RELEASE

## DaVita's IMPACT Program Reduces Mortality for New Dialysis Patients

*Study Shows New Patient Care Model Significantly Improves Patient Outcomes*

El Segundo, Calif., (March, 29, 2009) – DaVita Inc., a leading provider of kidney care services for those diagnosed with chronic kidney disease (CKD), today released the findings of a study revealing DaVita's IMPACT™ Incident Management of Patients, Actions Centered on Treatment pilot program can significantly reduce mortality rates for new dialysis patients. The study presented at the National Kidney Foundation's Spring Clinical Meeting in Nashville, TN details how the IMPACT patient care model educates and manages dialysis patients within the first 90 days of treatment, when they are most unstable and are at highest risk. In addition to lower mortality rates, patient outcomes improved - confirming the health of this vulnerable patient population is better supported under DaVita's *Relentless Pursuit of Quality*™ care.

The pilot program was implemented with 606 patients completing the IMPACT program over a 12 month period in 44 DaVita centers around the nation. IMPACT focuses on patient education and important clinical outcomes - such as the measurement of adequate dialysis, access placement, anemia, and albumin levels - monitoring the patient's overall health in the first 90 days on dialysis. Data reflects a reduction in annualized mortality rates by eight percent for IMPACT patients compared with non-IMPACT patients in the DaVita network. Given that DaVita has roughly 28,000 new patients starting dialysis every year, this reduction affects a significant number of lives.

In addition, a higher number of IMPACT patients versus non-IMPACT patients had an arteriovenous fistula (AVF) in place. Research show that fistulas - the surgical connection of an artery to a vein - last longer and are associated with lower rates of infection, hospitalization and death compared to all other access choices.

Allen R. Nissenson, MD, Chief Medical Officer at DaVita says, "The IMPACT program is about quality patient care starting in the first 90 days and extending beyond. Improved outcomes in new dialysis patients translates to better long term results and healthier patients overall."

Researchers applaud the IMPACT program's inclusion of all patients starting dialysis, regardless of their cognitive ability or health status. Enrolling all patients at this early stage in their treatment allows them to better understand their disease and care needs while healthcare providers work to improve their outcomes. Through this program, DaVita mandates reporting on this particular population to better track and manage patients through their incident period.

Dennis Kogod, Chief Operating Officer of DaVita says, "We are thrilled by the promising results IMPACT has had on our new dialysis patients. DaVita continues to be the leader in the kidney care community, and we look forward to rolling out this program to all facilities later this year, to improve the health of all new dialysis patients."

DaVita, IMPACT and *Relentless Pursuit of Quality* are trademarks or registered trademarks of DaVita Inc. All other trademarks are the properties of their respective owners.

Poster Presentation  
NKF Spring Clinical Meeting  
Nashville, TN  
March 26-28, 2009

## Incident Management of Hemodialysis Patients: Managing the First 90 Days

John Robertson<sup>1</sup>, Pooja Goel<sup>1</sup>, Grace Chen<sup>1</sup>, Ronald Levine<sup>1</sup>, Debbie Benner<sup>1</sup>, and Amy Burdan<sup>1</sup>  
<sup>1</sup>DaVita Inc., El Segundo, CA, USA

IMPACT (Incident Management of Patients, Actions Centered on Treatment) is a program to reduce mortality and morbidity in new patients during the first 3 months of dialysis, when these patients are most vulnerable. IMPACT was designed to standardize the onboarding process of incident patients from their 0 to 90-day period. We report on an observational (non-randomized), un-blinded study of 606 incident patients evaluated over 12 months (Oct77-Oct08) at 44 US DaVita facilities.

The study focused on 4 key predictive indicators associated with lower mortality and morbidity — anemia, albumin, adequacy and access (4As). IMPACT consisted of:

- (1) Structured New Patient Intake Process with a standardized admission order, referral fax, and an intake checklist;
- (2) 90-day Patient Education Program with an education manual and tracking checklist;
- (3) Tools for 90-day Patient Management Pathway including QOL; and
- (4) Data Monitoring Reports.

Data as of July, 2008 is reported. Patients in the IMPACT group were 60.6 ± 15.1 years old (mean ± 3SD), 42.8% Caucasian, 61% male with 25% having a fistula. Results showed a reduction in 90-day mortality almost 2 percentage points lower (6.14% vs. 7.98%;  $p < 0.10$ ) among IMPACT versus nonIMPACT patients. Changes among the 4As showed higher albumin levels from 3.5 to 3.6 g/dL (note that some IMPACT patients were on protein supplementation during this period) and patients achieving fistula access during their first 90-days was 25% vs. 21.4%, IMPACT and nonIMPACT, respectively ( $p \leq 0.05$ ). However, only 20.6% of IMPACT patients achieved Hct targets ( $33 \leq 3xHb \leq 36$ ) vs. 23.4% for controls ( $p < 0.10$ ); some IMPACT patients may still have  $>36$ -level Hcts. Mean calculated Kt/V was 1.54 for IMPACT patients vs. 1.58 for nonIMPACT patients ( $p \leq 0.05$ ).

IMPACT is a first step toward a comprehensive approach to reduce mortality of incident patients. We believe this focus may help us to better manage CKD as a continuum of care. Long-term mortality measures will help determine if this process really impacts patients in the intended way, resulting in longer lives and better outcomes.

# IMPACT Tools

Here's how the IMPACT program will help the team record data, educate patients and monitor their progress in your facilities.

- 1 Standard Order Template, a two-page form with drop-down menus that can be customized into a center-specific template
- 2 Intake Checklist to gather registration and clinical data prior to admission
- 3 Patient Announcement to alert teammates about new incident patients
- 4 Patient Education Book and Flip Chart to teach patients about dialysis
- 5 Tracking Checklist for the team to monitor progress over the first 90 days
- 6 IMPACT Scorecard to track monthly center summary and patient level detail for four clinical indicators: access, albumin, adequacy, anemia





*DaVita.*

Headquarters  
1627 Cole Blvd. Bldg 18  
Lakewood CO 80401  
1-888-200-1041

## IMPACT

For more information, contact  
1-800-400-8331

DaVita.com

Our Mission  
To be the Provider,  
Partner and Employer  
of Choice

Core Values  
Service Excellence  
Integrity  
Team  
Continuous Improvement  
Accountability  
Fulfillment  
Fun



DaVita Inc.  
Illinois Facilities

Regulatory Name	Address 1	City	County	State	Zip	Medicare Certification Number
Adams County Dialysis	436 N 10TH ST	QUINCY	ADAMS	IL	62301-4152	14-2711
Alton Dialysis	3511 COLLEGE AVE	ALTON	MADISON	IL	62002-5009	14-2619
Benton Dialysis	1151 ROUTE 14 W	BENTON	FRANKLIN	IL	62812-1500	14-2608
Beverly Dialysis	8109 SOUTH WESTERN AVE	CHICAGO	COOK	IL	60620-5939	14-2638
Big Oaks Dialysis	5623 W TOUHY AVE	NILES	COOK	IL	60714-4019	14-2712
Centralia Dialysis	1231 STATE ROUTE 161	CENTRALIA	MARION	IL	62801-6739	14-2609
Chicago Heights Dialysis	177 W JOE ORR RD	CHICAGO HEIGHTS	COOK	IL	60411-1733	14-2635
Churchview Dialysis	5970 CHURCHVIEW DR	ROCKFORD	WINNEBAGO	IL	61107-2574	14-2640
Cobblestone Dialysis	934 CENTER ST	ELGIN	KANE	IL	60120-2125	14-2715
Crystal Springs Dialysis	720 COG CIRCLE	CRYSTAL LAKE	MCHENRY	IL	60014-7301	14-2716
Decatur East Wood Dialysis	794 E WOOD ST	DECATUR	MACON	IL	62523-1155	142599
Dixon Kidney Center	1131 N GALENA AVE	DIXON	LEE	IL	61021-1015	14-2651
DSI Arlington Heights Renal Center	17 West Golf Road	Arlington Heights	COOK	IL	60005-3905	14-2628
DSI Buffalo Grove Renal Center	1291 W. Dundee Road	Buffalo Grove	COOK	IL	60089-4009	14-2650
DSI Evanston Renal Center	1715 Central Street	Evanston	COOK	IL	60201-1507	14-2511
DSI Hazel Crest Renal Center	3470 West 183rd Street	Hazel Crest	COOK	IL	60429-2428	14-2622
DSI Loop Renal Center	1101 South Canal Street,	Chicago	COOK	IL	60607-4901	14-2505
DSI Markham Renal Center	3053-3055 West 159th Street	Markham	COOK	IL	60428-4026	14-2575
DSI Schaumburg Renal Center	Town Center, NW Corner	Schaumburg	COOK	IL	60193-4072	14-2654
DSI South Holland Renal Center	16136 South Park Avenue	South Holland	COOK	IL	60473-1511	14-2544
DSI Waukegan Renal Center	1616 North Grand Avenue	Waukegan	LAKE	IL	60085-3676	14-2577
Edwardsville Dialysis	235 S BUCHANAN ST	EDWARDSVILLE	MADISON	IL	62025-2108	14-2701
Effingham Dialysis	904 MEDICAL PARK DR	EFFINGHAM	EFFINGHAM	IL	62401-2193	14-2580
Emerald Dialysis	710 W 43RD ST	CHICAGO	COOK	IL	60609-3435	14-2529
Freeport Dialysis	1028 S KUNKLE BLVD	FREEPORT	STEPHENSON	IL	61032-6914	14-2642

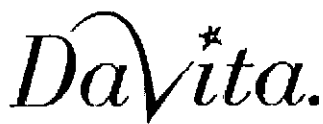
DaVita Inc.  
Illinois Facilities

Regulatory Name	Address 1	City	County	State	Zip	Medicare Certification Number
Granite City Dialysis Center	9 AMERICAN VLG	GRANITE CITY	MADISON	IL	62040-3706	14-2537
Illini Renal Dialysis	507 E UNIVERSITY AVE	CHAMPAIGN	CHAMPAIGN	IL	61820-3828	14-2633
Jacksonville Dialysis	151S W WALNUT ST	JACKSONVILLE	MORGAN	IL	62650-1150	14-2581
Jerseyville Dialysis	917 S STATE ST	JERSEYVILLE	JERSEY	IL	62052-2344	14-2636
Kankakee County Dialysis	581 WILLIAM R LATHAM SR DR	BOURBONNAIS	KANKAKEE	IL	60914-2439	14-2685
Kennedy Home Dialysis	5509 N CUMBERLAND AVE	CHICAGO	COOK	IL	60656-4702	14-2691
Lake County Dialysis Services	918 S MILWAUKEE AVE	LIBERTYVILLE	LAKE	IL	60048-3229	14-2552
Lake Park Dialysis	1531 E HYDE PARK BLVD	CHICAGO	COOK	IL	60615-3039	14-2717
Lake Villa Dialysis	37809 N IL ROUTE 59	LAKE VILLA	LAKE	IL	60046-7332	14-2666
Lincoln Dialysis	2100 WEST FIFTH	LINCOLN	LOGAN	IL	62656-9115	14-2582
Lincoln Park Dialysis	3157 N LINCOLN AVE	CHICAGO	COOK	IL	60657-3111	14-2528
Litchfield Dialysis	915 ST FRANCES WAY	LITCHFIELD		IL	62056-1775	14-2583
Little Village Dialysis	2335 W CERMAK RD	CHICAGO	COOK	IL	60608-3811	14-2668
Lockport Home Dialysis	16626 W 159TH ST	LOCKPORT	WILL	IL	60441-8019	14-2697
Logan Square Dialysis	2659 N MILWAUKEE AVE	CHICAGO	COOK	IL	60647-1643	14-2534
Macon County Dialysis	1090 W MCKINLEY AVE	DECATUR	MACON	IL	62526-3208	14-2584
Marion Dialysis	324 S 4TH ST	MARION	WILLIAMSON	IL	62959-1241	14-2570
Maryville Dialysis	2130 VADALABENE DR	MARYVILLE	MADISON	IL	62062-5632	14-2634
Maryville Home Dialysis	2136B VADALABENE DR	MARYVILLE	MADISON	IL	62062-5632	14-2686
Mattoon Dialysis	200 RICHMOND AVE E	MATTOON	COLES	IL	61938-4652	14-2585
Metro East Dialysis	510S W MAIN ST	BELLEVILLE	SAINT CLAIR	IL	62226-4728	14-2527
Montclare Dialysis Center	7009 W BELMONT AVE	CHICAGO	COOK	IL	60634-4533	14-2649
Mount Vernon Dialysis	1800 JEFFERSON AVE	MOUNT VERNON	JEFFERSON	IL	62864-4300	14-2541
Mt. Greenwood Dialysis	3401 W 111TH ST	CHICAGO	COOK	IL	60655-3329	14-2660
Olney Dialysis Center	117 N BOONE ST	OLNEY	RICHLAND	IL	62450-2109	14-2674

DaVita Inc.  
Illinois Facilities

Regulatory Name	Address 1	City	County	State	Zip	Medicare Certification Number
Olympia Fields Dialysis Center	45578 LINCOLN HWY	MATTESON	COOK	IL	60443-2318	14-2548
Pittsfield Dialysis	640 W WASHINGTON ST	PITTSFIELD	PIKE	IL	62363-1350	14-2708
Robinson Dialysis	1215 N ALLEN ST	ROBINSON	CRAWFORD	IL	62454-1100	14-2714
Rockford Dialysis	3339 N ROCKTON AVE	ROCKFORD	WINNEBAGO	IL	61103-2839	14-2647
Roxbury Dialysis Center	622 ROXBURY RD	ROCKFORD	WINNEBAGO	IL	61107-5089	14-2665
Rushville Dialysis	112 SULLIVAN DRIVE	RUSHVILLE	SCHUYLER	IL	62681-1293	14-2620
Sauget Dialysis	2061 GOOSE LAKE RD	SAUGET	SAINT CLAIR	IL	62206-2822	14-2561
Skyline Home Dialysis	7009 W BELMONT AVE	CHICAGO	COOK	IL	60634-4533	14-2560
Springfield Central Dialysis	932 N RUTLEDGE ST	SPRINGFIELD	SANGAMON	IL	62702-3721	14-2586
Springfield Montvale Dialysis	2930 MONTVALE DR	SPRINGFIELD	SANGAMON	IL	62704-5376	14-2590
Stoncrest Dialysis	1302 E STATE ST	ROCKFORD	WINNEBAGO	IL	61104-2228	14-2615
Stony Creek Dialysis	9115 S CICERO AVE	OAK LAWN	COOK	IL	60453-1895	14-2661

3



1551 Wewatta Street  
Denver, CO 80202  
Tel: (303) 405-2100  
www.davita.com

August 18, 2011


Dale Galassie  
Chair  
Illinois Health Facilities and Services Review Board  
525 West Jefferson Street, 2nd Floor  
Springfield, Illinois 62761

Dear Chairman Galassie:

I hereby certify under penalty of perjury as provided in § 1-109 of the Illinois Code of Civil Procedure, 735 ILCS 5/1-109 that no adverse action has been taken against any facility owned or operated by DaVita Inc. or Total Renal Care, Inc. during the three years prior to filing this application.

Additionally, pursuant to 77 Ill. Admin. Code § 1110.230(a)(3)(C), I hereby authorize the Health Facilities and Services Review Board ("HFSRB") and the Illinois Department of Public Health ("IDPH") access to any documents necessary to verify information submitted as part of this application for permit. I further authorize HFSRB and IDPH to obtain any additional information or documents from other government agencies which HFSRB or IDPH deem pertinent to process this application for permit.

Sincerely,

  
Dennis Lee Roged  
Chief Operating Officer  
DaVita Inc.  
Total Renal Care, Inc.

Subscribed and sworn to me  
This \_\_\_ day of \_\_\_\_\_  
2011

Notary Public

*He attached  
I want  
E. [unclear]  
r. [unclear]*

Attachment - 11C

84

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_  
 4 \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_

Signature of Document Signer No. 1 \_\_\_\_\_ Signature of Document Signer No. 2 (if any) \_\_\_\_\_

State of California  
 County of LOS ANGELES

Subscribed and sworn to (or affirmed) before me  
 on this 10 day of AUGUST, 2011  
 by \_\_\_\_\_  
 (1) DENNIS L. KOEHL  
 Name of Signer



proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me (.) (.)  
 (and  
 (2) NONE  
 Name of Signer

proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me.)  
 Signature Evette Tuana Johnson  
 Signature of Notary Public

Place Notary Seal and/or Stamp Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Further Description of Any Attached Document**

Title or Type of Document: Application for  
 Document Date: 10 AUG 11 Number of Pages: 1  
 Signer(s) Other Than Named Above: NONE

<b>RIGHT THUMBPRINT OF SIGNER #1</b>	<b>RIGHT THUMBPRINT OF SIGNER #2</b>
Top of thumb here	Top of thumb here

**Section III, Project Purpose, Background and Alternatives – Information Requirements**  
**Criterion 1110.230(b), Project Purpose, Background and Alternatives**

Purpose of the Project

1. The purpose of the proposed acquisition of the Silver Cross Renal Centers is to ensure ESRD patients in Will County, Illinois have continued access to life sustaining dialysis services. The acquisition will create economies of scale, integrate clinical, administrative and support functions, eliminate functional redundancies and redesign patient care delivery and allow the systems to share the resources and benefits of DaVita's infrastructure and processes and quality initiatives. Given recent trends in the delivery of dialysis services including the demands the revised federal payment policies place on dialysis operations, many hospitals, including the University of Chicago and Sherman Hospital, have reviewed options for this service line and have decided it can be best managed by a strategic partner, like DaVita, which is better positioned to serve the growing needs of patients suffering from end stage renal disease ("ESRD") and to preserve the services in the community.

Dialysis companies, have advantages over smaller providers. Because they purchase supplies and equipment in huge volume, they can provide dialysis services at a lower cost. To thrive in the new reimbursement environment, providers will need to provide dialysis in the most cost effective manner and DaVita is one of the best positioned providers to meet that challenge.

2. A map of the market area for Silver Cross Renal Center - West is attached at Attachment – 12. The market area encompasses a 17.5 mile radius around the proposed facility. The boundaries of the market area of are as follows:
  - North approximately 30 minutes normal travel time to Naperville
  - Northwest approximately 30 minutes normal travel time to Oswego
  - West approximately 30 minutes normal travel time to Newark
  - Southwest approximately 30 minutes normal travel time to Morris
  - South approximately 30 minutes normal travel time to Braceville
  - Southeast approximately 30 minutes normal travel time to Manhatton
  - East approximately 30 minutes to Tinley Park
3. Silver Cross Renal Center - West is located in HSA 9. Based upon the November 17, 2011 Update to Inventory of Other Health Services, there is currently an excess of 30 stations in HSA 9. The proposed change of ownership will ensure ESRD patients residing in HSA 9 retain access to life sustaining dialysis.
4. Reference  

Illinois Health Facilities and Services Review Board, Update to Inventory of Other Health Services 2 (Nov. 17, 2011) available at <http://www.hfsrb.illinois.gov/pdf/Other%20Services%20Update%2011-17-2011.pdf> (last visited Nov. 30, 2011).
5. The integration of Silver Cross Renal Centers into DaVita will allow DaVita to increase its operational efficiency in this new payment environment, improve quality and ensure dialysis patients have continued access to life sustaining dialysis services.
6. The acquired facilities will be integrated into DaVita's normal operational processes, including DaVita's quality outcomes programs, and, thus, are anticipated to have outcomes comparable to other DaVita facilities.

Additionally, in an effort to better serve all kidney patients, DaVita believes in requiring all providers measure outcomes in the same way and report them in a timely and accurate basis or be subject to

penalty. There are four key measures that are the most common indicators of quality care for dialysis providers - dialysis adequacy, fistula use rate, nutrition and bone and mineral metabolism. Adherence to these standard measures has been directly linked to 15-20% fewer hospitalizations. On each of these measures, DaVita has demonstrated superior clinical outcomes, which directly translated into 7% reduction in hospitalizations among DaVita patients, the monetary result of which was \$509M in hospitalization savings to the health care system and the American taxpayer in 2010.





**Section III, Project Purpose, Background and Alternatives – Information Requirements**  
**Criterion 1110.230(c), Project Purpose, Background and Alternatives**

Alternatives

1. Do Nothing

Silver Cross operates three dialysis facilities in Illinois. These facilities are located in HSA 9. Given recent trends in the delivery of dialysis services including the demands the revised federal payment policies place on dialysis operations, many hospitals in the State, including Silver Cross, have decided their dialysis service line would be better managed by a strategic partner who is better positioned to serve the growing needs of patients suffering from ESRD and have opted to divest this service. Acquisition of the Silver Cross Renal Centers will permit Silver Cross to divest this service line while allowing DaVita to create greater economies of scale, integrate clinical, administrative and support functions, eliminate functional redundancies and redesign patient care delivery and allow the systems to share the resources and benefits of DaVita's infrastructure and processes and quality initiatives. Without an acquisition, these objectives cannot be achieved and, therefore, this option was rejected.

There is no cost associated with this alternative.

2. Joint Venture With Silver Cross Hospital and Medical Center

DaVita is open to joint venture relationships. Given Silver Cross' intent to divest their dialysis centers, this option was rejected. Additionally, even if a joint venture were possible, in DaVita's experience, joint ventures often pose significant hurdles in achieving the desired efficiencies and success. For these reasons, this option was rejected.

There is no cost associated with this alternative.

3. Acquire Silver Cross Renal Centers.

DaVita carefully considered whether to acquire the Silver Cross Renal Centers. Acquisition of these facilities will allow DaVita to reach a new patient base and will improve operational efficiency of the Silver Cross Renal Centers. Through the acquisition, DaVita will be able to bring the broader line of chronic kidney disease services to Silver Cross patients. These services will be beneficial for patients, physicians, payors, and taxpayers in providing more effective care and helping to reduce costs to the health care system. Accordingly, DaVita decided the acquisition of the Silver Cross Renal Centers was the most feasible option.

The cost of this alternative is \$20,044,698.

<b>Table 1110.230(c)</b>				
<b>Alternative to the Proposed Project</b>				
<b>Cost-Benefit Analysis</b>				
<b>Alternative</b>	<b>Community Need</b>	<b>Access</b>	<b>Cost</b>	<b>Status</b>
Do Nothing	Not met	Decreased	\$0	Reject
Joint Venture with Silver Cross	Not met	Decreased	\$0	Reject
Acquire Silver Cross Renal Center - West	Met	Maintained	\$20,044,698	Accept

**Section VI, Mergers, Consolidations and Acquisitions/Changes of Ownership**  
**Criterion 1110.240(b), Impact Statement**

1. Transactional Documents

Attached at Attachment 19-A is the executed letter of intent between DaVita and Silver Cross for the acquisition of the Silver Cross Renal Centers.

2. Change in Services Currently Offered

No change in the number of ESRD stations is anticipated as a result of the proposed acquisition. The Applicants may decide to add stations under the Health Facilities Planning Act at a later date, should the need arise based upon capacity and utilization trends.

3. Operating Entity

Total Renal Care, Inc. will be the operating entity of Silver Cross Renal Center - West. The facility will be fully integrated with DaVita, the parent of Total Renal Care, Inc.

4. Reason for the Transaction

As set forth in Criterion 1110.230(b), the purpose for the transaction is to ensure ESRD patients have continued access to dialysis services. The acquisition of Silver Cross Renal Center - West will allow DaVita to increase operational efficiency and improve quality, which are vital for success in the new bundled payment environment.

5. Anticipated Additions or Reductions of Employees

No significant additions or reductions in employees are anticipated now or for the next two years as a result of the proposed acquisition. All current employees at Silver Cross Renal Center - West will have the opportunity to continue their employment with DaVita after the acquisition. DaVita determines its staffing needs according to treatment needs. Staffing hours and/or positions will be added or reduced according to patient census and care needs. The Applicants anticipate no reduction in employees.

6. Cost-Benefit Analysis

As set forth throughout this application, the proposed transaction contemplates a change of ownership of Silver Cross Renal Center - West. Total Renal Care, Inc. will acquire substantially all of the assets of the Silver Cross Renal Center - West. The proposed transaction is part of a larger transaction, involving the acquisition of three in-center hemodialysis facilities for approximately \$30 million. While DaVita will incur costs inherent in operating the Silver Cross Renal Centers, the facilities will likely achieve cost savings due to economies of scale and shared resources.



August 12, 2011

Silver Cross Hospitals and Medical Centers, Inc.  
1200 Maple Road  
Joliet, Illinois 60432  
Attention: Mr. Paul Pawlak, President and Chief Executive Officer

Dear Mr. Pawlak:

This letter of intent will serve to express our mutual understandings with respect to the proposed acquisition by DaVita Inc. or one of its subsidiaries ("Buyer") of substantially all of the assets (the "Assets") of Silver Cross Hospitals and Medical Centers, Inc. ("Seller") relating to the renal dialysis centers described on Attachment A (each, a "Center" and collectively, the "Centers").

The intended transaction (the "Transaction") is as follows:

1. Purchase Price; Adjustments.

(a) Purchase Price. Subject to further due diligence, the purchase price (the "Purchase Price") for the Assets shall be Thirty Million Dollars (\$30,000,000) plus the value of up to twenty one (21) treatment days of useable inventories and supplies (including, without limitation, EPO and other drugs and supplies used for dialysis treatments) on site at each of the Centers. The Purchase Price, less the Deposit (as defined below), shall be payable in cash via wire transfer at the closing (the "Closing") of the Transaction.

(b) Non-Refundable Deposit. Within three (3) business days of the full execution and delivery of this letter of intent, Buyer shall pay to Seller the sum of Four Hundred Fifty Thousand Dollars (\$450,000) in consideration of Seller's agreement to negotiate exclusively with Buyer (the "Deposit"). This Deposit shall be applied against Buyer's obligation to pay the Purchase Price at Closing. If the Closing does not occur, Seller shall retain the deposit unless the reason why the Closing does not occur is due to one or more of the following reasons: (i) Seller's board of directors or trustees fails to approve the Transaction; (ii) Seller's management does not recommend approval of a Transaction materially consistent with the terms of this letter of intent and with other standard terms for a transaction of this size and nature to Seller's board of directors or trustees; (iii) Seller breaches any of its binding obligations set forth in this letter of intent; (iv) Seller fails to use commercially reasonable efforts to cooperate with Buyer's diligence activities and the regulatory approval process and to consummate the Transaction; (v) Seller fails to satisfy the conditions to Closing set forth in the Purchase Agreement (as defined in Paragraph 4 below) for which Seller is responsible; or (vi) the operations of the Dialysis Business (as defined in Paragraph 2 below) are materially

inconsistent with the information provided by Seller to Buyer during its preliminary due diligence in April 2011. If the Transaction does not close due to one or more of the foregoing, Seller shall return the deposit to Buyer no more than three (3) business days following such event.

2. **Assets.** The Assets to be acquired by Buyer at Closing will include all of the tangible and intangible assets which comprise or are used or are held for use in connection with or are necessary to the operation of the business at the Centers (the "**Dialysis Business**"), including, without limitation, all real property leasehold rights, improvements, furniture, fixtures, equipment, supplies, inventory, claims and rights under contracts and leases to be assigned to Buyer as set forth below, trade names, trademarks, and service marks, patient lists, copies of patient files and records, telephone numbers for the Center, trade secrets, other proprietary rights or intellectual property, goodwill, all Medicare provider numbers and agreements distinct to the Dialysis Business (if Buyer shall elect, in its sole discretion, to accept them), and, to the extent permitted by law, all permits, licenses and other rights held by Seller with respect to the ownership or operation of any or all of the Dialysis Business, and all of Seller's books and records to the extent relating to the foregoing, in each case, regardless of whether they are on Seller's or a related party's books. All of the Assets shall be transferred to Buyer free and clear of all liens, claims and encumbrances. At or prior to the Closing, Seller shall acquire all right, title and interest in and to any leased equipment that is used in connection with the Centers, and such acquired equipment shall constitute part of the Assets. Notwithstanding the foregoing, the Assets will not include cash and accounts receivable of the Centers, contracts and leases that are not to be assigned to Buyer as set forth below, and inventory and supplies disposed of from the date hereof until Closing in the ordinary course of business consistent with past practice.

3. **Liabilities.** Except for obligations arising on or after the Closing Date under contracts assigned to Buyer or otherwise relating to the operation of the Dialysis Business on or after the Closing Date (such obligations, "**Post-Closing Obligations**"), Buyer will not assume any of Seller's Liabilities (as defined below), including, without limitation, any Liabilities arising out of the operation of the Dialysis Business (or any part thereof) or the ownership or use of any of the Assets prior to the Closing Date. "**Liability**" means any claim, lawsuit, liability, obligation or debt of any kind or nature whatsoever, including without limitation, (a) any malpractice, tort or breach of contract claim asserted by any patient, former patient, employee or any other party that is based on acts or omissions or events occurring before the Closing Date; (b) any amount (including, if applicable, any penalty or interest) due or that may become due to Medicare or Medicaid or Blue Cross/Blue Shield or any other health care reimbursement or payment intermediary or other person or entity on account of any overpayment or duplicate payment or otherwise attributable to any period prior to the Closing Date ("**Reimbursement Liabilities**"); (c) any obligation or liability attributable to any period prior to the Closing Date that arises out of any contract, whether or not such contract is assigned to Buyer; and (d) any account payable of Seller.

4. **Purchase Agreement.** Buyer and Seller shall execute an asset purchase agreement for the Transaction (the "**Purchase Agreement**"), which shall provide for the purchase and sale of the Assets and assumption of the Liabilities as specified in Paragraphs 1 through 3, above, and contain such representations, warranties and other terms as are customary for a transaction of this nature, including, without limitation, representations and warranties relating to good and valid title, sufficiency of assets, no brokers, continuation of the business in the ordinary course and further assurances.

5. **Contracts.**

(a) **Contract Review and Assignment.** Prior to the execution of the Purchase Agreement, Seller shall provide Buyer with copies of all contracts and leases of Seller relating to the Centers except for third-party payor contracts, including, without limitation, employment agreements, and vendor agreements. Prior to the execution of the Purchase Agreement, Buyer shall designate which of the listed contracts and leases it shall assume at the Closing (it being anticipated that Buyer will designate relatively few, if any, of said contracts and leases). To the extent the contracts and leases are transferrable, Seller shall be responsible for obtaining and delivering any necessary consents for the assignment of such designated contracts and leases to Buyer at the Closing.

(b) **Real Property Leases.** At Closing, Buyer will enter into a new lease with Seller, as landlord, for each of the Centers (each, a "Lease" and collectively, the "Leases") for the current Center premises except for the Center premises located in Morris, Illinois, which premises are not owned or controlled by Seller. It is anticipated that each Lease will have a term of ten (10) years from the Closing Date and two (2) successive renewal options of five (5) years each, and other terms mutually acceptable to the parties. Notwithstanding the foregoing, the parties acknowledge that Seller is building a new facility at 1890 Silver Cross Boulevard, New Lenox and when complete, the Center currently located at 1200 Maple Road, Joliet will relocate to space within such new premises, whereupon the current lease will terminate and a new lease will be executed with the owner of that space. The parties further acknowledge that the rental amount under each Lease must reflect fair market value and will be supported by a broker's opinion of value, which Buyer will obtain at its own expense.

(c) **Acute Services Agreement.** It will be a condition to Closing that Buyer and Seller shall enter into an Acute Service Agreement (the "**Acute Services Agreement**") for dialysis treatments rendered at Seller's acute care hospital. The Acute Services Agreement will have terms and conditions mutually acceptable to Buyer and Seller and the rate per treatment thereunder shall reflect fair market value of the services provided.

6. **Employees.** On or before the Closing, Buyer shall offer to hire, effective as of the Closing Date, all of Seller's employees (other than physicians) who are employed principally in the Dialysis Business as of the Closing (the "**Dialysis**

**Employees**") on terms that in the aggregate are equal to or better than the terms currently offered such employees by Seller, subject, in each case, to Buyer's confirmation thereof during its due diligence review; provided, however, Buyer may elect not to offer employment to Dialysis Employees who (i) do not have the unrestricted ability to provide federally reimbursed services; (ii) do not release their personnel files to Buyer prior to Closing; (iii) are on a corrective action plan with Seller at any time within sixty (60) days prior to Closing; (iv) are former employees of Buyer who left their employment on unfavorable terms; or (v) do not pass a pre-employment drug test, background check and physical exam. At Closing, Buyer will assume up to eighty (80) hours of vacation and other payable time off ("PTO") accrued as of the Closing Date by each Dialysis Employee who accepts employment with Buyer and elects to transfer all or some of said PTO to Seller, and Seller shall pay to Buyer an amount equal to such accrued and transferred PTO or, alternatively, shall apply a credit to Buyer against the Purchase Price hereunder. Seller will be responsible for paying any accrued PTO in excess of eighty (80) hours or any non-transferred PTO to each Dialysis Employee in the next Seller disbursed payroll at or following the Closing. If Buyer is unable to process the transition of the Dialysis Employees who accept the offers from Buyer to Buyer's payroll and benefit plans by the Closing, then Seller will maintain such Dialysis Employees on its payroll and in its benefit plans until such transition is completed, in each case, solely at the cost and expense of Buyer.

7. **Medical Director Agreement.** Seller will use commercially reasonable efforts (provided, however, that Seller shall not be required to spend any funds or otherwise offer any consideration to any party in connection with such commercially reasonable efforts) to assist Buyer in negotiating a ten (10) year medical director agreement for each of the Centers (each, a "**Medical Director Agreement**"), to be effective as of the Closing Date, with a qualified, board-certified nephrologist acceptable to Buyer to serve as medical director for each Center, at fair market value rates and under reasonable terms and conditions.

8. **Naming Rights.** Seller agrees that Buyer shall retain the right to designate the name of the Centers; provided, however, that following the Closing, Buyer shall incorporate the name of the founder of Silver Cross Renal Center – East, Dr. Satish Kathpalia, into the Center names and/or on a memorial located within the Centers. Nothing in this Paragraph 8 shall preclude Buyer from identifying each Center as a Buyer facility following the Closing.

9. **Non-Competition and Non-Solicitation Covenant.** Pursuant to the Purchase Agreement, Seller, on its own behalf and on behalf of its affiliates, shall agree not to compete with the business of the Centers, directly or indirectly (whether through a subsidiary, employee, agent, affiliate or otherwise), or otherwise take any action that may result in owning any interest in, leasing, operating, managing, extending credit to, or otherwise participating (e.g., as a medical director, contractor, consultant, or employee) in a competitor of Buyer or the Centers, anywhere within a radius of twenty (20) miles of each Center (the "**Restricted Area**"), for a period of ten (10) years following the Closing

Date (the "**Restricted Period**"). Seller shall further agree, on its own behalf and on behalf of its affiliates, that they will not, during the Restricted Period, directly or indirectly (whether through a subsidiary, employee, agent, affiliate or otherwise), take any action that may induce any patient, customer, employee or vendor of any Center (either individually or in the aggregate) to discontinue his, her or its affiliation with such Center; provided that the foregoing is not intended to prohibit any physician employed by Seller from engaging in the professional practice of nephrology or exercising such person's independent medical judgment, without consideration for any pecuniary interests of said physician, nor to require the referral of any patients for any dialysis service provided by, or to any dialysis center owned by, Buyer or any of Buyer's affiliates. Five percent (5%) of the Purchase Price will be allocated to the covenant not to compete. The Parties agree that the non-competition and non-solicitation terms of this Paragraph 9 shall not apply if Buyer discontinues the Dialysis Business within the Restricted Period.

**10. Closing.** Subject to the satisfaction of the Closing conditions (including approval from the Illinois Health Facilities Planning Board for Buyer to acquire the Centers), the Closing shall take place as soon as possible, and in any event no later than March 31, 2012 (the "**Closing Date**"). The parties will use good faith efforts to complete and execute the Definitive Agreements (as defined in Paragraph 12(b) below) no later than October 14, 2011.

**11. Due Diligence.** Within ten (10) business days of the execution of this letter of intent, Buyer shall provide Seller with a list of all due diligence information requested by Buyer. Buyer shall have a period of forty five (45) days following the provision to Buyer by Seller of all requested diligence information to complete to its satisfaction its due diligence review of the Dialysis Business, including, without limitation, the assets and liabilities relating thereto and copies of any licenses, permits, and other regulatory materials and approval requirements pertaining to the Dialysis Business. During this review period, Buyer may request that Seller provide reasonable supplemental information from time to time. Seller shall furnish to Buyer and its representatives such information and access to such books and records and personnel as Buyer may reasonably request for such purpose, including, without limitation, with respect to financial matters, litigation and loss contingencies, employee matters, tax and ERISA matters, vendors and patient information, legal and healthcare regulatory compliance, licenses, insurance, contracts, and other matters as Buyer may reasonably request.

**12. Conditions to Closing.** Buyer's obligation to close the Transaction shall be subject to Buyer's completion to its satisfaction of its due diligence review of the Dialysis Business as set forth in Paragraph 11 above, and subject to the satisfaction of the conditions set forth below. Satisfaction of the conditions in subsections (a) and (c) below also shall be conditions to Seller's obligation to close the Transaction.

(a) **Documentation.** The parties will negotiate, execute and deliver the Purchase Agreement, Leases, Acute Services Agreement, and related documents, setting forth the terms and conditions of the Transaction and containing customary provisions, representations, warranties, covenants, and indemnifications in accordance with this letter of intent, and providing for the receipt by the parties of such ancillary documents as shall be reasonably acceptable to the parties and their respective counsel. Further, Seller shall have supplemented or amended all of its disclosure schedules to the Purchase Agreement through the Closing Date to reflect any fact necessary to make the representations true and correct, and no such supplement or amendment shall have resulted in a material adverse effect on the Dialysis Business. In addition, Buyer will have completed its negotiation of the Medical Director Agreements. All of the foregoing documents, inclusive of the Medical Director Agreements, are referred to hereafter as the "**Definitive Agreements.**"

(b) **Regulatory Matters.** Seller shall be in material compliance with all standards of licensure and other applicable legal requirements, including, without limitation, all building, zoning, occupational safety and health, environmental, and health care laws, ordinances, and regulations relating to the Dialysis Business, its assets, its personnel and its operations. In addition, Buyer shall have obtained or been issued a certificate of need from the Illinois Health Facilities Planning Board and all other licenses, permits, and other regulatory approvals for its operation of the Centers after the change of control contemplated hereunder, provided that Buyer shall exercise its best efforts to obtain all such necessary licenses, permits and other regulatory approvals. Furthermore, the sale of the Assets to Buyer shall be in compliance with all applicable federal and state laws.

(c) **Board and Lender Approvals.** Buyer and Seller, to the extent necessary, shall have received all necessary corporate approvals and all required lender approvals.

(d) **Personnel.** A sufficient number of Dialysis Employees shall have accepted employment with Buyer on the terms and conditions offered by Buyer to operate the Centers in the same manner as they were operated prior to the Closing, and each of such employees shall have all licenses and permits required to carry out his or her obligations and none of them shall be on the OIG List of Excluded Individuals/Entities.

(e) **Inventory.** The Assets shall include that quantity of useable inventories and supplies, including, without limitation, EPO and other drugs and supplies used for dialysis treatments, as shall be sufficient to operate the Centers for a period of eighteen (18) days in a manner consistent with prior practice.

(f) **Material Adverse Change.** There shall not have been any material adverse change in the condition (financial or otherwise) of the assets, properties or operations of the Dialysis Business or the Assets.



**13. Indemnification.** The Purchase Agreement will provide that Seller will indemnify and hold harmless Buyer with respect to all losses arising out of any breach of any representation, warranty or covenant of Seller made pursuant to the Purchase Agreement, or arising out of any Liabilities, including without limitation, Reimbursement Liabilities. The Purchase Agreement will also provide that Buyer will indemnify and hold harmless Seller with respect to all losses arising out of any breach of any representation, warranty or covenant of Buyer made pursuant to the Purchase Agreement, or arising out of any Post-Closing Obligations. Any claim for indemnification for any breach of a representation or warranty must be asserted by written notice within five (5) years following the Closing Date, except that, with regard to those representations and warranties pertaining to Seller's payment programs, compliance with laws, benefit plans, and taxes, a claim for indemnification may be asserted at any time within the applicable statute of limitations. The indemnification provisions shall contain other provisions usual and customary for transactions of this nature, including a cap and basket, to be agreed upon following completion of Buyer's due diligence review of the Dialysis Business.

**14. Maintenance of Business.** Between the date of this letter and the Closing Date or the termination of the exclusivity period referred to in Paragraph 18 below, whichever occurs first, Seller (a) shall continue to operate the Dialysis Business and maintain the Assets in the usual and customary manner consistent with past operations; (b) shall use its reasonable efforts to preserve the business operations of the Dialysis Business intact, to keep available the services of its current personnel, and to preserve the good will and relationships of its suppliers, patients and others having business relations with the Dialysis Business; (c) shall notify Buyer in writing of any event involving the Dialysis Business or the Assets that has had or may be reasonably expected to have a material adverse effect on the business or financial condition of the Dialysis Business or the Assets; and (d) shall not sell, encumber, or otherwise dispose of any Assets without Buyer's consent, except in the ordinary course of business consistent with past practice.

**15. Transition Period.** From the date hereof, through the Closing Date and thereafter for a reasonable period of time, the parties will work cooperatively with each other to develop specific transition and integration plans to assure continued quality of care and operating effectiveness following the Closing, including but not limited to a plan to ensure that Buyer does not experience an interruption in reimbursement from Medicare after the Closing Date.

**16. Public Announcements.** Subject to requirements of law, any news releases or other announcements prior to Closing by Buyer, Seller, or any of their respective affiliates or agents pertaining to this letter or the transactions contemplated herein shall be approved in writing by all parties prior to release. Buyer and Seller agree that, prior to Closing, they shall keep the existence of this letter and its contents confidential, except as may be necessary to comply with applicable law. Buyer acknowledges and agrees that Seller shall have the right to disclose information to its employees regarding the transaction contemplated by this letter of intent as, when and to

the extent Seller in its sole discretion deems it reasonably necessary to further the purpose of this letter of intent and Seller's obligations hereunder, provided that Seller and Buyer shall jointly agree in advance to the timing and substance of all communications between Buyer and Seller's employees.

17. **Confidentiality.** Buyer and Seller hereby reaffirm their respective obligations under that certain Mutual Confidentiality Agreement dated as of March 24, 2011, which agreement remains in full force and effect.

18. **Exclusivity.** In consideration of Buyer's payment of the Deposit, for a period of one hundred twenty (120) days following full execution of this letter of intent (or such earlier date on which Buyer provides written notice to Seller that it has ended its active efforts to consummate the Transaction), neither Seller nor any of its affiliates or agents or representatives, shall, directly or indirectly, enter into any agreement, commitment or understanding with respect to, or engage in any discussions or negotiations with, or encourage or respond to any solicitations from, any other party with respect to the direct or indirect (including, without limitation by way of stock sale, merger, consolidation or otherwise) sale, lease or management of the Dialysis Business or any material portion of the Assets. Seller shall promptly advise Buyer of any unsolicited offer or inquiry received by it or any of its affiliates, agents or representatives while the provisions of this Paragraph 18 remain in effect, including the terms of any such offer that is equal to or greater than ninety percent (90%) of the Purchase Price.

19. **Procedure.** As soon as possible following full execution and delivery of this letter of intent, the parties will cooperate in the negotiation and preparation of the Purchase Agreement and other necessary documentation and will use all reasonable efforts to satisfy the conditions set forth in Paragraph 12 which are in their respective control.

20. **Expenses.** Each party shall bear its own expenses arising out of this letter of intent and the Transaction, with no liability for such expenses to the other party, whether or not the Transaction or any part thereof shall close.

21. **Non-Binding Effect.** It is understood that this letter of intent merely constitutes a statement of the mutual intentions of the parties with respect to the proposed Transaction, does not contain all matters upon which agreement must be reached in order for the proposed transactions to be consummated and, except in respect of Paragraphs 1(b), 14, 16, 17, 18, and 20, above, and this Paragraph 21, creates no binding rights in favor of any party. A binding commitment with respect to the Transaction will result only if Definitive Agreements are executed and delivered, and then, only subject to the terms and conditions contained therein. The parties agree to negotiate such Definitive Agreements in good faith on terms consistent with this Letter of Intent. This letter of intent may be executed in counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall constitute one and the same letter of intent. Signatures sent by facsimile transmission shall be deemed to be original signatures.

Silver Cross Hospitals and Medical Centers, Inc.  
August 12, 2011  
Page 9

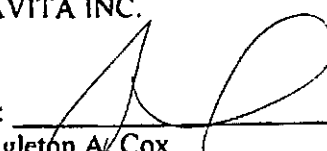
**[SIGNATURES ON NEXT PAGE]**

Silver Cross Hospitals and Medical Centers, Inc.  
August 12, 2011  
Page 10

This letter of intent will be void and the terms contained herein revoked unless accepted and returned by 5:00 p.m. (Central Time) on August 12, 2011. If the foregoing is acceptable to you, please so indicate by signing a copy of this letter of intent and returning it to the undersigned.

Very truly yours,

DAVITA INC.

By:   
Singleton A. Cox  
Director, Corporate Development

Acknowledged and agreed this 12 day of August, 2011

SILVER CROSS HOSPITAL AND MEDICAL CENTERS, INC.

By:   
Name: Paul Pawlak  
Title: President, Chief Executive Officer

**ATTACHMENT A**

**CENTERS**

Silver Cross Renal Center – East  
1200 Maple Rd  
Joliet, Illinois

Silver Cross Renal Center – West  
1051 Essington Road  
Joliet, Illinois

Silver Cross Renal Center – Morris  
1551 Creek Drive  
Morris, Illinois

**Section VI, Mergers, Consolidations and Acquisitions/Changes of Ownership**  
**Criterion 1110.240(c), Access**

1. Current Admissions Policy

A copy of the current admissions policy and financial assistance policy for Silver Cross Renal Center - West is attached as Attachment 19-B.

2. Proposed Admissions Policy

A copy of the admissions policy and financial assistance policy for DaVita, Inc. is attached as Attachment 19-C.

3. Admission Policy Certification

A letter from DaVita's CEO certifying the admissions policies of Silver Cross Renal Center - West will not become more restrictive is attached as Attachment 19-D.

**TITLE: HOSPITAL ADMISSION PROCESS FOR DIRECT ADMITS THROUGH THE PATIENT REGISTRATION AREA**

**Policy and/or Procedure:**

1. Physician or physician's office calls Admitting Case Manager for inpatient admission.
2. House Supervisor coordinates placement of the patient.
3. Admitting schedules patient as "SCH IN" via computer.
4. Upon arrival of the patient, the Patient Registration Rep will:
  - a. Review the demographic and insurance information with the patient or family member.
  - b. Confirm that the patient requests to be listed in the patient directory for phone calls and visitors.
  - c. Obtain signatures on all necessary forms.
  - d. Provide the patient with all regulatory documents.
  - e. Assign the patient to the room via computer.
  - f. Place the patient identification band on the patient and verify the accuracy of the patient name and date of birth.
  - g. Request the services of the volunteer to escort the patient to the room.
5. After hours, the patient will be admitted through the EOD.

**DEPARTMENTS AFFECTED:**

Admitting

**EFFECTIVE DATE:**

March 1, 1978

**REVISED DATE (S):**

08/05/98, 11/03/04, 04/25/06

**APPROVED BY:**

Theresa Quinn  
Manager

**DATE:** 04/25/06

**AUTHORIZED:**

John Krepps  
President (or designee)

**DATE:** 05/24/06

Manual Page A-1

**TITLE: DETERMINATION OF CHARITY - GUIDELINES****Purpose:**

The hospital will provide services to all acutely ill patients requiring care, without regard of the patient's ability to pay. We will provide charity care to eligible persons who cannot afford to pay based on family income criteria pursuant to the Federal Poverty Income Guidelines.

**Definition:**

Charity care is the terminology used to describe persons with the inability to pay for services rendered.

**Procedure:****I. EVALUATION**

- A. Patient, family member or agency will notify us prior to services rendered.
- B. Patient or family member will be interviewed by a financial counselor during the inpatient stay to assess the patient's eligibility for state aid.
- C. Post care communication will be performed by the collection department to determine the patient's ability to pay.

**II. GUIDELINES**

- A. We will provide charity care assistance to patients that maintain an income 200% above the Federal Poverty Level:

<u>Size of Family Unit</u>	<u>Federal Poverty Level</u>	<u>200% Above</u>
1	\$10,890	\$21,780
2	14,710	29,420
3	18,530	37,060
4	22,350	44,700
5	26,170	52,340
6	29,990	59,980
7	33,810	67,620
8	37,630	75,260



**TITLE: DETERMINATION OF CHARITY - GUIDELINES****II. GUIDELINES (continued)**

- B. For family units with more than eight members, add \$7,640.00 for each additional member.
- C. We will update our guidelines upon publication of the Department of Health and Human Services in the Federal Register.

**III. QUALIFICATION**

- A. The completion of the Determination of Eligibility Application Form.
- B. Proof of family income:
  - 1. Copy of previous year income tax return.
  - 2. Copy of wage statement W-2 form,
  - 3. Copy of most recent pay statement of earnings.
- C. Indigent persons
  - 1. Homeless
  - 2. Deceased adults with no spouse, no probate and no assets.
- D. Persons who are denied for state aid yet meet our guidelines.
- E. We are committed to provide in and out patient care to those who have been referred from the Will-Grundy Medical Clinic.

**IV. PROCESS**

- A. Receive telephone call from patient or guarantor requesting uncompensated charity care.
- B. Mail the Determination of Eligibility Application Form to the guarantor.
- C. Upon receipt of completed application form, it will be reviewed by the collector and forwarded to the manager or senior person for approval or denial.
- D. Approved application:
  - 1. The patient account will be adjusted off of the receivables with the assigned adjustment code.
  - 2. Notes are entered into the financial system.
  - 3. Decision will be mailed to guarantor within 10 working days.
  - 4. Record of patient account will be maintained for 5 years and the application for 1 year.

**TITLE: DETERMINATION OF CHARITY - GUIDELINES**

**IV. PROCESS (continued)**

- E. Denied application:
  - 1. Collection efforts will prevail.
  - 2. Notes are entered into the financial system.
  - 3. Decision will be mailed to guarantor within 10 working days.
  - 4. Application will be maintained for 1 year.

DEPARTMENTS AFFECTED: Patient Accounts

EFFECTIVE DATE: 05/15/91      REVISED DATE(S): 3/21/97, 5/1/98, 11/17/99, 3/9/00,  
3/26/01, 2/18/03, 2/27/04, 9/16/04  
3/2/05, 2/1/06, 1/24/07, 2/1/08, 2/5/09,  
1/25/11

APPROVED BY: Robert Mull, Director Patient Accounts  
Department Head

DATE: 01/25/11\_\_\_\_\_

AUTHORIZED: William Brownlow  
Senior Vice President of Finance  
And Managed Care

DATE: 01/25/11\_\_\_\_\_

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**TITLE: ACCEPTING PATIENTS FOR TREATMENT**

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**PURPOSE:** To establish requirements for patient admission to a DaVita dialysis facility and to allow DaVita to obtain necessary information from the patient and to enter the correct information into the appropriate information system prior to providing dialysis treatment to a patient at a DaVita dialysis facility.

**DEFINITION(S):**

**Beneficiary Selection Form (CMS 382):** Required by Medicare for home dialysis patients (home hemo or peritoneal). The patient selects whether they will obtain home treatment supplies from a Durable Medical Equipment (DME) provider (Method II) or from the facility that will provide home dialysis support services (Method I). DaVita currently only supports patients selecting Method I.

**Guest patient:** A patient who is visiting a facility and plans to return to his/her home facility within 30 days. A guest patient refers to patients visiting from a non-DaVita facility to a DaVita facility as well as visiting from a DaVita facility to another DaVita facility.

**Medical Evidence Report Form (CMS 2728):** Required by Medicare to determine if an individual is medically entitled to Medicare under the ESRD provisions of the law and to register patients with the United States Renal Data System. The 2728 form is used as the primary source in determining the COB for patients insurance. Physicians have a 45 day grace period to sign the 2728 form when the patients are new to dialysis. Patients are only required to complete the 2728 form once, not for every facility visit or transfer.

**Medicare Secondary Payor Form (MSP):** Determines if a commercial Employer Group Health Plan (EGHP) (or other insurance carrier) will be primary payor. This form is completed online in the Registration System and must be completed for all patients who have Medicare coverage when they start treatment at DaVita.

**Patient Authorization and Financial Responsibility Form (PAFR):** Form that informs patients of their financial obligations regarding services provided to them by DaVita. The form must be signed and witnessed prior to the start of the first dialysis treatment and annually thereafter. By signing the PAFR, the patient is assigning the payment for services provided by DaVita, directly to DaVita from insurance companies. The PAFR form must be signed annually at each DaVita facility where the patient treats.

**Permanent patient:** A patient who has selected a DaVita dialysis facility as his/her home facility.

**Personal Representative:** An individual who is legally appointed, designated and/or authorized pursuant to state law to: (a) make health care decisions on behalf of a patient, or (b) act on behalf of a deceased individual or a deceased individual's estate. Reference *Personal Representatives of Patients* (available on the HIPAA website on the VillageWeb).

Property of DaVita Inc.

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Origination Date: September 2006

Revision Date: March 2008, September 2008, December 2008, April 2009, September 2009, October 2010

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Policy: 3-01-03

Attachment – 19C

**Transfer patient:** An existing dialysis patient who is permanently relocating from any dialysis facility to a DaVita dialysis facility. Once the transfer is complete, the patient will become a "permanent patient."

**POLICY:**

1. DaVita will accept and dialyze patients with renal failure needing a regular course of dialysis without regard to race, color, national origin, gender, sexual orientation, age, religion, or disability if:
  - a. The patient's care can be managed in an outpatient dialysis facility according to individual modality;
  - b. The patient is under the care of a nephrologist who is credentialed in the DaVita facility;
  - c. There is adequate treatment space and staffing available to provide appropriate care to the patient;
  - d. The patient (a) has been verified as Medicare or Medicaid eligible and/or has private insurance coverage issued by an Insurance Provider licensed and operating in the United States or United States Territories which has been verified, and from which an authorization for treatment has been received by DaVita as required, (b) accepts financial responsibility for care by signing the *Patient Authorization & Financial Responsibility (PAFR) Form*.
    - i. Patients who are uninsured must be authorized at the facility level with written approval by the facility's Divisional Vice President (DVP), or their designee, prior to treatment. (*Cash Payment Fee Schedule for Patients with no Insurance Coverage Policy (available on the ROPS website on the VillageWeb)*).
    - ii. Patients who have an out-of-state Medicaid plan that will not pay for treatment must be authorized at the facility level with written approval by the facility's DVP, or their designee, prior to treatment.
    - iii. Patients who are out-of-network and have no out of network benefits must be authorized at the facility level with written approval by the facility's DVP, or their designee, prior to treatment.
2. Patients without adequate medical insurance coverage will be responsible to pay their portion of the cost of providing treatment prior to actual treatment.
3. All visiting patients, including patients visiting a non-contracted facility, will be responsible to sign a new PAFR Form specific to the visiting facility.

4. A Purchase Order for services and treatments outside of their area is required prior to treatment for patients who have Indian Health Services coverage.
5. Any new patient who is uninsured must be approved for treatment by the facility's Operational Vice President, or their designee, prior to treatment.
6. DaVita dialysis facility will transmit the required information to the corresponding Corporate Business Office (CBO) ROPS registration teammate upon notification of a new or visiting patient.
7. ROPS registration teammate will verify all insurances and obtain authorization if needed to complete the registration process.
8. Guest patients must make payment for non-covered, and out of network (including out of state Medicaid plans that do not pay for treatment) services in the form of cashiers check, money order, travelers check, American Express, Visa, Discover or MasterCard prior to treatment. Please see *Money Received at Centers Policy* and *Credit Card Process Policy* (available on the ROPS website on the VillageWeb).
9. DaVita will bill using the name and number as it appears on the beneficiary Medicare card or other document confirming the patient's health care coverage through a third party, and as the patient's name is confirmed by two (2) additional forms of identification which has the patient's current legal name listed on it as outlined in section 9 of this policy. Please see *Entering Patient's Name Policy* (available on the ROPS website on the VillageWeb).
10. If any information on the beneficiary Medicare card is incorrect, DaVita will advise the beneficiary to contact their local servicing Social Security Office to obtain a new Medicare card.
11. If information contained on the insurance card is incorrect, DaVita will advise the policyholder to contact their insurance company to obtain a new insurance card. All insurance cards should match the patient's identification. The patient must produce evidence that a change was initiated with the appropriate insurance carrier within 90 days of the noted discrepancy.
12. There are three (3) mandatory data elements for any patient to be registered in Registration System. These fields must be completed accurately prior to treatment. Required Registration System fields are:
  - a. First and last name;
  - b. DOB (date of birth), and
  - c. Anticipated start date at DaVita.

13. Unless otherwise provided for under this policy, prior to the admission to the facility, all patients, including Transfer, Guest, and Permanent Patients will be given the following documents to read and sign:
- a. Patient's Rights;
  - b. Patient's Responsibilities;
  - c. Patient Authorization and Financial Responsibility Form (PAFR);
  - d. Patient's Standards of Conduct;
  - e. Patient Grievance Procedure;
  - f. Authorization for and Verification of Consent to Hemodialysis/Peritoneal Dialysis;
  - g. Reuse Information Consent form;
  - h. Caretaker Authorization form;
  - i. HIPAA Notice Acknowledgement form; and
  - j. Affidavit of Patient Identification form (Note: This form is only given if the patient or Personal Representative on behalf of the patient is not able to produce the requested two (2) forms of personal identification verifying the patient's legal name and current legal residence upon admission or within seven (7) days of admission).
14. The patient will agree to follow the *Patient's Rights and Responsibilities, Patient's Standards of Conduct and the Patient Grievance Procedure*. (Refer to *Patient's Standards of Conduct; Patient Grievance Procedure; Patient Rights and Responsibilities* available on the Clinical P&P website in Volume 1 on the VillageWeb.)
15. Guest Patients are only required to sign the *Patient's Rights and Responsibilities, Patient's Standards of Conduct and the Patient Grievance Procedure* one time for each DaVita facility they visit, as long as these forms are visibly posted at the facility, unless there are changes made to any of those forms/policies, or state specifications require otherwise.
16. Listed below are the following documents that are required for hemodialysis patients and home dialysis patients prior to admission to a DaVita Dialysis facility:
- a. Two (2) forms of personal identification, in addition to the patient's insurance card, verifying the patient's legal name and current legal residence, one of which is a picture ID. Acceptable forms of personal identification may include:

- i. Federal or state government issued identification such as:
  - A. Driver's license;
  - B. Voter's registration card;
  - C. Passport;
  - D. ID card;
  - E. Marriage certificate;
  - F. Social Security card; or
  - G. US military photo ID card.
- ii. Divorce decree;
- iii. Credit card;
- iv. Utility bill;
- v. Pension statements;
- vi. Bank account and other financial asset records;
- vii. Property Deed;
- viii. Mortgage;
- ix. Lease Agreement;
- x. Auto registration;
- xi. Job paystub;
- xii. Letters from Social Security Office;
- xiii. US adoption papers;
- xiv. Court order for legal name change signed by a judge or county clerk;
- xv. Library card;
- xvi. Grocery store rewards card; or

- xvii. For minors, school records such as school identification card, nursery, or daycare records
- b. All copies of patient's current insurance cards-front and back;
- c. Copy of History and Physical (within the last year – must be legible);
- d. For Hepatitis and TB testing requirements, refer to policies: *Hepatitis Surveillance, Vaccination and Infection Control Measures* and *Tuberculosis Infection Control Policy* (available on the Clinical P&P website in Volume 1 on the VillageWeb); Note: Hepatitis C testing is recommended, but not required.
- e. If patient is a new ESRD patient, pre dialysis labs including hematocrit or hemoglobin, albumin, BUN, creatinine, and, if available, creatinine clearance and/or urea clearance drawn within 45 days prior to first day of dialysis;
- f. Monthly labs within 30 days prior to first treatment date including hematocrit, hemoglobin, URR and electrolytes;
- g. Copies of three (3) flowsheets within two (2) weeks of requested treatment(s) for patients who have previously dialyzed;
- h. Copy of current hemodialysis orders for treatment;
- i. EKG, if available, OR if patient has known heart condition;
- j. Patient demographics;
- k. Copies of most recent Long Term Program, Patient Care Plan, Nursing, Dietary and Social Work Assessments and most recent progress notes for patients who have previously dialyzed;
- l. Current list of medications being administered to patient in-center and at home;
- m. Advance Directives, if applicable;
- n. Initiation of CMS 2728. Once completed, within the 45-day guideline, it should include the patients and nephrologist's signature and date. This is the official document of the patient's first date of dialysis ever, first dialysis modality, and provides transplant information, if applicable;
- o. *Patient Authorization & Financial Responsibility Form* (PAFR). Must be signed and witnessed prior to the start of the first dialysis treatment. This form allows DaVita to receive payment from insurance companies and informs the patient of the financial responsibilities regarding treatment provided to them. Without a signed PAFR Form, we may not be reimbursed for services provided to the patient;



- p. CMS 382 Form. Required only for home dialysis patients (home hemo or peritoneal);
  - q. Medicare Secondary Payor Form (MSP). Determines if a commercial Employer Group Health Plan (EGHP) will be primary payor. Must be completed for all patients who have Medicare coverage when they start treatment at DaVita;
  - r. DaVita's *Notice of Privacy Practices*. Each patient will be provided with the notice.
17. If the patient, or Personal Representative on behalf of the patient, is not able to produce the requested two (2) forms of personal identification verifying the patient's legal name and current legal residence, the teammate admitting the patient should follow the procedures set forth in the *Patient Identification and Verification Policy* (available on the Clinical P&P website in Volume 3 on the VillageWeb), and any other relevant policies based on the situation at hand.
18. Any conflict with the criteria established or refusal to sign appropriate consents and authorization to bill would constitute a need for prior written authorization by the facility's DVP or designee.
19. A permanent DaVita patient may be treated at a DaVita facility other than his /her home facility without completing the required documentation, excluding the PAFR, when:
- a. The attending nephrologist has privileges at both the facilities in question (the patient's home facility and the anticipated visiting facility);
  - b. A visiting record is generated by the home facility at least one hour before the scheduled treatment;
  - c. The Facility Administrator (FA) at the visiting facility agrees to treat the patient; and
  - d. The visiting facility has the space and resources to treat the patient.
  - e. PAFR is always required.
20. All other exceptions to this policy are subject to approval by the DVP for the region/division.

**ATTACHMENTS:**

Attachment A: Procedures for Accepting Patients for Treatment

*Teammates are expected to report possible violations of this policy and procedure. You may make your report to an appropriate DaVita manager, to the Corporate Compliance Hotline (1-888-458-5848 or [DaVitaComplianceHotline.com](http://DaVitaComplianceHotline.com)) or to DaVita's Corporate Compliance Department (1-888-200-1041 x156037). DaVita has a Non-Retaliation policy and will not tolerate any form of retaliation against anyone who files a Compliance report in good faith. Reports can be made anonymously or you may request confidentiality. Questions regarding this policy should be directed to the [QUESTionline@davita.com](mailto:QUESTionline@davita.com).*

**TITLE: PROCEDURES FOR ACCEPTING PATIENTS FOR  
TREATMENT**

---

**PURPOSE:** To establish procedures for accepting patients for treatment in accordance with the *Accepting Patients for Treatment* policy.

**DEFINITIONS:**

**Personal Representative:** An individual who is legally appointed, designated and/or authorized pursuant to state law to: (a) make health care decisions on behalf of a patient, or (b) act on behalf of a deceased individual or a deceased individual's estate. Reference the *Personal Representatives of Patients* (available on the HIPAA website on the VillageWeb).

**POLICY:**

1. DaVita dialysis facility will gather all the required documents and patient information (for new patients) to properly register the patient into the Registration System and Snappy information systems.

**PROCEDURE(S):**

**A. Patient Registration Procedures for all New or Visiting patients:**

1. The facility's Social Worker (SW) or designee will interview all new patients to determine whether a patient has adequate medical insurance coverage.
2. If patient is an established DaVita patient, the patient's current Patient Financial Evaluation (PFE) will follow the patient to the DaVita facility they are visiting.
3. Prior to scheduling the patient for treatment, the following fields must be completed:
  - a. First and last name;
  - b. Date of birth; and
  - c. Anticipated start date at DaVita.
4. Insurance information is required on all patients regardless of insurance type or coverage. The insurance information must include:
  - a. Insurance Company/Companies and phone number(s) (patient may have more than one type of insurance); and
  - b. Insurance Policy ID number (for each insurance).

5. The facility will then transmit the initial key information to the appropriate CBO/Registration Teammate as soon as notified of intent to treat a patient at a DaVita dialysis facility. The transmission of the additional information listed below will help complete the registration process.
  - a. Demographics;
  - b. Address, permanent and billing;
  - c. Social Security number;
    - i. Ethnicity;
    - ii. Emergency numbers;
    - iii. Provider information;
    - iv. Credentialed nephrologist;
    - v. Clinical Information;
    - vi. First Date of Dialysis (FDOD);
    - vii. Modality type;
    - viii. Primary diagnosis for dialysis;
    - ix. Primary cause for ESRD from CMS 2728 form;
    - x. Method (home patient supplies);
    - xi. Employed Status (required on patient, spouse, guardian or child) if there is an Employer Group Health Plan (EGHP). A Registration Teammate can unlock the Insurance Change Request (ICR) so the facility may complete this information. If the insurance subscriber is someone other than the patient, Registration Teammate will require the DOB of the subscriber;
    - xii. Date(s) of previous transplant(s), if applicable; and
    - xiii. MSP Form completed online in Registration System (if patient is Medicare eligible).
6. If the patient does not have a Social Security Number (SSN); please call Palms Customer Support at DaVita Laboratories @ 1-800-944-5227 to obtain a Reflab number. The Reflab number will be used by DaVita Laboratories and populated into Registration System.

7. Prior to the start of the first dialysis treatment, the patient or the patient's Personal Representative must sign, and have witnessed by a Registered Nurse, the Authorization for and Verification of Consent to Hemodialysis Procedure Form or the Authorization for and Verification of Consent to Peritoneal Dialysis Procedure Form.
8. The *Patient Authorization & Financial Responsibility (PAFR) Form* must be signed and dated by the patient or the patient's Personal Representative annually at each DaVita facility the patient is treated, and witnessed, prior to the start of the first dialysis treatment.
9. The facility will give the patient or the patient's Personal Representative DaVita's *Notice of Privacy Practices* (available on the HIPAA website on the VillageWeb). The HIPAA Notice Acknowledgement Form must be signed by the patient or the patient's Personal Representative or by a teammate prior to the start of the first dialysis treatment.
10. The patient/Personal Representative or a DaVita teammate must sign the Notice of Acknowledgement Form attesting that the patient received DaVita's *Notice of Privacy Practices*.
11. All additional forms, specific to the patient's modality, are to be signed prior to, or within 30 days of the first treatment.
12. The following documents must be scanned into Registration System prior to or within seven (7) days of the first treatment:
  - a. An insurance card for each insurance;
  - b. Insurance letter for Authorization/Referral if the insurance carrier requires an authorization; and
  - c. Two (2) forms of personal identification, in addition to the patient's insurance card, verifying the patient's legal name and current legal residence, one of which is a picture ID. Acceptable forms of personal identification may include:
    - i. Federal or state government issued identification such as:
      - A. Driver's license;
      - B. Voter's registration card;
      - C. Passport;
      - D. ID card;
      - E. Marriage certificate;

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- F. Social Security card; or
- G. US military photo ID Card;
- ii. Divorce decree;
- iii. Credit card;
- iv. Utility bill;
- v. Pension statements;
- vi. Bank account and other financial asset records;
- vii. Property Deed;
- viii. Mortgage;
- ix. Lease Agreement;
- x. Auto registration;
- xi. Job paystub;
- xii. Letters from Social Security Office;
- xiii. US adoption papers;
- xiv. Court order for a legal name change signed by a judge or court clerk;
- xv. Library card;
- xvi. Grocery store rewards card; or
- xvii. For minors, school records such as school identification card, nursery or daycare records

13. If the patient, or Personal Representative on behalf of the patient, is not able to produce the requested two (2) forms of personal identification verifying the patient's legal name and current legal residence, the teammate admitting the patient will follow the procedures set forth in the *Patient Identification and Verification Policy* (available on the Clinical P&P website in Volume 3 on the VillageWeb).

14. A signed CMS 2728 form must be completed, signed and scanned into Registration System within 45 days of the first treatment date. This is scanned into Registration System one (1) time only.

15. The dialysis facility will fax the following required documents to 1-888-720-4008 for electronic imaging:

- a. CMS 382 Beneficiary Selection (PD patients)-this is faxed one (1) time only or if modality changes and then is faxed in January;
- b. Patient Authorization & Financial Responsibility Form (PAFR);
- c. Authorization for and Verification of Consent to Hemodialysis Procedure Form;
- d. Authorization for and Verification of Consent to Peritoneal Dialysis Procedure Form (if applicable);
- e. Reuse Information Consent Form (if applicable);
- f. Patient's Rights;
- g. Patient's Responsibilities;
- h. Patient's Standards of Conduct;
- i. Patient Grievance Procedure;
- j. Dialysis Emergency Form/Emergency Evacuation Acknowledgement (Hemodialysis patients);
- k. Patient's Choice of Transportation; and/or
- l. Caretaker Authorization.

16. The facility will file all original documents in the patient's medical record.

**B. Visiting DaVita Patient Procedures:**

1. The facility will verify that the documents and patient information for existing patients are current within the Registration System.
2. PAFR must be signed specific to the clinic being visited.
3. The home facility must setup a transfer record for a returning DaVita patient. This may be entered up to 30 days in advance.
4. The facility will transmit the required information to the corresponding CBO/Registration Teammate as soon as possible upon notification of a returning visiting patient.
5. ROPS registration teammate will verify all insurances and obtain authorization if needed to complete the registration process .

**C. Registration Teammate Procedures:**

1. Registration teammate will complete the system driven tasks generated from Registration System for the new patient to continue the patient intake process within 48 hours of receipt of patient information.
  - a. Registration teammate will complete one Benefits Verification Form (BVF) for each insurance.
  - b. Registration teammate will obtain authorization if required by the insurance carrier. If no authorization can be obtained, the Registration teammate Representative will update Registration System Notes and notify the Facility Administrator with the information.
  - c. Contact the facility for any additional information required to register the patient into Registration System.
  - d. Registration Teammate will respond to inquiries made by the dialysis facility within a 24-hour period.

**D. Exceptions to these Procedures:**

1. The documentation requirement for visiting DaVita to DaVita patients may be waived by the facility administrator under specific conditions described here:
  - a. The referring physician has privileges at both the home and the visiting facility;
  - b. A transfer record has been created at least one hour before the patient arrives for treatment; and
  - c. The visiting facility has the resources and space to accept the patient for dialysis.
2. Under this exception, the visiting facility must have the patient sign:
  - a. *Patient Authorization & Financial Responsibility Form (PAFR); and*
  - b. *Authorization and Consent for Treatment (Hemodialysis / Peritoneal Dialysis)*

*Teammates are expected to report possible violations of this policy and procedure. You may make your report to an appropriate DaVita manager, to the Corporate Compliance Hotline (1-888-458-5848 or [DaVitaComplianceHotline.com](mailto:DaVitaComplianceHotline.com)) or to DaVita's Corporate Compliance Department (1-888-200-1041 x156037). DaVita has a Non-Retaliation policy and will not tolerate any form of retaliation against anyone who files a Compliance report in good faith. Reports can be made anonymously or you may request confidentiality. Questions regarding this policy should be directed to the [QUESTionline@davita.com](mailto:QUESTionline@davita.com).*



**TITLE: FINANCIAL RESPONSIBILITIES: PATIENTS**

---

**PURPOSE:** To outline the financial responsibilities and rules for patients treated in dialysis facilities owned or managed by DaVita Inc. Each of these facilities will be referred to as a DaVita facility.

**POLICY:**

1. DaVita will accept for treatment at each DaVita facility, from a physician with admitting privileges to the facility, all patients who (a) require dialysis services; (b) comply with the patient financial responsibilities as set forth in this policy; (c) meet all other patient responsibilities required by DaVita policies; and (d) either permanently reside in the community served by the DaVita facility or satisfy DaVita's visiting patient criteria. Acceptance for treatment shall be without regard to age, national origin, disability, race, creed, religion or other factors unrelated to the provision of appropriate medical care per DaVita policies: *Accepting Patients for Treatment* and *Patient Discharge*.
  - "Referring physician" means any physician who has been granted admitting privileges to a DaVita facility in accordance with the DaVita Medical Staff Bylaws/Rules and Regulations.
2. Exceptions to the above can only be made with the advance approval of the responsible DaVita Regional Director. Such exceptions will be done on a case-by case basis only.
3. DaVita's goal is to obtain compliance with this policy and other DaVita policies governing patient responsibilities, not to discharge patients. However, if all efforts to encourage and ensure cooperation fail, non-compliant patients may be discharged from the DaVita facility.
4. Visiting patients are addressed in this policy/procedure and the DaVita policy for *Financial Responsibility: Visiting Patients*. Visiting patients do not live within the facility service area; therefore, DaVita will not accept responsibility to treat these patients unless they comply with all applicable policies and procedures related to visiting patients.

**Responsibility for Payment:**

1. The patient (or guardian/guarantor, if applicable) is responsible for full payment of all services provided by DaVita.
2. Any deductibles, co-insurance, co-pays and uninsured amounts are the responsibility of the patient and should be paid in full within 30 days of receipt of the billing statement by the patient unless other arrangements have been made.

3. If during the course of ascertaining the appropriate patient demographic and/or third party insurance information, it is suspected that the patient is providing false information to obtain DaVita's services, the teammate will notify the Facility Administrator immediately, who will then conduct further activity in accordance with the *Potential Misuse of Public and Private Health Care Program Benefits to Obtain Health Care Services from DaVita* policy.
4. DaVita will not knowingly submit claims for payment based on false information.
5. Patients who do not have insurance coverage for 100% of their financial liability will be offered financial counseling by a DaVita Social Worker or other appropriate teammate to determine if any other programs or benefits may be available to the patient to assist in full payment for the patient's medical services and needs.
6. The patient or the guardian/guarantor is expected to pay the full amount due within 30 days of receipt of the statement. Patients who fail to pay their liabilities may be offered an option of payment terms. Payment terms and liability will be based on a patient's ability to pay as determined by the Patient Financial Report. The patient will be required to provide DaVita with full, verifiable financial disclosure. If a satisfactory payment schedule is not agreed upon or a Patient Financial Report is not completed, DaVita will pursue and expect full payment from the patient or legal guardian/guarantor.
7. If the patient receives insurance monies from the insurance company to pay a specified claim due DaVita and refuses to turn said money over to DaVita, the patient will be added to the Patient Liability Report and may be referred to an external collection agency.
8. Financial liabilities for deceased patients will be billed to the patient's estate or legal guardian/guarantor.

**Patient Assistance:**

1. After counseling with a DaVita Social Worker or other appropriate teammate, patients may be eligible to submit a request for financial assistance per DaVita's Patient Financial Evaluation Policy, the policy for the American Kidney Fund Health Insurance Premium Program and other assistance programs as are made available to patients.

**Patient Compliance:**

1. Patients are expected to cooperate fully with DaVita efforts to secure appropriate reimbursement for treatment. Cooperation includes, but is not limited to:

- Supplying DaVita with true, correct, accurate, and valid identification, demographic and insurance coverage information in a timely manner.
  - Applying for any and all available health care program benefits and other sources of financial aid or subsidy available to the patient that would improve the individual patient's health care coverage, including but not limited to Medicare, state Medicaid Assistance or state renal programs where applicable.
  - Paying insurance coverage premiums on time; and/or requesting assistance from the facility's Social Worker or other appropriate teammate for seeking aid from other sources, including but not limited to, the American Kidney Fund Health Insurance Premium Program.
  - Supplying true, correct, accurate, and valid information in response to all requests for information made by third party payers.
  - Notifying the facility Social Worker or other appropriate teammate of changes in insurance, demographic or financial status that may affect healthcare.
  - Providing required documentation of all home care treatments.
2. When a patient refuses to cooperate with DaVita financial policies and/or other DaVita policies governing patient responsibilities, discharge from the facility may result per this policy and the policy for *Patient Discharge*.

**Other:**

1. To the extent that this policy may not be in compliance with the terms and provisions of any agreement between DaVita and a third party payer, the provisions of the third party payer agreement will prevail with respect to patients served by the DaVita facilities to which the third party agreement applies.
2. To the extent that this policy may be in conflict with local, state or federal law(s), the provisions of such law(s), if any, prevail with respect to patients served by the DaVita facility.

**Patient Overpayments:**

1. DaVita will make every effort to refund overpayments made by patients in a timely manner.



1551 Wewatta Street  
Denver, CO 80202  
Tel: (303) 405-2100  
www.davita.com

August 18, 2011

Dale Galassie  
Chair  
Illinois Health Facilities and Services Review Board  
525 West Jefferson Street, 2nd Floor  
Springfield, Illinois 62761

**Re: Admission Policies**

Dear Chairman Galassie:

I hereby certify under penalty of perjury as provided in § 1-109 of the Illinois Code of Civil Procedure, 735 ILCS 5/1-109 that the admissions policy for Silver Cross Renal Center – West will not become more restrictive as a result of the proposed change of ownership.

Sincerely,

Dennis Lee Kogod  
Chief Operating Officer  
DaVita Inc.  
Total Renal Care, Inc.

Subscribed and sworn to me  
This \_\_\_ day of \_\_\_  
2011

Notary Public

*See attached  
what  
Katherine  
notary*

# CALIFORNIA JURAT WITH AFFIANT STATEMENT

- See Attached Document (Notary to cross out lines 1-6 below)  
 See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_  
 4 \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_

Signature of Document Signer No. 1                      Signature of Document Signer No. 2 (if any)

State of California  
 County of Los Angeles

Subscribed and sworn to (or affirmed) before me  
 on this 10 day of August, 2011  
 by \_\_\_\_\_  
 (1) Dennis L. Keed  
 Name of Signer

proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me (.) (.)  
 (and

(2) \_\_\_\_\_  
 Name of Signer

proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me.)

Signature Evette Johnson  
 Signature of Notary Public



Place Notary Seal and/or Stamp Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Further Description of Any Attached Document

Title or Type of Document: Admission Policies

Document Date: 10 August 11 Number of Pages: 1

Signer(s) Other Than Named Above: None

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RIGHT THUMBPRINT OF SIGNER #2
Top of thumb here

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**Section VI, Mergers, Consolidations and Acquisitions/Changes of Ownership**  
**Criterion 1110.240(d), Health Care System**

1. Impact on Other Area Providers

There will be no change in the scope of services as a result of the acquisition of the Silver Cross Renal Centers. DaVita intends to continue to provide dialysis services to patients in the Joliet and surrounding areas through the existing facilities. All anticipated changes will be operational to align the Silver Cross facilities with the operations and resources available within DaVita and which are customary for all DaVita facilities. The acquisition will not impact other unaffiliated area dialysis facilities as the transaction consists of a change of control of the operating entity.

2. Facilities within Applicant's Health Care System

A list of all DaVita facilities in Illinois is attached at Attachment 19-D. The list includes the name, address, number of stations, list of services, and utilization for the most recent 12 month period.

3. Present and Proposed Referral Agreements

There are no current or proposed referral agreements for the facilities involved in this transaction. Therefore, this criterion is not applicable.

4. Time and Distance for Proposed Referrals

There are no current or proposed referral agreements for the facilities involved in this transaction. Therefore, this criterion is not applicable.

5. Use of Care System Providers

The change of ownership of Silver Cross Renal Center - West will have no impact on area in-center hemodialysis facilities. The change of control will not restrict the use of other area health care providers. The DaVita facilities, including the integrated Silver Cross Renal Centers, will have open medical staffs and admit patients pursuant to a non-discriminatory admission policy.

6. Duplication of Services

As set forth throughout this application, the proposed transaction contemplates a change of ownership of Silver Cross Renal Center - West. Total Renal Care, Inc. will acquire substantially all of the assets of the Silver Cross Renal Centers. Because the proposed transaction involves the acquisition of existing in-center hemodialysis facilities, there will be no duplication of services.

7. Services Not Available to the Community

DaVita will continue to provide dialysis services currently provided in the Silver Cross Renal Centers, including in-center hemodialysis, peritoneal dialysis (CAPD and CCPD), and home hemodialysis. No new services are planned for the acquired Silver Cross Renal Centers; however, as new treatment options and technology evolve, DaVita will implement new treatment modalities as warranted.

DaVita Inc. Illinois Facilities

Facility	Address	City	Services	Number of Stations 10/12/2011	Average In-Center Patients	Average Utilization 10/01/2010 to 09/30/2011
Adams County Dialysis	1005 Broadway	Quincy	In-Center Hemo, CAPD	17	46	45.10%
Alton Dialysis	3511 College Avenue	Alton	In-Center Hemo, CAPD	14	58	69.52%
Barrington Creek Dialysis	28160 West Northwest Highway	Lake Barrington	In-Center Hemo	12	0	N/A
Benton Dialysis	1151 West Route #14	Benton	In-Center Hemo, CAPD	13	51	65.64%
Beverly Dialysis	8111 South Western Avenue	Chicago	In-Center Hemo	12	62	86.39%
Big Oaks Dialysis	5623 West Touhy Avenue	Niles	In-Center Hemo	12	11	15.00%
Centralia Dialysis	1231 State Illinois Route 161 E.	Centralia	In-Center Hemo, CAPD	12	50	69.72%
Chicago Heights Dialysis	177 West Joe Orr Road	Chicago Heights	In-Center Hemo	16	78	81.25%
Churchview Dialysis	5970 Churchview Drive	East Rockford	In-Center Hemo, CAPD	24	80	55.83%
Cobblestone Dialysis	934 Center Street	Elgin	In-Center Hemo, CAPD	14	62	74.05%
Crystal Spring Dialysis	4900 South Route 31	Crystal Lake	In-Center Hemo	12	26	35.56%
Decatur East Wood Dialysis	794 East Wood Street	Decatur	In-Center Hemo, CAPD, HHD	16	61	63.13%
Dixon Kidney Center	1131 North Galena Avenue	Dixon	In-Center Hemo	8	25	52.92%
DSI Arlington Heights Renal Center	17 West Golf Road	Arlington Heights	In-Center Hemo	18	60	55.74%
DSI Buffalo Grove Renal Center	1291 W. Dundee Road	Buffalo Grove	In-Center Hemo	16	63	66.04%
DSI Evanston Renal Center	1715 Central Street	Evanston	In-Center Hemo	18	56	51.85%
DSI Hazel Crest Renal Center	3470 West 183rd Street	Hazel Crest	In-Center Hemo	17	89	86.86%
DSI Loop Renal Center	1101 South Canal Street,	Chicago	In-Center Hemo, HHD	28	74	44.17%
DSI Markham Renal Center	3053-3055 West 159th Street	Markham	In-Center Hemo	24	91	63.47%
DSI Schaumburg Renal Center	Town Center, NW Corner	Schaumburg	In-Center Hemo, HHD	14	70	83.10%
DSI South Holland Renal Center	16136 South Park Avenue	South Holland	In-Center Hemo	20	110	91.67%
DSI Waukegan Renal Center	1616 North Grand Avenue	Waukegan	In-Center Hemo, HHD	22	94	71.36%
Edwardsville Dialysis	235 South Buchanan Street	Edwardsville	In-Center Hemo, CAPD	8	22	45.83%
Effingham Dialysis	904 Medical Park Drive, Suite #1	Effingham	In-Center Hemo, CAPD, HHD	16	52	53.96%
Emerald Dialysis	710 W 43rd Street	Chicago	In-Center Hemo, CAPD	24	126	87.78%
Freeport Dialysis Unit	1028 Kunkle Avenue	Freeport	In-Center Hemo	10	55	92.33%
Grand Crossing Dialysis	7319 South Cottage Grove	Chicago		12	0	N/A
Granite City Dialysis Center	9 American Village	Granite City	In-Center Hemo, CAPD	20	71	59.33%
Illini Renal Dialysis	507 E. University Avenue	Champaign	In-Center Hemo, CAPD, HHD	10	39	64.33%
Jacksonville Dialysis	1515 West Walnut	Jacksonville	In-Center Hemo	14	52	62.38%
Kanakee County Dialysis	581 William R. Latham Sr. Drive	Bourbonnais	In-Center Hemo, HHD	12	39	53.61%
Lake County Dialysis Services	918 South Milwaukee Avenue	Libertyville	In-Center Hemo	16	69	72.29%
Lake Park Dialysis	1531 East Hyde Park Boulevard	Chicago	In-Center Hemo, Noct Hemo	20	107	89.00%
Lake Villa	37809 N. Route 59	Lake Villa	In-Center Hemo	12	31	43.33%
Lincoln Dialysis	2100 West 5th Street	Lincoln	In-Center Hemo	14	19	22.86%
Lincoln Park Dialysis	3155-57 N. Lincoln Avenue	Chicago	In-Center Hemo	22	105	79.70%
Litchfield Dialysis	915 St. Francis Way	Litchfield	In-Center Hemo	11	43	65.15%
Little Village Dialysis	2335 W. Cermack Road	Chicago	In-Center Hemo	16	90	93.75%

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Facility	Address	City	Services	Number of Stations 10/12/2011	Average In-Center Patients	Average Utilization 10/01/2010 to 09/30/2011
Logan Square Dialysis	2659 North Milwaukee Ave.	Chicago	In-Center Hemo	20	113	94.17%
Macon County Dialysis	1016 West McKinley Avenue	Decatur	In-Center Hemo	21	80	63.49%
Marion II	324 South 4th Street	Marion	In-Center Hemo, CAPD, HHD	13	54	68.72%
Maryville Dialysis	2130 Vadalaberne Drive	Maryville	In-Center Hemo, CAPD	12	57	79.72%
Mattoon Dialysis	200 Richmond Avenue, East	Mattoon	In-Center Hemo	16	45	47.29%
Metro East Dialysis	5105 West Main Street	Belleville	In-Center Hemo, CAPD, HHD	36	160	74.07%
Montclare Dialysis Center	7009-7011 West Belmont	Chicago	In-Center Hemo	16	83	86.25%
Mount Vernon Dialysis	1800 Jefferson Avenue	Mount Vernon	In-Center Hemo, CAPD, HHD	16	53	55.42%
MT Greenwood Dialysis	3401 W. 111th Street	Chicago	In-Center Hemo	16	78	81.25%
Oliney Dialysis Center	117 North Boone	Oliney	In-Center Hemo	7	19	45.71%
Olympia Fields Dialysis Center	4557-B West Lincoln Highway	Matteson	In-Center Hemo	24	102	70.83%
Palos Park Dialysis	13155 S. LaGrange Road	Orland Park		12	0	N/A
Pittsfield Dialysis	640 West Washington Street	Pittsfield	In-Center Hemo	5	7	22.67%
Robinson Dialysis	1215 North Allen Street	Robinson	In-Center Hemo	8	16	34.17%
Rockford Memorial Hospital	2400 North Rockton Avenue	Rockford	In-Center Hemo	20	103	86.17%
Roxbury Dialysis	612 Roxbury Road	Rockford	In-Center Hemo	16	87	90.42%
Rushville Dialysis	Route 67 & Route 24, RR #1	Rushville	In-Center Hemo	7	23	54.76%
Sauget Dialysis	2061 Goose Lake Road	Sauget	In-Center Hemo, CAPD	16	76	78.75%
Springfield Central Dialysis	932 North Rutledge Street	Springfield	In-Center Hemo, CAPD, HHD	21	93	73.81%
Springfield Central Dialysis	932 North Rutledge Street	Springfield	In-Center Hemo, CAPD, HHD	12	0	0.00%
Springfield Montvale Dialysis	2930 Montvale Drive, Suite A	Springfield	In-Center Hemo	17	78	76.47%
Springfield South Dialysis	2930 South 6th Street	Springfield	In-Center Hemo, CAPD, HHD	7	8	19.05%
Stoncrest Dialysis	1302 East State Street	Rockford	In-Center Hemo, CAPD	10	34	57.00%
Stoney Creek Dialysis	9115 S. Cicero	Oak Lawn	In-Center Hemo	12	67	93.06%

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**Section VIII, Financial Feasibility**  
**Criterion 1120.120 Availability of Funds**

The project will be funded entirely with cash and cash equivalents. A copy of DaVita's 2010 10-K Statement evidencing sufficient internal resources to fund the project was previously submitted with the applications for Project Nos. 11-027 through 11-036.

**Section IX, Financial Feasibility**  
**Criterion 1120.130 – Financial Viability Waiver**

The acquisition of the Silver Cross Renal Centers will be funded entirely with cash and cash equivalents. A copy of DaVita's 2010 10-K Statement evidencing sufficient internal resources to fund the project was previously submitted with the applications for Project Nos. 11-027 through 11-036.

**Section X, Economic Feasibility Review Criteria**  
**Criterion 1120.140(a), Reasonableness of Financing Arrangements**

Attached at Attachment 42-A is a letter from Dennis Kogod, Chief Operating Officer of DaVita, Inc., attesting the total estimated project costs will be funded in total with cash.



1551 Wewatta Street  
Denver, CO 80202  
Tel: (303) 405-2100  
www.davita.com

August 18, 2011


Dale Galassie  
Chair  
Illinois Health Facilities and Services Review Board  
525 West Jefferson Street, 2nd Floor  
Springfield, Illinois 62761

**Re: Reasonableness of Financing Arrangements**

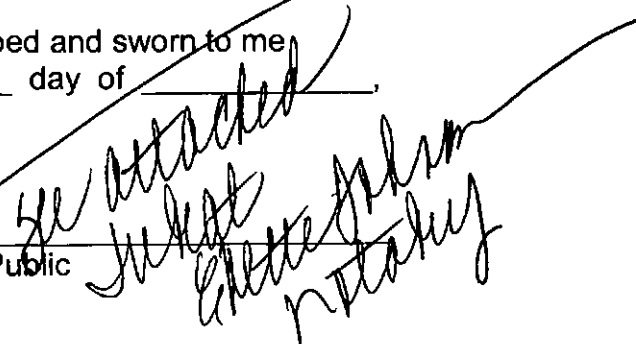
Dear Chairman Galassie:

I hereby certify under penalty of perjury as provided in § 1-109 of the Illinois Code of Civil Procedure, 735 ILCS 5/1-109 and pursuant to 77 Ill. Admin. Code § 1120.140(a) that the total estimated project costs and related costs will be funded in total with cash and cash equivalents.

Sincerely,

  
Dennis Lee Rogod  
Chief Operating Officer  
DaVita Inc.  
Total Renal Care, Inc.

Subscribed and sworn to me  
This \_\_\_ day of \_\_\_\_\_  
2011

  
Notary Public

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Attachment - 42A

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

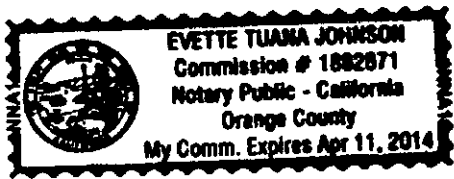
- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

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 6 \_\_\_\_\_

Signature of Document Signer No. 1 \_\_\_\_\_ Signature of Document Signer No. 2 (if any) \_\_\_\_\_

State of California  
 County of LOS ANGELES

Subscribed and sworn to (or affirmed) before me  
 on this 19 day of AUGUST, 2011  
 by \_\_\_\_\_  
 (1) Dennis L. Keady  
 Name of Signer



Place Notary Seal and/or Stamp Above

proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me (.) (.)  
 (and  
 (2) \_\_\_\_\_  
 Name of Signer

proved to me on the basis of satisfactory evidence  
 to be the person who appeared before me.)  
 Signature Evette Tuana Johnson  
 Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Further Description of Any Attached Document**

Title or Type of Document: FINANCING AGREEMENT  
 Document Date: 19 AUGUST 11 Number of Pages: 1  
 Signer(s) Other Than Named Above: NONE

RIGHT THUMBPRINT OF SIGNER #1	RIGHT THUMBPRINT OF SIGNER #2
Top of thumb here	Top of thumb here

**Section X, Economic Feasibility Review Criteria**  
**Criterion 1120.140(b), Conditions of Debt Financing**

The project will be funded entirely with cash. Accordingly, this criterion is not applicable.

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**Section X, Economic Feasibility Review Criteria**  
**Criterion 1120.310(c), Reasonableness of Project and Related Costs**

The Applicants propose a change of ownership of Silver Cross Renal Center - West. The proposed project involves no construction or modernization. Accordingly, this criterion is not applicable.

**Section X, Economic Feasibility Review Criteria**  
**Criterion 1120.310(d), Projected Operating Costs**

Operating Expenses: \$6,120,906

Treatments: 21,632

Operating Expense per Treatment: \$282.96

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**Section X, Economic Feasibility Review Criteria**  
**Criterion 1120.310(e), Total Effect of Project on Capital Costs**

Capital Costs: \$213,500

Treatments: 21,632

Capital Costs per Treatment: \$9.86

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**Section XI, Safety Net Impact Statement**

The Applicants propose a change of ownership of Silver Cross Renal Center - West. A change of ownership constitutes a non-substantive project. Accordingly, this criterion is not applicable.

**Section XII. Charity Care Information**

The table below provides charity care information for all dialysis facilities located in the State of Illinois that are owned or operated by the Applicants.

CHARITY CARE			
	2008	2009	2010
Net Patient Revenue	\$138,964,396	\$149,370,292	\$161,884,078
Amount of Charity Care (charges)	\$321,510	\$597,263	\$957,867
Cost of Charity Care	\$321,510	\$597,263	\$957,867

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After paginating the entire, completed application, indicate in the chart below, the page numbers for the attachments included as part of the project's application for permit:

<b>INDEX OF ATTACHMENTS</b>		
<b>ATTACHMENT NO.</b>		<b>PAGES</b>
1	Applicant/Coapplicant Identification including Certificate of Good Standing	22-24
2	Site Ownership	25-61
3	Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.	62-63
4	Organizational Relationships (Organizational Chart) Certificate of Good Standing Etc.	64-65
5	Flood Plain Requirements	66
6	Historic Preservation Act Requirements	67
7	Project and Sources of Funds Itemization	
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9	Cost Space Requirements	68
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12	Purpose of the Project	86-88
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14	Size of the Project	
15	Project Service Utilization	
16	Unfinished or Shell Space	
17	Assurances for Unfinished/Shell Space	
18	Master Design Project	
19	Mergers, Consolidations and Acquisitions	90-128
	<b>Service Specific:</b>	
20	Medical Surgical Pediatrics, Obstetrics, ICU	
21	Comprehensive Physical Rehabilitation	
22	Acute Mental Illness	
23	Neonatal Intensive Care	
24	Open Heart Surgery	
25	Cardiac Catheterization	
26	In-Center Hemodialysis	
27	Non-Hospital Based Ambulatory Surgery	
28	General Long Term Care	
29	Specialized Long Term Care	
30	Selected Organ Transplantation	
31	Kidney Transplantation	
32	Subacute Care Hospital Model	
33	Post Surgical Recovery Care Center	
34	Children's Community-Based Health Care Center	
35	Community-Based Residential Rehabilitation Center	
36	Long Term Acute Care Hospital	
37	Clinical Service Areas Other than Categories of Service	
38	Freestanding Emergency Center Medical Services	
	<b>Financial and Economic Feasibility:</b>	
39	Availability of Funds	129
40	Financial Waiver	130
41	Financial Viability	
42	Economic Feasibility	131-137
43	Safety Net Impact Statement	138
44	Charity Care Information	139