

**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.**

**Facility/Project Identification**

Facility Name: <u>Hope Creek Nursing &amp; Rehab</u>		
Street Address: <u>4343 Kennedy Drive</u>		
City and Zip Code: <u>East Moline, IL 61244</u>		
County: <u>Rock Island</u>	Health Service Area <u>010</u>	Health Planning Area: <u>161</u>

**Applicant /Co-Applicant Identification**

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

Exact Legal Name: <u>Operator of Quad City Rehab Center, LLC</u>		
Address: <u>c/o Aaron Rokach 4711 Golf Rd. Ste 200 Skokie, IL 60076</u>		
Name of Registered Agent: <u>Vcorp Agent Services, Inc.</u>		
Name of Chief Executive Officer: <u>Michael Rosen</u>		
CEO Address: <u>4711 Golf Rd, Ste 200</u>		
Telephone Number: <u>773-307-8277</u>		

**Type of Ownership of Applicant/Co-Applicant**

<input type="checkbox"/> Non-profit Corporation	<input type="checkbox"/> Partnership	
<input type="checkbox"/> For-profit Corporation	<input type="checkbox"/> Governmental	
<input checked="" type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Other
<ul style="list-style-type: none"> <li>Corporations and limited liability companies must provide an <b>Illinois certificate of good standing</b>.</li> <li>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> </ul>		
<p><b>APPEND DOCUMENTATION AS ATTACHMENT-1 IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.</b></p>		

**Primary Contact**

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

Name: <u>Susan Prizant</u>
Title: <u>Senior Paralegal</u>
Company Name: <u>Gutnicki LLP</u>
Address: <u>4711 Golf Rd, Ste 200</u>
Telephone Number: <u>847-745-6931</u>
E-mail Address: <u>sprizant@gutnicki.com</u>
Fax Number: <u>847-745-6931</u>

**Additional Contact**

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

Name: <u>Aaron Rokach</u>
Title: <u>Legal Representative of Applicant</u>
Company Name: <u>Gutnicki LLP</u>
Address: <u>4711 Golf Rd, Ste 200</u>
Telephone Number: <u>847-933-9280</u>
E-mail Address: <u>arokach@gutnicki.com</u>
Fax Number: <u>847-745-6938</u>

**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.**

**Facility/Project Identification**

Facility Name: <u>Hope Creek Nursing &amp; Rehab</u>		
Street Address: <u>4343 Kennedy Drive</u>		
City and Zip Code: <u>East Moline, IL 61244</u>		
County: <u>Rock Island</u>	Health Service Area <u>010</u>	Health Planning Area: <u>161</u>

**Applicant /Co-Applicant Identification**

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

Exact Legal Name: <u>East Moline Propco LLC</u>
Address: <u>c/o Aaron Rokach 4711 Golf Rd. Ste 200 Skokie, IL 60076</u>
Name of Registered Agent: <u>Vcorp Agent Services, Inc.</u>
Name of Chief Executive Officer: <u>Michael Rosen</u>
CEO Address: <u>4711 Golf Rd, Ste 200</u>
Telephone Number: <u>773-307-8277</u>

**Type of Ownership of Applicant/Co-Applicant**

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

☐ Corporations and limited liability companies must provide an **Illinois certificate of good standing**.  
☐ 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: <u>Susan Prizant</u>
Title: <u>Senior Paralegal</u>
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**Additional Contact**

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Name: <u>Aaron Rokach</u>
Title: <u>Legal Representative of Applicant</u>
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Telephone Number: <u>847-933-9280</u>
E-mail Address: <u>arokach@gutnicki.com</u>
Fax Number: <u>847-745-6938</u>

**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: Trudy Whittington or current Administrator

Title: Facility Administrator

Company Name: Hope Creek Care Center

Address: 4343 Kennedy Drive

Telephone Number: East Moline, IL 61244

E-mail Address: hcadministrator@hopecreekcare.com

Fax Number: 309-796-6601

**Site Ownership**

[Provide this information for each applicable site]

Exact Legal Name of Site Owner: East Moline Propco LLC

Address of Site Owner: 4711 Golf Rd, Ste 200, Skokie, IL 60076

Street Address or Legal Description of Site:

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 ATTACHMENT-2, 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: Operator of Quad City Rehab Center, LLC dba Hope Creek Care Center

Address: 4343 Kennedy Drive, East Moline, IL 61244

- |   |  |                                |
|---|--|--------------------------------|
| <input type="checkbox"/> Non-profit Corporation               | <input type="checkbox"/> Partnership         |                                |
| <input type="checkbox"/> For-profit Corporation               | <input type="checkbox"/> Governmental        |                                |
| <input checked="" 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.
- o **Persons with 5 percent or greater interest in the licensee must be identified with the % of ownership.**

APPEND DOCUMENTATION AS ATTACHMENT-3, 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.

**This project is two separate transactions;**

- 1. a change of licensed operator at a home currently operated by Rock Island County; and**
- 2. a change of site ownership at a site currently owned by The County of Rock Island, Illinois.**

**Both transactions involve the skilled nursing facility currently known as HOPE CREEK CARE CENTER and located at 4343 KENNEDY DRIVE EAST MOLINE IL 61244.**

The project classification is non-substantive as it is limited in scope to the following review criteria as set out in Section 1110.40 b) of the Illinois Administrative Code:

Facility conversion  
(e.g., change of ownership, merger or consolidation),

Sections 1110.230, 1110.240  
and 77 Ill. Adm. Code 1120

**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			0.00
Site Survey and Soil Investigation			0.00
Site Preparation			0.00
Off Site Work			0.00
New Construction Contracts			0.00
Modernization Contracts			0.00
Contingencies			0.00
Architectural/Engineering Fees			0.00
Consulting and Other Fees			0.00
Movable or Other Equipment (not in construction contracts)			0.00
Bond Issuance Expense (project related)			0.00
Net Interest Expense During Construction (project related)			0.00
Fair Market Value of Leased Space or Equipment			<u>To be determined</u>
Other Costs To Be Capitalized			0.00
Acquisition of Building or Other Property (excluding land)			<u>To be determined</u>
<b>TOTAL USES OF FUNDS</b>			<u>To be determined</u>
SOURCE OF FUNDS	CLINICAL	NONCLINICAL	TOTAL
Cash and Securities			<u>To be determined</u>
Pledges			0.00
Gifts and Bequests			0.00
Bond Issues (project related)			0.00
Mortgages			0.00
Leases (fair market value)			<u>To be determined</u>
Governmental Appropriations			0.00
Grants			0.00
Other Funds and Sources			0.00
<b>TOTAL SOURCES OF FUNDS</b>			<u>To be determined</u>
NOTE: ITEMIZATION OF EACH LINE ITEM MUST BE PROVIDED AT ATTACHMENT-7, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.			

**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:

Land acquisition is related to project <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> *Purchase Price: \$ <u>4,000,000</u> Fair Market Value: \$ <u>4,000,000</u> <span style="float: right;"><b>* <u>includes buildings and fixtures</u></b></span>
The project involves the establishment of a new facility or a new category of service <div style="text-align: center;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</div>
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.  Estimated start-up costs and operating deficit cost is \$ _____.

**Project Status and Completion Schedules**

Indicate the stage of the project's architectural drawings:  <div style="display: flex; justify-content: space-around;"> <div> <input checked="" type="checkbox"/> None or not applicable  <input type="checkbox"/> Schematics         </div> <div> <input type="checkbox"/> Preliminary  <input type="checkbox"/> Final Working         </div> </div>
Anticipated project completion date (refer to Part 1130.140): <u>7/1/2020</u>
Indicate the following with respect to project expenditures or to obligation (refer to Part 1130.140):  <div style="list-style-type: none; padding-left: 0;"> <input type="checkbox"/> Purchase orders, leases or contracts pertaining to the project have been executed.  <input 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  <input type="checkbox"/> Project obligation will occur after permit issuance.         </div>
<b>APPEND DOCUMENTATION AS <u>ATTACHMENT-8</u>, IN NUMERIC SEQUENTIAL ORDER AFTER THE LAST PAGE OF THE APPLICATION FORM.</b>

**State Agency Submittals**

Are the following submittals up to date as applicable: <div style="list-style-type: none; padding-left: 0;"> <input type="checkbox"/> Cancer Registry  <input type="checkbox"/> APORS  <input type="checkbox"/> All formal document requests such as IDPH Questionnaires and Annual Bed Reports been submitted  <input checked="" type="checkbox"/> All reports regarding outstanding permits         </div> <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>		124,976	124,976				

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**.

FACILITY NAME: HOPE CREEK CARE CENTER		CITY: East Moline			
REPORTING PERIOD DATES:                      From: 1/1/17                      to: 12/31/17					
Category of Service	Authorized Beds	Admissions	Patient Days	Bed Changes	Proposed Beds
Medical/Surgical					
Obstetrics					
Pediatrics					
Intensive Care					
Comprehensive Physical Rehabilitation					
Acute/Chronic Mental Illness					
Neonatal Intensive Care					
General Long-Term Care	245	207	57576	0	245
Specialized Long-Term Care					
Long Term Acute Care					
Other ((identify)					
TOTALS:	245	207	57576	0	245

**CERTIFICATION**

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

- in the case of a corporation, any two of its officers or members of its Board of Directors;
- 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);
- 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);
- in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of QUAD CITY REHAB CENTER LLC \* 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.

**QUAD CITY REHAB CENTER LLC**

By:   
SIGNATURE

SIGNATURE

Michael Rosen  
PRINTED NAME


PRINTED NAME

**Authorized Signatory**  
PRINTED TITLE

PRINTED TITLE

Notarization:  
Subscribed and sworn to before me  
this 20 day of May, 2020

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

  
Signature of Notary  
Seal **OFFICIAL SEAL**  
**MARY C. McTAGUE**  
Notary Public - State of Illinois  
My Commission Expires 9/17/2022

Signature of Notary

Seal

\*Insert EXACT legal name of the applicant

**CERTIFICATION**

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

- in the case of a corporation, any two of its officers or members of its Board of Directors;
- 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);
- 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);
- in the case of estates and trusts, two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and
- in the case of a sole proprietor, the individual that is the proprietor.

This Application for Permit is filed on the behalf of **EAST MOLINE PROPCO LLC** \*  
 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.

**EAST MOLINE PROPCO LLC****By:**

SIGNATURE

SIGNATURE

*Michael Rosen*

PRINTED NAME

PRINTED NAME

**Authorized Signatory**

PRINTED TITLE

PRINTED TITLE

Notarization:

Subscribed and sworn to before me  
 this 23 day of May, 2020

Notarization:

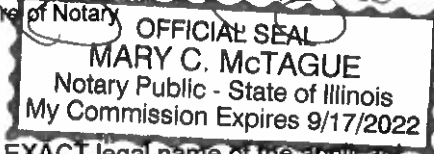
Subscribed and sworn to before me  
 this \_\_\_\_\_ day of \_\_\_\_\_

Signature of Notary

Signature of Notary

Seal

Seal



\*Insert EXACT legal name of the applicant

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:

INDEX OF ATTACHMENTS		
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## Attachment-1

## Good Standing Certificates of Applicant and Co-Applicant

Not applicable – Applicant and Co-Applicant are newly formed entities that will not have the potential to *not* being in good standing until March of 2021 when their first annual report is due. File Detail Report is attached for each.

5/19/2020

Corporation/LLC Search/Certificate of Good Standing



Office of the Secretary of State Jesse White  
**CYBERDRIVEILLINOIS.COM**

APPLICANT

## Corporation/LLC Search/Certificate of Good Standing

### LLC File Detail Report

File Number	07992556
Entity Name	OPERATOR OF QUAD CITY REHAB CENTER, LLC
Status	ACTIVE

#### Entity Information

Principal Office  
4711 GOLF RD., STE 200  
SKOKIE, IL 600760000

Entity Type  
LLC

Type of LLC  
Domestic

Organization/Admission Date  
Monday, 9 March 2020

Jurisdiction  
IL

Duration  
PERPETUAL

#### Agent Information

Name

5/19/2020

Corporation/LLC Search/Certificate of Good Standing

VCORP AGENT SERVICES, INC.

## Address

208 S. LASALLE ST., STE 814  
CHICAGO , IL 60604

## Change Date

Monday, 9 March 2020

**Annual Report**

## For Year

## Filing Date

00/00/0000

**Managers**

## Name

## Address

OPERATOR OF QUAD CITY REHAB CENTER HOLDINGS, LLC  
4711 GOLF RD., STE 200  
SKOKIE, IL 600760000**Series Name**

NOT AUTHORIZED TO ESTABLISH SERIES

[Return to Search](#)[File Annual Report](#)[Adopting Assumed Name](#)[Articles of Amendment Effecting A Name Change](#)[Change of Registered Agent and/or Registered Office](#)

(One Certificate per Transaction)



Office of the Secretary of State Jesse White  
**CYBERDRIVEILLINOIS.COM**

Co-Applicant

## Corporation/LLC Search/Certificate of Good Standing

### LLC File Detail Report

File Number	08234426
Entity Name	EAST MOLINE PROPCO, LLC
Status	ACTIVE

#### Entity Information

Principal Office  
4711 GOLF RD., STE 200  
SKOKIE, IL 600760000

Entity Type  
LLC

Type of LLC  
Domestic

Organization/Admission Date  
Monday, 9 March 2020

Jurisdiction  
IL

Duration  
PERPETUAL

#### Agent Information

Name



5/19/2020

Corporation/LLC Search/Certificate of Good Standing

VCORP AGENT SERVICES, INC.

## Address

208 S. LASALLE ST., STE 814  
CHICAGO , IL 60604

## Change Date

Monday, 9 March 2020

**Annual Report**

## For Year

## Filing Date

00/00/0000

**Managers**

## Name

## Address

EAST MOLINE PROPCO HOLDINGS, LLC "EXIST"  
4711 GOLF RD., STE 200  
SKOKIE, IL 600760000**Series Name**

NOT AUTHORIZED TO ESTABLISH SERIES

[Return to Search](#)[File Annual Report](#)[Adopting Assumed Name](#)[Articles of Amendment Effecting A Name Change](#)[Change of Registered Agent and/or Registered Office](#)

(One Certificate per Transaction)

Attachment-2

Applicant - Lease

Co-Applicant - Asset Purchase Agreement

**LEASE AGREEMENT**

**THIS LEASE AGREEMENT** (the "Lease") is made and entered into this \_\_\_<sup>st</sup> day of \_\_\_\_\_, 2020, by and between East Moline Propco LLC, an Illinois limited liability company (hereinafter referred to as "Lessor"), and Operator of Quad City Rehab LLC, an Illinois limited liability company (hereinafter referred to as "Lessee").

**WITNESSETH:**

**WHEREAS**, Lessor owns certain tracts of land which are improved with a skilled nursing facility, located at 4343 Kennedy Dr., East Moline, IL 61244, as well as any other structures located thereon, all as more particularly described in Exhibit A attached hereto and made a part hereof (hereinafter collectively referred to as the "Demised Premises");

**WHEREAS**, Lessor owns the furnishings, furniture, equipment and fixtures used in or about the Demised Premises (hereinafter collectively referred to as the "Personal Property"); and

**WHEREAS**, Lessor desires to lease the Demised Premises and Personal Property to Lessee and Lessee desires to lease the Demised Premises and Personal Property from Lessor.

**NOW THEREFORE**, in consideration of the above Recitals, which are incorporated herein by this reference, and of the mutual covenants, agreements and undertakings hereinafter set forth, it is agreed that the use and occupancy of the Demised Premises, and the use of the Personal Property shall be subject to and in accordance with the terms, conditions and provisions of this Lease.

**ARTICLE I - DEFINITIONS**

1.1 The terms defined in this Article shall, for all purposes of this Lease and all agreements supplemental hereto, have the meaning herein specified.

(a) "Facility" shall mean the certain facility located at 4343 Kennedy Dr., East Moline, IL 61244, as well as any other structures located on the Demised Premises.

(b) "Mortgage" shall mean the Mortgage (the "Existing Mortgage") described on Schedule 1 attached hereto and made a part hereof, and any amendments, modifications or extensions thereof and any mortgages which in the future may encumber the Demised Premises, provided that any such amendments, modifications or extensions of the Existing Mortgage or new mortgages comply with the terms of this Lease.

(c) "Lender" shall mean the beneficiary under any Mortgage.

(d) All other terms shall be as defined in other sections of this Lease.

## ARTICLE II - DEMISED PREMISES AND PERSONAL PROPERTY

2.1 Lessor, for and in consideration of the rents, covenants and agreements hereinafter reserved, mentioned and contained on the part of the Lessee, its successors and assigns, to be paid, kept and performed, does hereby lease unto Lessee the Demised Premises together with the Personal Property to be used in and upon the Demised Premises for the term hereinafter specified, for use and operation therein and thereon of the Facility, in substantial compliance with all the rules and regulations and minimum standards applicable thereto, as prescribed by the State of Illinois and such other governmental authorities having jurisdiction thereof.

## ARTICLE III - TERM OF LEASE

3.1 The term of this Lease shall commence on \_\_\_\_\_, 2020 (the "Commencement Date"), provided that Lessee shall have a license to operate the skilled nursing care facility located on the Demised Premises, and shall extend for a period of ten (10) years (the "Initial Term"), unless sooner terminated or extended as provided herein.

## ARTICLE IV - RENT

4.1 From and after the date hereof, Lessee shall pay to Lessor, or as Lessor shall direct, without demand, deduction or offset for any reason whatsoever except as herein specifically provided, as fixed monthly base rental (the "Base Rent") for the Demised Premises and the Personal Property over and above all other and additional payments to be made by Lessee as provided in this Lease, an amount equal to Forty Thousand Dollars (\$40,000) per month.

All rental payments, together with all tax and insurance deposits provided for in this Lease, shall be paid in arrears on the first day of each month. Unless otherwise notified in writing, Lessor directs Lessee to deliver all rental payments payable to Lessor, pursuant to payment directions provided by Lessor.

4.2 This Lease is and shall be deemed and construed to be a net-net lease and the Base Rent specified herein shall be net to the Lessor in each year during the term of this Lease. The Lessee shall pay all costs, expenses and obligations of every kind whatsoever relating to the Demised Premises which may arise or become due during the term of this Lease, except for any principal and interest payments due with respect to any Mortgage. Lessee does hereby agree to indemnify, defend and hold harmless the Lessor against any and all such costs, expenses and obligations.

## ARTICLE V- INTENTIONALLY OMITTED

## ARTICLE VI - PAYMENT OF TAXES AND ASSESSMENTS

6.1 Lessee will pay as Additional Rent before any fine, penalty, interest or cost may be added thereto for the nonpayment thereof, all taxes, assessments, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which during the term of this Lease may have been, or may be, assessed, levied, confirmed, imposed upon or become due and payable out of or in respect of, or

become a lien on the Demised Premises and/or Personal Property or any part thereof (hereinafter collectively referred to as "Taxes and Assessments").

6.2 Any Taxes and Assessments relating to a fiscal period of any authority, a part of which is included within the term of this Lease and a part of which is included in a period of time before or after the term of this Lease, shall be adjusted pro rata between Lessor and Lessee as of the commencement and termination of the Lease term and each party shall be responsible for its pro-rata share of any such Taxes and Assessments.

6.3 Nothing herein contained shall require Lessee to pay income taxes assessed against Lessor, or capital levy, franchise, estate, succession or inheritance taxes of Lessor or its beneficiary.

6.4 If permitted by the terms of the Mortgage, Lessee shall have the right to contest the amount or validity, in whole or in part, of any Taxes and Assessments by appropriate proceedings diligently conducted in good faith, but only after payment of such Taxes and Assessments, unless such payment would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, Lessee may postpone or defer such payment only if neither the Demised Premises, nor any part thereof, would by reason of such postponement or deferment be in danger of being forfeited or lost.

6.5 Upon the termination of any such proceedings, Lessee shall pay the amount of such Taxes and Assessments or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties, or other liabilities in connection therewith, and such payment, at Lessee's request, shall be made by Lessor out of the amount deposited with respect to such Taxes and Assessments and accrued interest as aforesaid. In the event such amount is insufficient, then the balance due shall be promptly paid by Lessee.

6.6 Lessor shall not be required to join in any proceedings referred to in this Article, unless the provisions of any law, rule or regulation at the time in effect shall require that such proceedings be brought by and/or in the name of Lessor in which event Lessor shall join in such proceedings or permit the same to be brought in its name. Lessor shall not ultimately be subjected to any liability for the payment of any costs or expenses in connection with any such proceedings, and Lessee will indemnify, defend and save harmless Lessor from any such costs and expenses, including, without limitation, reasonable attorneys' fees, as a result of such proceedings. Lessee shall be entitled to any refund of any real estate taxes and penalties or interest thereon received by Lessor but previously reimbursed in full by Lessee.

6.7 In the event that Lessor determines in its reasonable judgment that it is not being adequately represented by Lessee's counsel in any proceedings referred to in this Article, Lessor may upon ten (10) days' prior written notice to Lessee, obtain separate counsel to represent it in such action. In such event, the cost of such counsel shall be paid by Lessor.

6.8 If any income, profits or revenue tax shall be levied, assessed or imposed upon the income, profits or revenue arising from the Rent payable hereunder, partially or totally in lieu of

or as a substitute for real estate taxes imposed upon the Demised Premises or Personal Property, then Lessee shall be responsible for the payment of such tax.

#### ARTICLE VII - INTENTIONALLY OMITTED

#### ARTICLE VIII - OCCUPANCY

8.1 During the term of this Lease, the Demised Premises shall be used and occupied by Lessee for and as a skilled nursing facility, as well as any other structures located thereon, and for no other purpose. Subject to the terms of Article XX hereof, Lessee shall at all times maintain in good standing and full force a probationary or non-probationary license issued by the State of Illinois and any other governmental agencies permitting the operation on the Demised Premises of a residential care or independent living unit facility and shall use its best efforts to obtain a certificate to participate in the Illinois Medicaid Program as soon as practicable after the Commencement Date. Thereafter, subject to the terms of Article XX hereof, Lessee shall at all times maintain in good standing and full force a provider agreement pursuant to which the Facility shall be entitled to participate in the Illinois Medicaid Program and receive reimbursement for the services provided at the Facility.

8.2 Lessee will not suffer any act to be done or any condition to exist at the Facility which may be dangerous or which may, in law, constitute a public or private nuisance or which may void or make voidable any insurance then in force affecting the Facility.

8.3 Upon termination of this Lease for any reason, Lessee will return to Lessor the Demised Premises in the same condition as existed on the Commencement Date, reasonable wear and tear excepted, and with an unrestricted license issued by the State of Illinois and by any and all governmental agencies having jurisdiction over the Demised Premises, subject to any change in the number of beds required by any governmental authority solely as a result of changes in laws, rules and regulations relating to the physical attributes or the improvements on the Demised Premises. Except as otherwise specifically provided herein, no reduction in the number of beds shall entitle Lessee to any reduction or adjustment of the Rent payable hereunder, which shall be and continue to be payable by Lessee in the full amount set forth herein notwithstanding any such reduction in the number of beds. Lessee shall, within five (5) business days following its receipt thereof, provide Lessor with a copy of any notice from the Illinois Department of Public Health or any federal, state or municipal governmental agency or authority regarding any reduction in the number of beds and Lessor shall have the right to contest, by appropriate legal or administrative proceedings, any such reduction.

8.4 During the term hereof, Lessee shall only use the Demised Premises in accordance with Environmental Laws (as hereinafter defined) and shall not use nor permit the Demised Premises to be used for the treatment, storage or disposal of any Hazardous Substances (as hereinafter defined) nor for any purpose involving the use of Hazardous Substances; provided, however, that Lessee may use in and store at the Facility such materials and substances as are customarily used in residential care facilities but only in such quantities as are reasonably necessary for the routine business operation of the Facility and such use and storage must in all cases comply with all applicable Environmental Laws. For purposes hereof "Hazardous

Substances” shall mean any toxic or hazardous waste or pollutants, or substances, including, without limitation, asbestos, PCB’S, petroleum products and by products, substances defined or listed as: “Hazardous Substances” or “Toxic Substances” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”) as amended, 42 U.S.C. § 9601, et seq., “Hazardous Materials” in the Hazardous Materials Transportation Act, 49 U.S.C. § 1802, et seq., “Hazardous Waste” in The Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., any chemical substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. § 2061, et seq., any “Toxic Pollutant” under the Clean Water Act, 33 U.S.C. § 1251, et seq., as amended, any “Hazardous Air Pollutant” under the Clean Air Act, 42 U.S.C. § 7401, et seq., and any hazardous or toxic substance or pollutant regulated under any other applicable federal, state or local Environmental Laws. “Environmental Laws” as used in this Lease means all federal, state and local environmental, health, or safety laws or regulations now or hereafter enacted applicable to the Demised Premises, including the Facility. Lessee hereby agrees to indemnify, defend and hold Lessor harmless from and against, and shall reimburse Lessor for any and all loss, claim, liability, damages, injunctive relief, injuries to persons, property or natural resources, cost, expense, action and causes of action in connection with the use, generation, treatment, storage, release or disposal of Hazardous Substances at or from the Demised Premises during the term of the Lease, which is caused by Lessee or its officers, directors, members, manager, agents, employees, contractors or invitees, including, without limitation, the cost of any required or necessary repair, cleanup or detoxification and the preparation of any closure or other required work to be performed, to the full extent that such action is attributable, directly or indirectly, to the use, generation, treatment, storage, release or disposal of Hazardous Substances on the Demised Premises during the term hereof.

#### ARTICLE IX - INSURANCE

9.1 Lessee shall, at its sole cost and expense, during the full term of this Lease, maintain fire and casualty insurance, with extended coverage endorsement, which includes coverage for malicious mischief and vandalism both on the Demised Premises and the Personal Property on the Illinois standard form with a responsible company or companies designated by Lessee. Such insurance shall, at all times, be maintained in an amount equal to the full replacement value of the Demised Premises and Personal Property, but not less than that required by any Lender, but in any event in an amount sufficient to prevent Lessor and Lessee from becoming co-insurers under applicable provisions of the insurance policies. Such insurance shall at all times be payable to Lessor and Lessee, as their interests may appear, and, if requested by Lessor, shall contain a loss-payable clause to Lender, as its interest may appear. Upon the reasonable request of Lessor, not more frequently than such time as required by Lessee’s insurance carrier or the Lender, Lessee shall furnish, at its sole cost and expense, to Lessor and such insurance carrier, insurance appraisals in form and substance as are regularly and ordinarily made by insurance companies, in order to determine the then replacement value of the Demised Premises and Personal Property, and if such appraisal shows that the amount of casualty insurance maintained by Lessee hereunder is insufficient, the amount of insurance required by this Section 9.1 shall be adjusted accordingly.

9.2 Lessee shall also, at Lessee’s sole cost and expense, cause to be issued and shall maintain during the entire term of this Lease:

(a) A public liability policy naming Lessor, Lender and Lessee, as insured, and insuring them against claims for bodily injury, or property damage occurring upon, in or about the Demised Premises, or in or upon the adjoining streets, sidewalks, passageways and areas, such insurance to afford protection to the limits reasonably established by Lessee in the operation of its business. Such public liability insurance may be self-insured by Lessee in accordance with its standard self insurance program.

(b) If there is a boiler, air conditioner or water heater located on the Demised Premises, boiler explosion insurance, in the amount of \$500,000.00, under the terms of which Lessor, Lender and Lessee will be indemnified, as their interests may appear, against any loss or damage which may result from any accident or casualty in connection with any such equipment used in the Demised Premises, whereby any person or persons may be injured or killed or property damaged in or about the Demised Premises.

(c) Professional malpractice insurance in the amount reasonably established by Lessee in the operations of its business (provided, however, Lessee shall not be required to include independent contractors under its insurance coverage).

9.3 All policies of insurance shall provide:

(a) They are carried in favor of the Lessor, Lessee, and any Lender, as their respective interests may appear, and any loss shall be payable as therein provided, notwithstanding any act or negligence of Lessor or Lessee, which might otherwise result in forfeiture of insurance; and

(b) They shall not be canceled, terminated, reduced or materially modified without at least thirty (30) days' prior written notice to Lessor; and

(c) A standard mortgagee and loss payee clause in favor of any Lender, and shall contain, if obtainable, a waiver of the insurer's right of subrogation against funds paid under the standard mortgagee and loss payee endorsement which are to be used to pay the cost of any repairing, rebuilding, restoring or replacing.

9.4 Certificates of insurance policies required by this Article shall be delivered to Lessor prior to or on the Commencement Date. Upon receipt thereof, Lessee shall deliver the actual policies to Lessor, which certificates and policies shall be updated annually not less than twenty (20) days prior to the expiration date thereof.

9.5 Anything in this Lease to the contrary notwithstanding, Lessee hereby waives and releases Lessor from any and all rights of recovery, claim, action or cause of action, against Lessor, its shareholders, managers, members, partners, agents, officers and employees, for any loss or damage that may occur to the Demised Premises or the Personal Property, which should be covered by property insurance of the type required to be carried by Lessee under this Lease (with Lessee also being responsible and, waiving all claims against Lessor, as to all deductible amounts which the Lessee chooses to maintain under its property insurance policies and as to any damages or losses relating to risks which Lessee elects to self-insure hereunder), regardless of cause or origin, including negligence of Lessor and its shareholders, managers, members, partners, agents, officers



and employees. Lessee agrees to give immediately to its insurance companies which have issued policies of insurance covering any risk of direct physical loss, written notice of the terms of the waivers contained in this Section 9.5, and to have the insurance policies properly endorsed with a waiver of subrogation endorsement running to the benefit of Lessor. Lessee acknowledges that the waivers and releases set forth in this Section 9.5 are intended to result in any loss or damage which is covered by insurance being borne by the insurance carrier of Lessee, or by Lessee if such loss is not covered by insurance and this Lease required Lessee to maintain insurance to cover such loss or if Lessee elects to self-insure if this Lease permits such party to self-insure such loss. Lessee agrees that such waivers and releases were freely bargained for and willingly and voluntarily agreed to by Lessee and do not constitute a violation of public policy.

#### ARTICLE X - LESSOR'S RIGHT TO PERFORM

10.1 Should Lessee fail to perform any of its covenants (excluding, however, for purposes of this paragraph Lessee's covenant to pay rent) herein agreed to be performed, Lessor may, upon ten (10) days' prior notice specifying the work to be done, covenants to be performed and the approximate amount to be expended, but shall not be required to, make such payment or perform such covenants, and all sums so expended by Lessor thereon shall upon notice of payment by Lessor be immediately payable by Lessee to Lessor, and in addition, Lessee shall reimburse Lessor for Lessor's reasonable expenses in enforcing or performing such covenants, including reasonable attorneys' fees. Any such costs or expenses incurred or payments made by the Lessor shall be deemed to be Additional Rent payable by Lessee and collectible as such by Lessor.

10.2 Performance of and/or payment to discharge said Lessee's obligations shall be optional with Lessor and such performance and payment shall in no way constitute a waiver of, or a limitation upon, Lessor's other rights and remedies hereunder, including, without limitation, Lessor's right to declare an Event of Default for such failure.

#### ARTICLE XI - REPAIRS, MAINTENANCE AND IMPROVEMENTS

11.1 Throughout the term of this Lease, Lessee, at its sole cost and expense, will keep and maintain, or cause to be kept and maintained, the Demised Premises (including the grounds, sidewalks and curbs abutting the same) and the Personal Property in good order and condition without waste and in a suitable state of repair at least comparable to that which existed immediately prior to the Commencement Date (ordinary wear and tear excepted), and will make or cause to be made, as and when the same shall become necessary, all structural and nonstructural, exterior and interior, replacing, repairing and restoring necessary to that end. All replacing, repairing and restoring required of Lessee shall be (in the reasonable opinion of Lessor) of comparable quality equal to the original work and shall be in compliance with all standards and requirements of law, licenses and municipal ordinances necessary to operate the Demised Premises as a residential care facility.

11.2 In the event that any part of the improvements located on the Demised Premises or the Personal Property shall be damaged or destroyed by fire or other casualty (any such event being called a "Casualty"), Lessee shall promptly replace, repair and restore the same as nearly as possible to the condition it was in immediately prior to such Casualty, in accordance with all the

terms, covenants and conditions and other requirements of this Lease and any Mortgage applicable in the event of such Casualty. The Demised Premises and the Personal Property shall be so replaced, repaired and restored as to be of at least equal value and substantially the same character as on the Commencement Date. Lessee covenants that it will give to Lessor prompt written notice of any Casualty affecting the Demised Premises in excess of One Hundred Thousand Dollars (\$100,000.00). If the estimated cost of any such restoring, replacing or repairing is Two Hundred Fifty Thousand Dollars (\$250,000.00) or more, the plans and specifications for same shall be first submitted to and approved by Lessor in writing, which approval shall not be unreasonably withheld or delayed, and Lessee shall select an independent architect or engineer approved by Lessor (which approval shall not be unreasonably withheld or delayed) who shall be in charge of such repairing, restoring or replacing. Provided that there is no uncured Event of Default by Lessee under the Lease, Lessee shall have the right, at any time and from time to time, to remove and dispose of any Personal Property which may have become obsolete or unfit for use, or which is no longer useful in the operation of the Demised Premises, provided Lessee promptly replaces any such Personal Property so removed or disposed of with other personal property free of any security interest, liens or encumbrances, and the replacement personal property shall be of the same character, and at least equal usefulness and quality to any such Personal Property so removed or disposed of and such replacement property shall automatically become the property of and shall belong to the Lessor and Lessee shall execute and deliver such bills of sale or other documents reasonably requested by Lessor to vest ownership of such replacement personal property in Lessor.

#### ARTICLE XII - ALTERATIONS AND DEMOLITION

Lessee will not remove or demolish the Demised Premises or any portion thereof or allow it to be removed or demolished, without the prior written consent of the Lessor. Lessee further agrees that it will not make, authorize or permit to be made any changes or alterations in or to the Demised Premises, the cost of which in any twelve (12) month period exceeds One Hundred Thousand Dollars (\$100,000.00), without first obtaining the Lessor's written consent thereto which will not be unreasonably withheld or delayed. All alterations, improvements and additions to the Demised Premises shall be in quality and class at least equal to the original work and shall become the property of the Lessor and shall comply with all building and fire codes, and all other applicable codes, rules, regulations, laws and ordinances. Not less than forty-five days prior to the commencement of any such changes or alterations, the cost of which in any twelve (12) month period may exceed Two Hundred Fifty Thousand Dollars (\$250,000.00), Lessee shall furnish to Lessor, at Lessee's sole cost and expense, plans and specifications, prepared by a licensed architect, for such changes or alterations and any additional insurance reasonably required by Lessor. Such plans and drawings shall include detailed architectural, mechanical, electrical and plumbing working drawings. The plans and drawings will be subject to Lessor's approval with respect to design, aesthetics, building code compliance and such other matters as Lessor deems relevant, which approval shall not unreasonably be withheld or delayed.

#### ARTICLE XIII - COMPLIANCE WITH LAWS AND ORDINANCES

13.1 Throughout the term of this Lease, Lessee, at its sole cost and expense, will obey, observe and promptly comply with all present and future laws, ordinances, orders, rules, regulations and requirements of any federal, state and municipal governmental agency or authority

having jurisdiction over the Facility and the operation of the Facility as a residential care facility, which may be applicable to the Personal Property and the residential care facility located thereon and including, but not limited to, the sidewalks, alleyways, passageways, vacant land, parking spaces, curb cuts, curbs adjoining such portion of the Demised Premises, whether or not such law, ordinance, order, rules, regulation or requirement shall necessitate structural changes or improvements.

13.2 Lessee shall likewise observe and comply with the requirements of all policies of public liability and fire insurance and all other policies of insurance at any time in force with respect to any portion of the Demised Premises.

13.3 Lessee shall, subject to the terms of Article XX hereof, keep in good standing and in full force and effect all necessary licenses, permits and certifications required by any governmental authority for the purpose of maintaining and operating on the Demised Premises a residential care or independent living unit facility. Lessee shall use its best efforts to obtain a certificate to participate in the Illinois Medicaid Program as soon as practicable after the Commencement Date. Thereafter, subject to the terms of Article XX hereof, Lessee shall at all times continue to be qualified to, and shall participate in, the Illinois Medicaid Program.

13.4 Upon request of Lessor, Lessee will deliver or mail to Lessor wherever Rent is then paid, within seven (7) calendar days of receipt thereof, copies of all exit interviews, inspection reports and surveys which may have an adverse affect on the Facility's licensure status and/or the Indian Medicaid Program certification, and administrative hearing and/or court action from all state, federal and local governmental bodies regarding the Demised Premises or the Facility operated thereon. Without request, Lessee shall in all events notify a principal of Lessor, or if Lessor's principals are unavailable, Lessor's attorney, within seven (7) calendar days after receipt thereof by the licensee of the Facility ("Licensee") of any and/or all of the following notices ("Notices") from any Governmental Authority: (i) any and all Notices of intent to impose and/or Notice of "immediate jeopardy" and/or of "Substandard Quality of Care" (as defined by federal regulations, *i.e.*, deficiencies under 42 CFR 483.13 or 483.25 with scope and severity levels of F, G, H, I, J, K or L) or any state equivalent Notices; (ii) any and all Notices or receipts of a conditional license; (iii) any and all Notices of intent to and/or Notice of revocation, termination, cancellation, surrender and/or of non-renewal of any license; (iv) any and all Notices of conditional certification and/or intent to conditionally certify Licensee; (v) any and all Notices of intent to terminate and/or Notice of Licensee's termination of participation in the Illinois Medicaid Program; (vi) any and all Notices of intent to decertify and/or Notices of decertification of Licensee's participation in the Illinois Medicaid Program and/or the termination of any payments thereunder; (vii) any and all Notices of intent to impose and/or the imposition of any Civil Monetary Penalty, and/or any fine in excess of \$25,000.00 in the aggregate for any survey cycle; (viii) any and all Notices of intent to cease payment after a certain date for any new Illinois Medicaid Program residents admitted after said date; (ix) any and all Notices of intent to place, and/or the placement of, a State Monitor in the Facility; and/or (x) any and all Notices to transfer and/or of intent to transfer any and/or all Indian Medicaid residents on and/or after a certain date.

#### ARTICLE XIV - DISCHARGE OF LIENS

14.1 Subject to the right to contest provided in Section 14.2 hereof, Lessee will not create or permit to be created or to remain, and Lessee will discharge, any lien, encumbrance or charge levied on account of any mechanic's, laborer's or materialman's lien or any conditional sale, security agreement or chattel mortgage, or otherwise, which might be or become a lien, encumbrance or charge upon the Demised Premises or any part thereof or the income therefrom or the Personal Property, for work or materials or personal property furnished or supplied to, or claimed to have been supplied to or at the request of Lessee. Lessee shall have the right to purchase equipment, furniture, or furnishings which may be subject to a security agreement provided that the stockholders, partners or members, as applicable, of Lessee shall personally guarantee to Lessor that all payments for any such equipment, furniture or furnishings shall be paid on or prior to the due dates thereof and indemnify Lessor against all charges, costs and expenses that may be incurred by Lessor with respect to such security agreement or chattel mortgage. Lessee hereby agrees to obtain and deliver to Lessor such guaranty and indemnity agreement.

14.2 If any mechanic's, laborer's or materialman's lien caused or charged to Lessee shall at any time be filed against any portion of the Demised Premises or Personal Property, if allowed by the terms of the Mortgage, and the applicable Lender, Lessee shall have the right to contest such lien or charge.

14.3 In the event that Lessor determines in its reasonable judgment, that it is not being adequately represented by counsel for Lessee in any contest referred to in Section 14.2 hereof, such party may, upon (10) days prior written notice to Lessee, obtain separate counsel to represent it in such contest. In such event, the cost of such counsel shall be paid by Lessee. In the event that Lessor determines, in its reasonable judgment, that Lessee has abandoned any contest referred to in Section 14.2 above, and/ or that Lessee is not pursuing any such contest with due diligence, then such party may, upon (10) days' prior written notice to Lessee, discharge such lien by paying the amount claimed to be due from the security deposited by Lessee pursuant to the terms of Section 14.2.

#### ARTICLE XV - INSPECTION OF PREMISES AND RECORDS BY LESSOR

15.1 At any time, during reasonable business hours, Lessor and/or its authorized representatives shall have the right to enter and inspect the Demised Premises and Personal Property.

15.2 At any time, during reasonable business hours, Lessor and/or its authorized representatives shall have the right to inspect, and, at Lessor's expense, make copies of, the books and records relating to the Demised Premises, or any part thereof, including, without limitation, to the extent permitted by applicable law all patient records, employment records, surveys and inspections reasonably required by Lessor.

15.3 Lessor agrees that upon entering and inspecting the Demised Premises, Personal Property and books and records Lessor shall take all reasonable measures to avoid disruption to Lessee's routine business operation during any such entries and the person or persons will cause

as little inconvenience to the Lessee, its employees and residents of the Demised Premises as may reasonably be possible under the circumstances.

#### ARTICLE XVI - CONDEMNATION

16.1 If all of the Demised Premises is taken by the exercise of the power of eminent domain, or sold under eminent domain proceedings, this Lease shall terminate as of the date possession is taken by the condemnor.

16.2 If less than all of the Demised Premises are taken by the exercise of the power of eminent domain or sold under eminent domain proceedings and Lessee reasonably believes that, in light of such exercise of eminent domain or sale pursuant to eminent domain proceedings, it can no longer operate the Facility in materially the same manner as prior to the exercise of eminent domain and such belief is consistent with reasonable business practices, then Lessee may either (a) terminate the Lease or, (b) subject to the consent and approval of Lessor and any Lender, shall, with reasonable diligence, restore or rebuild to the extent reasonably practicable any improvements upon the Demised Premises affected by the taking. In the event the amount awarded shall be insufficient to repair and restore the Demised Premises Lessee shall contribute the amount of any such deficiency. In the event that the number of beds is reduced or increased, even after the Demised Premises are restored under this Section, the Base Rent provided herein shall be proportionately increased (but only with respect to this paragraph) or decreased, as applicable, proportionately based upon the amount of such reduction or increase.

#### ARTICLE XVII - RENT ABSOLUTE

17.1 Except as herein provided damage to or destruction of any portion of the buildings, structures and fixtures upon the Demised Premises, by fire, the elements or any other cause whatsoever, whether with or without fault on the part of Lessee, shall not terminate this Lease or entitle Lessee to surrender the Demised Premises or entitle Lessee to any abatement of or reduction in the Rent payable, or otherwise affect the respective obligations of the parties hereto, any present or future law to the contrary notwithstanding.

#### ARTICLE XVIII - ASSIGNMENT AND SUBLETTING

18.1 During the term of the Lease, Lessee shall not assign this Lease or in any manner whatsoever sublet, assign, encumber or transfer all or any part of the Demised Premises or in any manner whatsoever transfer, assign or encumber any interest in the Demised Premises or any interest in this Lease (hereinafter collectively an "Assignment") without the prior written consent of the Lessor, which consent may be withheld, in such party's sole discretion. As a condition of granting its consent to any sublease or assignment, Lessee shall pay, and Lessee hereby agrees to pay, any and all reasonable out of pocket third-party costs and expenses of Lessor incurred in connection with such sublease or assignment, including, without limitation, all due diligence costs and attorneys' fees.

18.2 For purposes of this Article:

(1) Any person, corporation, limited liability company or other entity to whom Lessee's interest under this Lease passes by operation of law, or otherwise, shall be bound by the provisions of this Article, and except as otherwise specifically provided above, obtain the consent of Lessor to any subsequent sublease, assignment, encumbrance and/or transfer or such event shall be deemed an Event of Default hereunder.

(2) An agreement by any person, corporation or other entity, directly or indirectly, to assume Lessee's obligations under this Lease shall be deemed an assignment.

#### ARTICLE XIX - EVENTS OF DEFAULT

19.1 The occurrence of any of the following acts or events shall be deemed to be a default ("Events of Default") on the part of the Lessee:

(1) The failure of Lessee to pay when due any Rent payment, or any part thereof, or any other sum or sums of money due or payable to the Lessor under the provisions of this Lease when such failure shall continue for a period of ten (10) calendar days after written notice from Lessor to Lessee;

(2) The failure of Lessee to perform, or the violation by Lessee of, any of the covenants, terms, conditions or provisions of this Lease, if such failure or violation shall not be cured within thirty (30) days after written notice thereof by Lessor to Lessee;

(3) The failure of Lessee to comply with, or the violation by Lessee of, any of the terms, conditions or provisions of any Mortgage relating to the Demised Premises (except for those terms, conditions or provisions requiring the making of principal and/or interest payments or which relate specifically to Lessor, and/or its beneficiaries or stockholders), if such failure or violation shall not be cured within twenty (20) days (or such lesser period as may be provided in the Mortgage) after notice thereof by Lessor to Lessee;

(4) In the event Lessee removes a substantial portion of the Personal Property at the Facility or Lessee removes Personal Property necessary to the operation of the Facility, the failure of Lessee to replace within thirty (30) days after written notice by Lessor to Lessee, the Personal Property so removed by Lessee subject to the provisions of Section 30.1(c) hereof;

(5) The making by Lessee of an assignment for the benefit of creditors;

(6) The levying of a writ of execution or attachment on or against the property of Lessee which is not discharged or stayed by action of Lessee contesting same, within thirty (30) days after such levy or attachment (provided if the stay is vacated or ended, this paragraph shall again apply);

(7) If proceedings are instituted in a court of competent jurisdiction for the reorganization, liquidation or involuntary dissolution of the Lessee or for its adjudication as a bankrupt or insolvent, or for the appointment of a receiver of the property of Lessee, and said proceedings are not dismissed and any receiver, trustee or liquidator appointed therein discharged within sixty (60) days after the institution of said proceedings;

(8) The sale of the interest of Lessee in the Demised Premises under execution or other legal process;

(9) Any conveyance or transfer in violation of Article XVIII hereof;

(10) The abandonment of the Demised Premises by Lessee;

(11) Subject to Lessee's right to contest as provided in Article XX hereof, the failure or the part of Lessee during the term of this Lease to cure or abate any written violation claimed by any governmental authority, of any law, order, ordinance, rule or regulation pertaining to the operation of the Facility within the time permitted for such cure and/or abatement;

(12) Subject to Lessee's right to contest as provided in Article XX hereof, the institution of any proceedings against Lessee by any governmental authority either to: (i) revoke any license granted to Lessee for the operation of the Facility as a residential care facility or requiring Lessee to cease operating its business; or (ii) decertify the Facility from participation in the Illinois Medicaid Program; or

(13) The failure of Lessee to comply with the terms of any insurance policy affecting the Demised Premises and required hereunder within the time provided in such policy to cure such non-compliance prior to cancellation thereof; provided, however, that Lessee shall not be in default hereunder if prior to the cancellation of such policy of insurance Lessee obtains a replacement thereof.

The occurrence of any of the events listed in this Article 19 by any party to whom the Demised Premises has been transferred shall be an Event of Default hereunder.

#### ARTICLE XX - RIGHT TO CONTEST/CURE

20.1 Anything to the contrary stated herein notwithstanding, Lessee shall have the right to contest by appropriate administrative and/or legal proceedings, diligently conducted in good faith, the validity or application of any law, ordinance, regulation or rule mentioned herein, and to delay compliance therewith pending the prosecution of such proceedings, including, without limitation, any proceeding pursuant to paragraphs 19.1(11) and/or 19.1(12) above. In the event such contest involves a violation, the decertification or license revocation from the Illinois Medicaid Program shall give Lessor written notice of its election to contest. Notwithstanding anything to the contrary contained herein, Lessee shall not be in default hereunder provided that: (1) no civil or criminal liability would thereby be incurred by Lessor and no lien or charge would thereby be imposed upon or satisfied out of the Demised Premises; (ii) there continues during the course of such contest authority to continue operations of the Facility as a residential care facility (which may be temporary or provisional); and (iii) such situation does not cause Lessor to be in default pursuant to the terms of any Mortgage.

20.2 Except for an Event of Default of Lessee in the payment of Rent or any other payment required hereunder, in any case where Lessor shall have given to Lessee a written notice specifying a situation which, as hereinbefore provided, must be remedied by Lessee within a certain time period, and, if for causes beyond Lessee's control, it would not reasonably be possible

for Lessee to remedy such situation within such period, then, provided Lessee, immediately upon receipt of such notice, shall advise Lessor in writing of Lessee's intention to institute, and shall, as soon as reasonably possible thereafter, duly institute, and thereafter diligently prosecute to completion, all steps necessary to remedy such situation and shall remedy the same, during the period necessary to remedy such situation, notwithstanding anything to the contrary contained herein, although such situation shall be deemed an Event of Default hereunder, Lessor shall not pursue and shall not be entitled to pursue any remedies arising solely from the occurrence of such Event of Default hereunder, provided, however, that: (i) no civil or criminal liability would thereby be incurred by Lessor and no lien or charge would thereby be imposed upon or satisfied out of all or any part of the Demised Premises; and (ii) there continues during such remedy authority to continue to operate the Facility as a residential care facility (which may be temporary or provisional), and (iii) such situation does not cause Lessor to be in default pursuant to the terms of any Mortgage.

20.3 Lessee shall promptly provide Lessor with a copy of any notice from the Illinois Department of Public Health or other governmental authority or agency threatening or requesting a reduction in the number of beds at the Facility. Lessee shall have the right to contest any such reduction and shall notify Lessor within fifteen (15) days following the date of such notice (or shorter period required to provide notice to Lessor not later than ten (10) days prior to the cutoff date for any such contest) whether or not Lessee shall undertake such contest. If Lessee fails to contest any such reduction, Lessor may, following written notice to Lessee of its intent to do so, contest any such reduction. Any such contest shall be conducted by counsel reasonably satisfactory to the other party and the cost of such contest shall be paid by Lessee.

#### ARTICLE XXI - LESSOR'S REMEDIES UPON DEFAULT

21.1 In the event of any Event of Default by Lessee, Lessor may, if it so elects, and with notice of such election to Lessee, and upon demand upon Lessee, forthwith terminate this Lease and Lessee's right to possession of the Demised Premises, or, at the option of the Lessor, terminate Lessee's right to possession of the Demised Premises without terminating this Lease. Upon any such termination of this Lease, or upon any such termination of Lessee's right to possession without termination of this Lease, Lessee shall vacate the Demised Premises immediately, and shall quietly and peaceably deliver possession thereof to the Lessor, and Lessee hereby grants to the Lessor full and free license to enter into and upon the Demised Premises in such event with process of law and to repossess the Demised Premises and Personal Property as the Lessor's former estate. In the event of any such termination of this Lease, the Lessor shall again have possession and enjoyment of the Demised Premises and Personal Property to the extent as if this Lease had not been made, and thereupon this Lease and everything herein contained on the part of Lessee to be done and performed shall cease and terminate, all, however, without prejudice to and without relinquishing the rights of the Lessor to Rent (which, upon such termination of this Lease and entry of Lessor upon the Demised Premises, shall, in any event, be the right to receive Rent due up to the time of such entry) or any other right given to the Lessor hereunder or by operation of law.

21.2 In the event of an Event of Default and Lessor elects either to terminate this Lease or to terminate Lessee's right to possession of the Demised Premises, then all licenses, certifications, permits and authorizations issued by any governmental agency, body or authority in



connection with or relating to the Demised Premises and the Facility thereon shall be deemed as being assigned to Lessor to the extent the same are legally assignable. Lessor shall also have the right to continue to utilize the telephone number and name used by Lessee in connection with the operation of the Facility. This Lease shall be deemed and construed as an assignment for purposes of vesting in Lessor all right, title and interest in and to (i) all licenses, certifications, permits and authorizations obtained in connection with the operation of the Facility and (ii) the names and telephone numbers used in connection with the operation of the Facility. Lessee hereby agrees to take such other action and execute such other documents as may be reasonably necessary in order to vest in Lessor all right, title and interest to the items specified herein.

21.3 If Lessee abandons the Demised Premises or otherwise entitles Lessor so to elect, and the Lessor elects to terminate Lessee's right to possession only, without terminating this Lease, Lessor may, at its option, enter into the Demised Premises, remove Lessee's signs and other evidences of tenancy and take and hold possession thereof as in the foregoing Section 21.1 of this Article provided, without such entry and possession terminating this Lease or releasing Lessee, in whole or in part, from Lessee's obligation to pay the Rent hereunder for the full remaining term of this Lease, and in any such case, Lessee shall pay to Lessor a sum equal to the entire amount of the Rent reserved hereunder and required to be paid by Lessee up to the time of such termination of the right of possession plus any other sums then due hereunder. Upon and after entry into possession without termination of this Lease, Lessor may attempt to relet the Demised Premises or any part thereof for the account of Lessee for such rent, or may operate the Facility for such time and upon such terms as Lessor in its sole discretion shall determine. In the event Lessor elects to take possession and operate the Demised Premises any profits due to such operation shall reduce the rents payable hereunder. In any such case, Lessor may make repairs, alterations and additions in or to the Demised Premises, to the extent reasonably deemed by Lessor desirable, and Lessee shall, upon demand, pay the cost thereof, together with Lessor's expenses of reletting. If the consideration collected by Lessor upon any such reletting is not sufficient to pay monthly the full amount of Rent reserved in this Lease, together with the costs of repairs, alterations and additions and Lessor's expenses, Lessee shall pay to the Lessor the amount of each monthly deficiency upon demand.

21.4 Lessee's liability to Lessor for damages upon the occurrence of an Event of Default shall in all events survive the termination by Lessor of the Lease or the termination by Lessor of Lessee's right to possession only, as hereinabove provided. Upon such termination of the Lease or at any time after such termination of Lessee's right to possession, Lessor may recover from Lessee and Lessee shall pay to Lessor as liquidated and final damages, whether or not Lessor shall have collected any current monthly deficiencies under the foregoing paragraph, and in lieu of such current deficiencies after the date of demand for such final damages, the amount thereof found to be due by a court of competent jurisdiction, which amount thus found shall be equal to:

- (a) the remainder, if any, of Rent and charges due from Lessee for the period up to and including the date of the termination of the Lease or Lessee's right to possession; plus
- (b) the amount of any current monthly deficiencies accruing and unpaid by Lessee up to and including the date of Lessor's demand for final damages hereunder; plus

- (c) the excess, if any, of
  - (i) the Rent reserved for what would have been the remainder of the term of this Lease together with charges to be paid by Lessee under the Lease; over
  - (ii) the then fair rental value of the Demised Premises and the Personal Property.

If any statute or rule governing a proceeding in which such liquidated final damages are to be proved shall validly limit the amount thereof to an amount less than the amount above agreed upon, Lessor shall be entitled to the maximum amount allowable under such statute or rule of law.

21.5 No receipt of funds by Lessor from Lessee after service of any notice of an Event of Default, termination of this Lease or of possession of the Demised Premises or after commencement of any suit or proceeding of Lessee shall in any way reinstate, continue or extend this Lease or in any way affect the notice of the Event of Default or demand or in any way be deemed a waiver by Lessor of any of its rights unless consented to in writing by Lessor.

#### ARTICLE XXII - LIABILITY OF LESSOR

It is expressly agreed by the parties that in no case shall Lessor be liable, under any express or implied covenant, agreement or provisions of this Lease, for any damages whatsoever to Lessee beyond the Rent reserved in this Lease accruing after or upon any act or breach hereunder on the part of Lessor and for which damages may be sought or recovered from Lessor, and there shall be no personal liability hereunder on any partners, shareholders, members, directors, officers or employees of beneficiary of Lessor with respect to the terms, covenants, conditions or undertakings or agreements contained in this Lease, and Lessee shall look solely to Lessor's interest in this Lease and not to any of the foregoing for the satisfaction of any remedy which Lessee may have under this Lease.

#### ARTICLE XXIII - CUMULATIVE REMEDIES OF LESSOR

Except as provided in Section 21.4, the specific remedies to which Lessor may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Lessor may be lawfully entitled in case of any breach or threatened breach by Lessee of any provision or provisions of this Lease. The failure of Lessor to insist, in any one or more cases, upon the strict performance of any of the terms, covenants, conditions, provisions or agreements of this Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of any such term, covenant, condition, provisions, agreement or option.

#### ARTICLE XXIV - INTENTIONALLY OMITTED

#### ARTICLE XXV - INDEMNIFICATION

25.1 Lessee agrees to protect, indemnify and save harmless the Lessor from and against any and all claims, demands and causes of action of any nature whatsoever asserted against or

incurred by such parties on account of: (i) any failure on the part of Lessee during the term of this Lease to perform or comply with any of the terms of this Lease; or (ii) injury to or death of persons or loss of or damage to property, occurring on the Demised Premises or any adjoining sidewalks, streets or ways or in any manner growing out of or connected with the use or occupation of the Demised Premises or the condition thereof, or the use of any existing or future sewer system, or the use of any adjoining sidewalks, streets or ways occurring during the term of this Lease. Lessee further agrees to pay any reasonable attorneys' fees and expenses incident to the defense by such parties of any such claims, demands or causes of action.

#### ARTICLE XXVI - SUBORDINATION PROVISIONS

26.1 This Lease (and Lessee's interest in the Demised Premises and Personal Property) shall be subject and subordinate to the Existing Mortgage and to any Mortgage given by Lessor to any lender which may affect the Demised Premises and/or Personal Property, and to all renewals, modifications, consolidations, replacements and extensions thereof. Lessee shall execute and deliver such documents as may be required in order to evidence such subordination; provided that such documents shall not affect any of the provisions of this Lease relating to the amount of Rent, the purposes for which the Demised Premises may be used, the size and/or location of the Demised Premises, the duration and/or Commencement Date of the term, nor modify any representations, covenants or warranties made by Lessor hereunder. Lessor shall deliver to Lessee a letter from the holder of the Existing Mortgage evidencing such holder's consent to this Lease.

26.2 Notwithstanding anything to the contrary contained herein, it is understood, agreed and acknowledged that Lessor shall have the right at any time to finance, or refinance, from time to time, the Demised Premises and Personal Property in any amount, and grant a mortgage, deed of trust and/or security interest thereon, to assign or pledge any or all of its interest in this Lease, and to assign or pledge the revenues and receipts to be received by Lessor hereunder to a third party without the consent of Lessee, if: (i) Lessor obtains a customary form of subordination, non-disturbance and attornment agreement ("SDNA") from such Lender, reasonably satisfactory to Lessee.

#### ARTICLE XXVII - LESSEE'S FAITHFUL COMPLIANCE WITH MORTGAGE

27.1 Anything in this Lease contained to the contrary notwithstanding, and provided that Lessor has complied with Section 26.2, Lessee shall at all times and in all respects fully, timely and faithfully comply with and observe each and all of the conditions, covenants, and provisions required on the part of the Lessor under any Mortgage (and to any renewals, modifications, extensions, replacements and/or consolidations thereof) to which this Lease is subordinate or to which it later may become subordinate, including, without limitation, such conditions, covenants and provisions thereof as relate to the care, maintenance, repair, insurance, restoration, preservation and condemnation of the Demised Premises, notwithstanding that such conditions, covenants and provisions may require compliance and observance to a standard or degree in excess of that required by the provisions of this Lease, or may require performance not required by the provisions of this Lease; provided, however, except to the extent that reserves or escrows are

required under the Mortgage for the payment of Taxes and Assessments and for insurance, Lessee shall not be required to make payments on account of any reserves or escrows, including without limitation any construction, replacement or repayment reserve or escrow required by any new Lender. If any new Lender requires compliance, observance or performance to a standard or degree in excess of that required by the terms of the Existing Mortgage and this Lease, Lessee shall comply with such standard, degree or additional performance; provided, however, that the amount by which the third party costs expended by Lessee to achieve such standard, degree or additional performance exceed the third party costs to achieve the standard of performance required by the Existing Mortgage and this Lease shall be paid by Lessor. Lessee further agrees that it shall not do or permit to be done anything which would constitute a breach of or default under any obligation of the Lessor under any Mortgage, it being the intention hereof that Lessee shall so comply with and observe each and all of such covenants, conditions and provisions of any Mortgage so that they will at all times be in good standing and there will not be any default on the part of the Lessor thereunder. However, nothing in this Article contained shall be construed to obligate Lessee to pay any part of the principal or interest secured by any Mortgage, except as may otherwise be provided in this Lease.

27.2 Lessee hereby agrees to comply with all covenants, conditions and obligations, including but not limited to all financial covenants, insurance requirements and financial reporting requirements which apply to the Lessee set forth in those certain loan documents (the "Loan Documents") entered into in connection with the loan from Capital Funding, LLC, a Maryland limited liability company and Lessor dated as of the date of this Lease. Lessee hereby agrees that all representations and warranties set forth in the Loan Documents that apply to the Lessee are and shall remain true and correct in all respects.

#### ARTICLE XXVIII - MORTGAGE RESERVES

Any tax or insurance reserve required under any Mortgage by the Lender thereof during the term of this Lease shall be paid by the Lessee to Lessor and shall be repaid to Lessee when Lender repays such sums to Lessor.

#### ARTICLE XXIX - LESSEE'S ATTORNMEN

29.1 Lessee covenants and agrees that, if by reason of a default upon the part of the Lessor in the performance of any of the terms and conditions of any Mortgage, and the Lender forecloses on the estate of Lessor in the Demised Premises, Lessee will attorn to the then holder of such Mortgage or the purchaser in such foreclosure proceedings, as the case may be, and will recognize such holder of the Mortgage or such purchaser as the Lessor under this Lease. Lessee covenants and agrees to execute and deliver, at any time and from time to time, upon the request of Lessor, or of the holder of such Mortgage or the purchaser in foreclosure proceedings, any instrument which may be necessary or appropriate to evidence such attornment. Lessee further waives the provisions of any statute or rule or law now or hereafter in effect which may terminate this Lease or give or purport to give Lessee any right of election to terminate this Lease or to surrender possession of the Demised Premises in the event any such proceedings are brought against the Lessor under such Mortgage or the holder of any such Mortgage, and agrees that this Lease shall not be affected in any way whatsoever by any such proceedings, except to the extent

designated and determined by Lender pursuant to the terms of the Lease, the SNDA, Mortgage or any of the other loan documents.

29.2 If Lessor shall default in the performance of any of the terms, provisions, covenants or conditions under any Mortgage, or fails to pay the amounts due thereunder when due, then, upon notice of such default or failure on the part of Lessor, Lessee shall have the right, upon five (5) days' prior written notice thereof to Lessor (or such shorter period as permitted under any Mortgage), to cure such defaults, and to make such payments as are due from Lessor, directly to the holder of any Mortgage, as the case may be, and to the extent such payments are accepted by the holder of such Mortgage, to deduct the amounts expended by Lessee to cure such defaults from the next succeeding Rent payment or payments due under this Lease, and such deductions shall not constitute an Event of Default under this Lease. Lessor shall promptly provide Lessee with copies of any notice of default received by Lessor with respect to any Mortgage.

### ARTICLE XXX - REPRESENTATIONS

30.1 Lessee represents and covenants to Lessor as follows:

(a) Lessee is a Missouri corporation, duly organized and validly existing in good standing under the laws of the State of Missouri, and has full right and power to cause Lessee to enter into, and perform its obligations under this Lease and has taken all requisite actions to authorize the execution, delivery and performance of this Lease;

(b) Lessee has examined the Demised Premises, Personal Property, contracts relating to the Facility and/or to the Demised Premises and the improvements and the residential care facility thereon prior to its acceptance and execution of this Lease, and Lessee acknowledges that except as expressly stated herein no representation or warranty, express or implied, has been made by or on behalf of Lessor with respect to the condition of the Demised Premises and Personal Property. Lessee represents that it is satisfied with the condition thereof and is leasing the Demised Premises, improvements and Personal Property in "AS IS"/"WHERE IS" condition, and Lessor shall in no event whatsoever be liable for any latent or patent defects therein;

(c) In addition to all other covenants contained herein, Lessee expressly covenants that it shall keep and maintain at the Facility at all times in good order and repair all items of Personal Property necessary for operating the Facility as a residential care or independent living unit facility in substantial compliance with all laws, rules and regulations of the Illinois Department of Public Health. Lessee shall maintain all of such items in good order and repair and shall promptly replace any such items which become obsolete, damaged or destroyed with substitute items substantially equivalent to that which has been replaced;

(d) Until Lessee shall have fully satisfied all of its obligations under this Lease, Lessee shall maintain its organizational existence as a limited liability company, and shall not, without the prior written consent of Lessor, dissolve, liquidate or otherwise dispose of all or substantially all of its assets or consolidate with or merge into another entity, or permit one or more other entities to consolidate with or merge into it;

#### ARTICLE XXXI – PRIOR LIABILITIES

31.1 Lessee acknowledges that Lessor shall have no liability to Lessee with respect to the operations of the Facility for the periods prior to the Commencement Date relating to accounts receivable, accounts payable, prorations, inventory, patient trust funds and employee benefits.

31.2 Lessor shall not be liable for amounts claimed by the Illinois Department of Public Health or any other governmental authority or agency to have been overpayments made to the prior operator of the Facility with respect to periods prior to the Commencement Date.

#### ARTICLE XXXII - LICENSURE PROVISIONS

32.1 It shall be a condition precedent to the effectiveness of this Lease that Lessee has a license permitting Lessee to operate the Facility as a residential care facility (hereinafter collectively called the “License”).

#### ARTICLE XXXIII - FINANCIAL STATEMENTS

33.1 Lessee shall furnish to the Lender such financial statements and tax returns which shall be certified by an officer of Lessee or a public accountant to the extent required under the Mortgage.

33.2 At all times, Lessee shall keep and maintain full and correct records and books of account of the operations of Lessee in the Demised Premises and records and books of account of the entire business operations of Lessee in accordance with normal accounting practices consistently applied. Upon request by Lessor, from time to time, but not more than one (1) time a year, and such additional inspections which are required by any Lender, Lessee shall make available for inspection by Lessor or its designee, during reasonable business hours, at Lessee's offices, the said records and books of account covering the entire business operations of Lessee on the Demised Premises.

#### ARTICLE XXXIV - MISCELLANEOUS

34.1 Lessee, upon paying the Rent and all other charges herein provided, and for observing and keeping the covenants, agreements, terms and conditions of this Lease on its part to be performed, shall lawfully and quietly hold, occupy and enjoy the Demised Premises during the term of this Lease, and subject to its terms, without hindrance by Lessor or by any other person or persons claiming under Lessor.

34.2 All payments to be made by the Lessee hereunder in addition to Base Rent, whether or not designated as Additional Rent, shall be deemed “Additional Rent”, so that in default of payment when due, the Lessor shall be entitled to all of the remedies available at law or equity, or under this Lease, for the nonpayment of Rent. Base Rent and Additional Rent are sometimes referred to collectively herein as “Rent”.

34.3 It is understood and agreed that the granting of any consent by Lessor to Lessee to perform any act of Lessee requiring Lessor's consent under the terms of this Lease, or the failure

on the part of Lessor to object to any such action taken by Lessee without Lessor's consent, shall not be deemed a waiver by Lessor of its rights to require such consent for any further similar act by Lessee, and Lessee hereby expressly covenants and warrants that as to all matters requiring Lessor's consent under the terms of this Lease, Lessee 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 Lessor of the requirement to secure such consent.

34.4 Each of Lessor and Lessee represents and warrants to the other that it has not dealt with any broker or finder in connection with this Lease. Lessor and Lessee each covenant and agree to indemnify and hold harmless the other from and against any and all costs, expenses, liabilities, claims, demands, suits, judgments and interest, including, without being limited to, reasonable attorneys' fees and disbursements, arising out of or in connection with any claim by any broker or agent with respect to this Lease, the negotiation of this Lease or the transactions contemplated herein based upon the acts of the indemnifying party.

34.5 If an action shall be brought to recover any Rent under this Lease, or for or on account of any breach of or to enforce or interpret any of the terms, covenants or conditions of this Lease, or for the recovery of possession of the Demised Premises, the prevailing party shall be entitled to recover from the other party, as part of the prevailing party's costs, reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

34.6 Should Lessee hold possession hereunder after the expiration of the term of this Lease with or without the consent of Lessor, Lessee shall become a tenant on a month-to-month basis upon all the terms, covenants and conditions herein specified, excepting however that Lessee shall pay Lessor a monthly rental, for the period of such month-to-month tenancy, in an amount equal to 150% the last Rent specified.

34.7 All notices, demands or requests which may or are required to be given by either party to the other shall be in writing and shall be sent by (i) personal delivery; (ii) Federal Express or other national overnight courier service; or (iii) United States certified mail, return receipt requested, addressed to the other party hereto at the last known address of such party. Notices shall be effective upon receipt or refusal thereof.

34.8 Upon request of either party, Lessor and Lessee agree to execute and deliver a short form lease and option in recordable form so that the same may be recorded by either party.

34.9 Each party agrees at any time, and from time to time, upon not less than ten (10) days' prior written request from the other party, to execute, acknowledge and deliver to the other party 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), the dates to which the Rent has been paid, the amount of the Additional Rent held by Lessor, and whether to the best knowledge of such party an Event of Default has occurred or whether any events have occurred which, with the giving of notice or the passage of time, or both, could constitute an Event of Default hereunder, it being intended that any such statement

delivered pursuant to this paragraph may be relied upon by any prospective assignee, lender or purchaser of the fee interest in the Demised Premises or of this Lease.

34.10 All of the provisions of this Lease shall be deemed and construed to be "conditions" and "covenants" as though the words specifically expressing or importing covenants and conditions were used in each separate provision hereof.

34.11 Any reference herein to the termination of this Lease shall be deemed to include any termination thereof by expiration, or pursuant to Articles referring to earlier termination.

34.12 The headings and titles in this Lease are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

34.13 This Lease contains the entire agreement between the parties and any executory agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought. This Lease cannot be changed orally or terminated orally.

34.14 Except as otherwise herein expressly provided, the covenants, conditions and agreements in this Lease shall bind and inure to the benefit of the Lessor and Lessee and their respective successors and assigns.

34.15 All nouns and pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons, firm or firms, corporation or corporations, entity or entities or any other thing or things may require.

34.16 If any term or provision of this Lease shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby, but each term and provision shall be valid and be enforced to the fullest extent permitted by law.

34.17 Notwithstanding anything to the contrary contained herein, and except as otherwise provided in this Lease, there shall be no personal liability hereunder on any partners, shareholders, members, directors, officers, employees or trustees of Lessee, with respect to the terms, covenants, conditions, undertakings or agreements contained in this Lease and Lessor shall look solely to Lessee, and not to any such partners, shareholders, members, directors, officers, employees or trustees of Lessee for the satisfaction of each and every remedy which Lessor may have hereunder.

34.18 It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, warranties, covenants, undertakings and agreements herein and in the Lease made on the part of Lessor while in form purporting to be the representations, warranties, covenants, undertakings and agreements of Lessor are nevertheless each and every one of them made and intended, not as personal representations, warranties, covenants, undertakings and agreements by Lessor or for the purpose or with the intention of binding Lessor personally, but are made and intended for the purpose only of subjecting Lessor's interest in the Demised Premises to the terms of the Lease, and for no other



purpose whatsoever and in case of default hereunder by Lessor (or default through, under or by any of its beneficiaries, or agents or representatives of said beneficiaries), Lessee shall look solely to the interests of Lessor in the Demised Premises; that, if Lessor is a land trust, the Lease is executed and delivered by Lessor not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; that neither the Lessor nor any of Lessor's shareholders, officers, directors, members, managers, partners, beneficiaries or agents shall have any personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or implied, herein contained, and no liability or duty shall rest upon Lessor to sequester the Demised Premises (or the trust estate) or the rents, issues and profits arising therefrom, or the proceeds arising from any sale or other disposition thereof; and that no personal liability or personal responsibility of any sort is assumed by, nor shall at any time be asserted or enforceable against said Lessor or any of Lessor's shareholders, officers, directors, members, managers, partners, beneficiaries or agents, on account of the Lease or on account of any representation, warranty, covenant, undertaking or agreement of Lessor contained in the Lease, either express or implied, all such personal liability, if any, being expressly waived and released by Lessee and by all persons claiming by, through or under Lessee.

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be signed by persons authorized so to do on behalf of each of them respectively the day and year first above written.

**LESSOR:**

**EAST MOLINE PROPCO LLC,**  
an Illinois limited liability company

By: \_\_\_\_\_  
Name: Dov Green  
Its: Authorized Signatory

**LESSEE:**

**OPERATOR OF QUAD CITY REHAB LLC,**  
an Illinois limited liability company

By: \_\_\_\_\_  
Name: Dov Green  
Its: Authorized Signatory

**ASSET PURCHASE AGREEMENT**

by and between

**THE COUNTY OF ROCK ISLAND, ILLINOIS,**  
a public body corporate and politic of the State of Illinois, as Seller

and

**APERION CARE, INC.,**  
an Illinois corporation, as Purchaser

March 2, 2020

**Hope Creek Care Center**  
**4343 Kennedy Dr.**  
**East Moline, Illinois 61244**

## ASSET PURCHASE AGREEMENT

**THIS ASSET PURCHASE AGREEMENT** (this “*Agreement*”) is made and entered into as of this 2nd day of March, 2020 (the “*Effective Date*”), by and between **THE COUNTY OF ROCK ISLAND, ILLINOIS**, a public body corporate and politic of the State of Illinois (“*Seller*”), as seller, and **APERION CARE, INC.**, an Illinois corporation, or its designee (“*Purchaser*”), as purchaser.

### RECITALS

A. Seller owns and is the licensed operator of that certain 245-bed nursing facility (20 bed of which are Medicare beds), which is licensed for 245 skilled nursing beds, commonly known as Hope Creek Care Center Nursing Home, 4343 Kennedy Drive, East Moline, Illinois 61244 (the “*Facility*”), including (i) the land on which the Facility is located, which is legally described on **Exhibit A** attached hereto and made a part hereof, together with all easements, hereditaments, privileges and appurtenances appurtenant thereto (collectively, the “*Land*”), (ii) the buildings and improvements located on the Land, including the Facility and any patios, courtyards, fences, parking areas and storage structures (the “*Improvements*”), and (iii) the furniture, fixtures, equipment and systems located in the Improvements and used in connection with the ownership and operation of the Facility (the “*FF&E*”).

B. Seller desires to sell and transfer the Property (as hereinafter defined) to Purchaser and Purchaser desires to purchase the Property from Seller on the terms and conditions set forth in this Agreement.

C. Concurrent with the closing of the transactions contemplated herein, Purchaser may, as lessor, enter into a new lease agreement for the Facility with Purchaser’s designee (“*New Operator*”), pursuant to which New Operator, as lessee, shall be the new licensed operator of the Facility.

D. Certain operational matters related to the transfer of the operations of the Facility from Seller to New Operator not otherwise addressed herein shall be handled pursuant to the terms of a separate operations transfer agreement (the “*OTA*”) to be entered into by and between Seller and New Operator which shall govern with respect to the transfer of the operations of the Facility from Seller to New Operator and shall provide for a closing thereunder concurrent with the Closing (as hereinafter defined) under this Agreement.

### AGREEMENT

**NOW, THEREFORE**, in consideration of the Purchase Price (as hereinafter defined) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound hereby, agree as follows:

1. **PURCHASE AND SALE.** On the terms and conditions set forth herein, (a) Seller shall sell, assign, transfer, convey and deliver fee simple title in the Real Property to Purchaser on the Closing Date and Purchaser shall purchase the Real Property from Seller free and clear of all liens other than Permitted Exceptions (as defined herein), (b) Seller shall sell, assign, transfer, convey and deliver the Personal Property to Purchaser and Purchaser shall purchase, receive and accept the Personal Property from Seller free and clear of all liens, and (c) Seller shall assign, transfer, convey and deliver the Intangible Property to Purchaser, and Purchaser shall purchase, receive and accept the Intangible Property from Seller free and clear of all liens.

2. **THE PROPERTY.** The “*Property*” shall collectively be the following:

a. **Real Property.** The real property shall consist of all of Seller’s right, title and interest in: (i) the Land, (ii) the Improvements, (iii) the FF&E, (iv) any other interest of Seller in all easements, if any, to the extent of any such interest of Seller, and (v) any other structure or improvements located on the Land (collectively, the “*Real Property*”).

b. **Personal Property.** The personal property shall consist of all of Seller’s right, title and interest in the computer hardware, telephones and telephone systems, non-proprietary marketing and promotional materials relating to the Facility, including data from websites or internet domains associated with the Facility, non-proprietary stationery, kitchen equipment, resident room furnishings in the possession of Seller or relating to the Real Property or the Improvements and all other tangible property and assets (except for FF&E) that is located on the Real Property and utilized in connection with the owning, operating or managing of the Facility (collectively, the “*Personal Property*”).

c. **Intangible Property.** The intangible property being assigned, set over and transferred by Seller to Purchaser shall consist of: (i) any special use permits from the city or municipality, (ii) any certificate of need, (iii) goodwill associated with the business and the reputation of the Facility, and (iv) any third party warranties or guaranties associated with the Property, all to the extent related specifically to the Facility and as assignable by law (collectively, the “*Intangible Property*”).

3. **EXCLUDED PROPERTY.** Notwithstanding those items set forth in **Section 2** above, the following shall be excluded from the sale by Seller to Purchaser hereunder (collectively, the “Excluded Property”): (a) cash and cash equivalents, short-term investments and third-party payor settlements, (b) Seller’s rights under this Agreement and the agreements to be executed in connection herewith, (c) Seller’s organizational documents, (d) personal property owned by residents of the Facility and not by Seller, (e) personal property owned by third party vendors and leased to Seller or any entity providing services at the Facility for use in connection with the operations of the Facility, except to the extent Seller’s interest in such leased property is legally transferable and expressly assumed by Purchaser or New Operator under this Agreement or the OTA, (f) any confidential or proprietary information of Seller or Seller’s affiliates that is not primarily used or held in connection with the Facility, (g) any accounts receivable, accounts payable or liabilities associated with the operation of the Facility prior to the Closing Date, (h) any property or confidential or proprietary information of Seller or any of its affiliates that is not primarily used or held in connection with the Facility, and (i) any items transferred pursuant to the terms of the OTA.

4. **CLOSING.**

a. **Closing Date.** The closing of the purchase and sale pursuant to this Agreement (the “*Closing*”) shall take place through an escrow (the “*Closing Escrow*”) to be established with Chicago Title Insurance Company (the “*Title Company*”), pursuant to escrow instructions that conform to the terms hereof, on August 31, 2020, to be effective at 12:01 a.m. on the following day (the “*Closing Date*”), provided that all other conditions to close as set forth herein have been satisfied or waived pursuant to the terms of this Agreement prior to the Closing Date.

b. **Possession.** All FF&E and Personal Property shall be located at the Facility on the Closing Date. After the Closing, Purchaser shall have free and clear title to the Property, subject to the Permitted Exceptions, and be entitled to possession of the Property, subject only to the possessory rights of the residents at the Facility in accordance with ordinary course operation of the Facility.

5. **PURCHASE PRICE.**

a. **Purchase Price.** In consideration for the conveyance of the Property, Purchaser shall pay to Seller the amount of Six Million Dollars (\$ 6,000,000.00) (the "**Purchase Price**"), payable in immediately available funds on the Closing Date, plus or minus the credits and proration's set forth in this Agreement.

b. **Escrow Deposit.** Purchaser previously deposited with Seller the amount of Ten Thousand Dollars (\$10,000.00), as earnest money (the "**Initial Escrow Deposit**"). Within one (1) business days after the Effective Date, Seller and Purchaser shall execute the Strict Joint Order Escrow Instructions in the form of **Exhibit B**. Within three (3) business days of the execution of this Agreement, Seller shall transfer the Initial Escrow Deposit into the escrow established with the Title Company and Purchaser shall deposit with Title Company the additional amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) (the "**Additional Escrow Deposit**" and, collectively with the Initial Escrow Deposit, the "**Escrow Deposit**"). The Escrow Deposit and any interest earned thereon shall be credited to Purchaser against the Purchase Price at Closing and transferred to the Closing Escrow for disbursement as provided herein.

c. **Purchase Price Allocation.** Prior to the Closing, the parties to this Agreement expressly agree to use best efforts to allocate the Purchase Price of the Property and among the real, personal and intangible property for all tax purposes. Seller's proposal for an allocation shall be delivered to Purchaser at least five (5) business days prior to the Closing Date. Any such agreed upon allocation shall be memorialized in writing prior to the Closing. After the Closing, the parties shall make consistent use of the agreed upon allocation, fair market value and useful lives for all tax purposes and in all filings, declarations and reports with the IRS in respect thereof, including the reports required to be filed under Section 1060 of the Internal Revenue Code. In any proceeding related to the determination of any tax, neither party shall contend or represent that such allocation is not a correct allocation.

6. **COSTS AND CREDITS.**

a. **Purchaser's Charges.** On the Closing Date, Purchaser shall be responsible for the cost of the Title Commitment, Title Policy (both as hereinafter defined) and recording fees for the Deed.

b. **Seller's Charges.** On the Closing Date, Seller shall be responsible for the cost of recording fees for the Removable Exceptions (as hereinafter defined) and Survey Defects (as hereinafter defined) which Seller is obligated or agreed to correct per **Section 9(d)**.

c. **Attorney's Fees.** Except as otherwise expressly set forth herein, each party hereto shall each pay their own attorney's and other professional fees in connection with this matter.

d. **Escrow Fees.** Seller and Purchaser shall equally pay any Closing escrow fees.

e. **Additional Fees.** Except as expressly provided otherwise in this Agreement, all other transaction costs shall be allocated between Seller and Purchaser in the manner customary for transactions in the location of the Facility.

7. **PRORATIONS.** The following shall be prorated as of the Closing Date (so that Purchaser receives all of the benefits and revenues, and is responsible for all of the expenses, commencing on the Closing Date and thereafter) and shall be settled by a credit or debit against the Purchase Price at the Closing:

a. **Real Estate Taxes.** The parties acknowledge there are no real estate taxes accrued, due or payable for the period prior to the Closing Date so there shall be no proration of real estate taxes made at Closing.

b. **Utilities.** Seller shall pay all utility charges attributable to the Property through and including the Closing Date that are not otherwise paid or prorated by Seller pursuant to the terms of the OTA. Charges and deposits for water, fuel, gas, oil, heat, electricity and other utility and operating charges and prepaid service contracts will be based upon the last available invoice. Seller will attempt to obtain final utility meter readings as close as possible to the Closing Date.

c. **Operational Prorations.** The operational prorations shall occur pursuant to the terms of the OTA including, without limitation, revenues and expenses pertaining to the Facility, utility charges for the billing period in which the Closing Date occurs, assumed contracts, utilities, prepaid income and expenses, bed taxes, security deposits, employee accruals, resident trust funds and other related items of revenue or expense attributable to the Facility, if any, which shall be prorated as of the Closing Date per the terms of the OTA.

## 8. DUE DILIGENCE.

a. **Due Diligence Items.** Purchaser and Seller acknowledge that prior to the Effective Date, Seller has provided Purchaser with access to an online data room containing copies of due diligence materials in Seller's possession.

b. **Third Party Reports.** Purchaser shall have twenty (20) business days from the Effective Date ("**Inspection Period**") to conduct a property condition report and environmental study on the Property. Seller shall permit Purchaser and its representatives, lender and lender's representatives, contractors, land surveyors, environmental companies and other agents ("**Representatives**") access to the Real Property in connection with Purchaser's third party reports, provided that such access rights are not disruptive to the operations at the Facility, provided Purchaser has delivered proof of insurance to Seller, and further provided that Purchaser and its Representatives are at all times in compliance with all state and federal laws governing the rights of the residents of the Facility.

c. **Indemnification.** Purchaser agrees to indemnify, defend, protect and hold harmless Seller, and Seller's respective affiliates, members, officers, directors and agents from and against any loss, injury, damage, claim, lien, cost or expense, including reasonable attorneys' fees and costs, arising from or related to the access rights exercised by Purchaser or its employees, consultants, agents or Representatives under this Agreement. Purchaser shall carry, and shall cause any of its agents or representatives entering onto the Real Property to carry, workers' compensation and general liability insurance in the amount of \$1,000,000 per occurrence, which insurance shall name Seller as an additional insured. Purchaser shall keep the Property free and clear of any mechanic's or materialmen's liens arising out of any entry onto or inspection of the Property by or on behalf of Purchaser.

d. **Notice of Termination.** If Purchaser's third party reports disclose over \$150,000 in immediate repairs at the Property (required in the aggregate in the next six months), then Purchaser shall have the right, in its sole discretion, to terminate this Agreement by written notice to Seller, at any time before the end of the Inspection Period ("**Inspection Termination Notice**"), in which event Seller shall promptly direct the Title Company to refund the Escrow Deposit to Purchaser less a Fifty Thousand Dollar (\$50,000.00) termination fee, and all further rights and obligations of the parties hereto shall cease and terminate without any further liability of either party to the other (except those obligations which expressly survive such termination as provided

in this Agreement). If Purchaser does not provide an Inspection Termination Notice on or before the end of the Inspection Period, this specific right of termination shall be itself terminated and, thereafter, Purchaser shall not have any right to terminate this Agreement based on this **Section 8(d)** and the Escrow Deposit shall be nonrefundable except as otherwise expressly provided in this Agreement.

## 9. TITLE AND SURVEY.

a. **Title Policy.** Purchaser acknowledges that Seller has delivered to it a commitment to issue standard Owner's Title Insurance Policy for the Property (the "**Title Commitment**") from the Title Company showing title to the Real Property vested in Seller. Seller covenants to reasonably cooperate with Purchaser to have the Title Company at Closing issue a title policy from the Title Commitment ("**Title Policy**") or a markup or pro forma of the Title Commitment, subject only to the Permitted Exceptions (as hereinafter defined).

b. **Survey.** Purchaser acknowledges that Seller has delivered to Purchaser a proposed Plat of Subdivision for the Property that it intends to have recorded on or prior to the Closing Date. Purchaser may order a new ALTA Survey for the Real Property (the "**Survey**") at its cost.

c. **Permitted Exceptions and Removable Exceptions.** The term "**Permitted Exceptions**" shall mean (i) the liens of real estate taxes that are not yet due and payable on the Closing Date, (ii) those items set forth on Schedule B to the Title Commitment and set forth on **Schedule 9(c)(ii)** [NOTE: clarify status of outstanding charge on title, and roadway easement cannot be approved until an ALTA survey is received], (iii) easements and covenants mutually agreed between Seller and Purchaser, which agreement shall not be unreasonably withheld or delayed, with respect to the Land and adjoining parcels as applicable, (iv) matters disclosed by the Survey without Survey Defects or that are otherwise accepted by Purchaser per the terms of this Agreement, and (v) the rights of residents in possession. The term "**Removable Exceptions**" shall mean title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount that Seller will remove by the payment of money on the Closing Date.

d. **Correction of Survey Defects.** Within thirty (30) days after the Effective Date (the "**Objection Deadline**"), Purchaser shall notify Seller in writing if the Plat of Subdivision or a Survey discloses any material encroachments, any material lack of compliance with applicable requirements, or any other items that prevent the Property from being operated in substantially the same manner as it is being operated on the Effective Date [NOTE: we have only received plats, and nothing that shows the building] ("**Survey Defects**"). After receipt of notice from Purchaser, Seller shall have five (5) business days to provide written notice to Purchaser as to whether Seller elects to (i) correct such Survey Defects before the Closing, (ii) have the Title Company commit to insure over the Survey Defect, or (iii) not remove or correct any such Survey Defects. If Seller fails to timely respond or elects not to remove or correct any such Survey Defects, then Purchaser may elect within five (5) business days with written notice to Seller to (i) take the Property as it then is, or (ii) terminate this Agreement by written notice to Seller (which shall be deemed a termination pursuant to **Section 20(a)(i)** of this Agreement) and in which event the Escrow Deposit shall be returned to Purchaser.



## 10. PRE-CLOSING COVENANTS.

a. **Seller's Covenants.** Seller hereby agrees and covenants to Purchaser that between the Effective Date and the Closing Date, except as otherwise contemplated by this Agreement or with the prior written consent of Purchaser:

i. Seller shall use its commercially reasonable effort to timely obtain any necessary third party consents for the valid conveyance, transfer, assignment or delivery of the Property being transferred per this Agreement.

ii. Seller shall notify the Illinois Department of Revenue (the "**IDR**") and shall request tax clearance certificates from IDR. No later than ten (10) business days prior to the Closing Date, Seller shall (A) obtain either a full release of claims from the IDR with respect to all debts owed by Seller or a statement setting forth all IDR debts owed by Seller, and (B) provide Purchaser with a statement setting forth the amount owed by Seller with respect to all Illinois and federal payroll, assessment and other taxes and all license fees, including supporting materials.

iii. Seller shall maintain all of its books and records related to the Facility in accordance with past practices.

iv. Seller shall pay when due all taxes, assessments and charges imposed upon Seller with respect to the Facility.

v. Seller will satisfy and discharge or contest in good faith all claims, liens, security interests and encumbrances on the Property, except for the Permitted Exceptions.

vi. Seller shall deliver the Property to Purchaser on the Closing Date in substantially the same condition and repair as on the Effective Date, ordinary wear and tear excepted.

vii. Seller will not sell any items of machinery, equipment, or other assets or Property used in connection with the Facility, other than in the ordinary course of business.

viii. Seller shall not make any capital expenditures on the Facility, except (A) in the event of a casualty or condemnation as permitted per the terms of this Agreement, (B) to make ordinary and necessary repairs to the Facility, or (C) to comply with a governmental or Life Safety Code regulation.

ix. Seller shall not change employment terms for the Facility employees, or institute, amend, or terminate its employment benefit plans, except for normal and customary raises or amendments consistent with prior business practices.

x. Seller shall maintain in force and renew as necessary on commercially reasonable terms the existing insurance policies as are now in effect for the Property.

xi. From the Effective Date until through the earliest of the Closing Date or the termination of this Agreement, Seller has not and shall not, directly or indirectly, (a) enter into negotiations with any party other than Purchaser regarding the sale of the Property, or (b) provide information to any party other than Purchaser regarding the sale of the Property.

b. **Purchaser's Covenants.** Purchaser hereby agrees and covenants that between the Effective Date and the Closing Date, Purchaser will (i) require New Operator to make all required

applications, file such notices and pay such fees as are necessary in connection with New Operator's efforts to obtain all necessary licenses including, without limitation, the IDPH Licenses, certificate of need, Medicare and Medicaid provider certification and provider agreements (collectively, the "**Facility Licenses**"), and (ii) cooperate with all reasonable requests from Seller with respect to obtaining any other consents or authorizations related to the sale of the Facility.

c. **General Joint Covenants.** Each party shall promptly notify the other party of any information delivered to or obtained by such party which would impair or prevent the consummation of the transactions contemplated hereby.

11. **CONVEYANCES.** Conveyance of the Real Property to Purchaser shall be by Special Warranty Deed (the "**Deed**"), containing full warranties of title for matters affecting title that occurred during Seller's ownership of the Property, free and clear of all liens, encumbrance and security interests, subject only to the Permitted Exceptions. Conveyance of the FF&E and Personal Property shall be by Bill of Sale (the "**Bill of Sale**") from Seller to Purchaser containing full warranties of title free and clear of all liens, encumbrances and security interests other than the Permitted Exceptions. Conveyance of the Intangible Property shall be by General Assignment (the "**General Assignment**") from Seller to Purchaser, containing full warranties of title and free and clear of all liens, encumbrances and security interest other than the Permitted Exceptions. Purchaser agrees that the presence of the Personal Property at the Facility on the Closing Date shall constitute delivery thereof.

## 12. CLOSING DELIVERIES

a. **Purchaser's Closing Deliveries.** On or before the Closing Date, Purchaser agrees that it will deliver into the Closing Escrow (except as otherwise set forth below) executed originals of the following documents, in form and substance reasonably satisfactory to counsel for Seller and Purchaser ("**Purchaser's Closing Deliveries**"):

i. Deposit by wire transfer into the Closing Escrow, the balance of the Purchase Price due at Closing after crediting the Escrow Deposit, plus or minus the prorations and credits due at Closing.

ii. Such documents, certifications and statements as may be required by the Title Company to issue the Title Policy including, without limitation, a Title Company Disbursement Statement signed by Purchaser approving each and every one of the payments and disbursements made by the Title Company through the Closing Escrow.

iii. A Certificate of Good Standing or similar document for Purchaser from the Secretary of State of the state in which such Purchaser is organized, and certified copies of the resolutions of Purchaser authorizing the execution, delivery and consummation of this Agreement and the execution, delivery and consummation of all other agreements and documents executed in connection herewith, including all instruments required hereunder, sufficient in form and content to meet the requirements of law relevant to such transactions and certified by the managers of Purchaser as adopted and in full force and effect and unamended as of Closing.

iv. A bring-down certificate dated as of the Closing Date certifying that all of the representations and warranties made and given by Purchaser in this Agreement are true and correct as of the Closing Date.

v. Such further instruments and documents as are reasonably necessary to complete the transfer of the Property to Purchaser in accordance with the terms of this Agreement.

b. **Seller's Closing Deliveries.** On or before the Closing Date, Seller will deliver into the Closing Escrow (except as otherwise set forth below) executed originals of the following documents, in form and substance reasonably satisfactory to counsel for Purchaser and Seller ("**Seller's Closing Deliveries**"):

i. The Deed conveying the Real Property from Seller to Purchaser, executed by Seller.

ii. The Bill of Sale for the FF&E and Personal Property at the Facility from Seller to Purchaser.

iii. The General Assignment for the Intangible Property, from Seller to Purchaser.

iv. Resolutions of the Rock Island County Board (the "**Board**") authorizing Seller to execute the closing documents, sufficient in form and content to meet the requirements of law relevant to such transactions, which resolutions shall be certified to be true copies by the Clerk of the Board.

v. Such documents, certifications and statements as may be required by the Title Company to issue the Title Policy including, without limitation, a copy of the Title Company Disbursement Statement signed by Seller approving the payments and disbursements made by the Title Company.

vi. Any statement, affidavit or undertaking required by the Title Company in order to give Purchaser good and clear title to the Property per the requirements of this Agreement.

vii. Real Estate Transfer Tax Declarations for the Real Property, if any.

viii. A bring-down certificate certifying that all of the representations and warranties made and given by Seller in this Agreement are true and correct as of the Closing Date.

ix. Copies of any payoff letters or releases with respect to any Removable Exceptions and any other mortgage secured by the Property.

x. Such further instruments and documents as are reasonably necessary to complete the transfer of the Property to Purchaser in accordance with the terms of this Agreement.

13. **SELLER'S REPRESENTATIONS AND WARRANTIES.** Seller hereby represents and warrants to Purchaser that the following statements are true and correct as of the date hereof and will be true and correct on the Closing Date:

a. **Status.** Seller is a public body corporate and politic under the laws of the State of Illinois and is duly qualified to own property and conduct business in the State of Illinois.

b. **Authority.** Seller has the full right, power and authority to enter into this Agreement.

c. **Necessary Action.** Seller has taken all action required under its organizational documents necessary to enter into this Agreement. This Agreement has been duly executed and delivered by Seller.

d. **Compliance with Agreements.** The execution, delivery and performance of this Agreement and the consummation of the transaction contemplated herein, and all related documents will not result in a default under any deed of trust, mortgage, note, agreement, organizational document, or other instrument or obligation to which Seller is a party or by which the Property may be bound or affected and which will not be released, paid off or otherwise satisfied in connection with or prior to the Closing.

e. **Binding Agreement.** This Agreement and all agreements to which Seller will become a party pursuant hereto are and will constitute the valid and legally binding obligations of Seller and are and will be enforceable against Seller in accordance with the respective terms hereof and thereof, subject to applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the enforceability of creditors' rights generally, general equitable principles and the discretion of courts in granting equitable remedies.

f. **Title.** Seller has fee simple title to the Real Property, free and clear of all liens, encumbrances, covenants, conditions, restrictions, leases, tenancies, licenses, claims and options, except for the Permitted Exceptions.

g. **No Default.** To Seller's knowledge, there is no default by Seller with respect to any obligations under any mortgage, contract, lease or other agreement affecting or relating to the Property.

h. **Litigation.** There are no lawsuits, investigations or other proceedings pending or, to Seller's knowledge, threatened against Seller related to the Facility or Seller's right to own the Property or Seller's right to enter into this Agreement, other than as set forth in **Schedule 13(h)**. To Seller's knowledge, there are no ongoing audits of the Facility's billing by any third-party payor.

i. **AS IS.** Purchaser acknowledges and agrees that neither Seller nor any agent or representative of Seller have made, and Seller is not liable or responsible for or bound in any manner by any express or implied representations, warranties, covenants, agreements, obligations, guarantees, statements, information or inducements pertaining to the physical condition of the Property, and specifically, the Facility, including all environmental matters, the quantity, character, fitness and quality thereof, merchantability, fitness for particular purpose, the income, expenses or operation thereof, the value and profitability thereof, the structural and mechanical condition of the buildings, structures and improvements situated thereon, the plumbing, heating, air conditioning, electric and ventilating systems serving the Property and any other matter or thing whatsoever with respect thereto. Purchaser acknowledges, agrees, represents and warrants that it has and shall have the opportunity to inspect the Property and all matters comprising the Property, including the Facility, and has or shall have access to information and data relating to all of same as Purchaser deems necessary, prudent, appropriate or desirable for the purposes of this transaction. Purchaser acknowledges that it is fully familiar with the Property and Purchaser expressly agrees to accept the Property "**AS IS, WHERE IS AND WITH ALL FAULTS**," in its current condition, subject to reasonable wear and tear. In addition to, and without limiting the foregoing, Purchaser further acknowledges and agrees that the Property is conveyed in its "**AS IS**" condition with respect to environmental matters, and Purchaser hereby assumes the risk that adverse past, present or future conditions may not be revealed in its inspection or investigation.

j. **Financial Statements.** To Seller's knowledge, the financial statements furnished to New Operator and Purchaser are true, correct and complete in all respects, fairly represent the financial condition of New Operator and are not misleading in any respect.

k. **Survival of Representations or Warranties.** The representations and warranties of Seller under this Agreement shall survive the Closing of the transaction contemplated hereunder for the period of twelve (12) months after the Closing Date; provided, however, that the representations and warranties set forth in **Section 13(a)** (Status) and **Section 13(b)** (Authority), together with any right to indemnification for breach thereof, shall survive the Closing and continue in full force and effect for the maximum period permitted by applicable law.

14. **PURCHASER'S REPRESENTATIONS AND WARRANTIES.** Purchaser hereby warrants and represents to Seller that the following statements are true and correct as of the date hereof and will be true and correct on the Closing Date:

a. **Status.** Purchaser is a limited liability company duly formed and validly existing under the laws of the State of Illinois and is duly qualified to own property and conduct business in the State of Illinois.

b. **Authority.** Purchaser has full right, power and authority to enter into this Agreement.

c. **Necessary Action.** Purchaser has taken all action required under its organizational documents necessary to enter into this Agreement. This Agreement has been duly executed and delivered by Purchaser.

d. **Survival of Representations and Warranties.** The representations and warranties of Purchaser under this Agreement shall survive the closing of the transactions completed hereunder for a period of twelve (12) months after the Closing Date; provided, however, that the representations and warranties set forth in **Section 14(a)** (Status of Seller) and **Section 14(b)** (Authority), together with any right to indemnification for breach thereof, shall survive the Closing and continue in full force and effect for the maximum period permitted by applicable law.

15. **CONDITIONS TO PURCHASER'S OBLIGATIONS.** Purchaser's obligations under this Agreement, including the obligation to pay the Purchase Price and close this transaction, are contingent and subject to fulfillment of each of the following conditions prior to the Closing Date, any one of which may be waived by Purchaser in writing (collectively, "*Purchaser's Conditions Precedent*"):

a. **Certification.** Between the Effective Date and the Closing Date, there shall not have been any material adverse change in the regulatory status or condition of any of Seller's certifications for the Facility's participation in the Medicare and Medicaid reimbursement programs.

b. **Seller's Representations, Warranties and Covenants.** Seller's representations, warranties and covenants contained in this Agreement or in any certificate or document delivered in connection with this Agreement or the transactions contemplated herein shall be true as of the Closing Date as though such representations, warranties and covenants were then again made. For the avoidance of doubt, and notwithstanding anything herein to the contrary, Seller shall have no liability for any inaccuracy or breach of any representation or warranty if Purchaser had knowledge of said inaccuracy or breach or the underlying facts giving rise to such inaccuracy or breach, before the Closing.

c. **Seller's Performance.** Seller shall have performed all of its obligations and covenants under this Agreement that are to be performed prior to or at Closing.

d. **Closing Deliveries.** Seller shall have executed and delivered all of Seller's Closing deliveries per **Section 12(b)**.

e. **Title Insurance.** On the Closing Date, Seller shall deliver insurable fee simple title to the Real Property, subject only to the Permitted Exceptions.

f. **Change in Ownership.** There has been no change in the ownership, operation or control of the Property (or any portion thereof) between the Effective Date and the Closing Date.

g. **Absence of Litigation.** No action or proceeding has been instituted or, to Seller's knowledge, threatened before any court or governmental body or authority the result of which is reasonably likely to prevent the acquisition by Purchaser of the Property, or the consummation of the transaction contemplated hereby. There are no orders which are entered after execution of this Agreement and prior to Closing and which shall result in the immediate forced closing of the Facility prior to the Closing Date.

h. **No Material Adverse Change.** Since the end of the Inspection Period, there shall have been no material adverse change in the physical condition of the Property. For purposes of this Agreement "material adverse change" shall mean any event, occurrence or change that is materially adverse to the physical condition of the Property, when taken as a whole, but shall exclude any adverse effect resulting from, arising out of or relation to (i) war or terrorism, (ii) acts of God, (iii) changes affecting the Illinois senior housing industry generally, (iv) changes in business or economic conditions in the United States generally, (v) actions made pursuant to the terms of this Agreement, the OTA or with Seller's express written consent, or (vi) any announcement or disclosure of the pendency of the transactions set forth herein or in the OTA.

i. **Removal of Personal Property Liens.** The Property shall be free and clear of all liens, claims and encumbrances other than those expressly permitted herein or that will be paid or otherwise satisfied by Seller on the Closing Date.

j. **Zoning.** Purchaser shall receive zoning compliance letters reflecting the Property's compliance with respect to the Facility and permitting the continued operation by Purchaser or New Operator of the Facility on the Property as a skilled nursing facility as well as compliance with minimum parking and all other zoning requirements, provided, Purchaser timely requested the same. There shall not be any change in the use of the Facility since the issuance of the zoning compliance letters to Purchaser.

k. **New Licenses.** Provided New Operator timely applied to IDPH and used best efforts to submit a correct and complete application, New Operator shall have received adequate assurance of obtaining the IDPH License, which may occur by receipt of a letter or email from IDPH stating that the License shall be issued upon notification of the Closing.

l. **Personal Property; FF&E.** All FF&E and other Personal Property shall be located at the Facility on the Closing Date. Unless specifically permitted pursuant to the terms of this Agreement, Seller shall not have removed any FF&E or Personal Property from the Facility.

m. **Licenses.** To the extent required by law, as of the Closing Date:

i. The Facility is licensed by IDPH, which license shall on the Closing Date be in good standing and full force and effect, permitting the operation of the Facility as a skilled nursing facility with 245 skilled nursing beds (20 beds of which are Medicare beds) (the "**Licensed Beds**").

ii. The Facility is not subject to a denial for payment of new admissions.

iii. The Facility shall be in substantial compliance with and certified for participation in Medicaid and Medicare programs, which certifications shall on the Closing Date be in good standing and full force and effect, subject to no waivers and limitations.

n. **Code Violations.** There shall be no outstanding Life Safety Code or IDPH violations with a scope and severity level that represents “substandard quality of care” as defined in 42 CFR § 488.301 that have not been corrected at least three (3) business day prior to the Closing Date.

o. **Schedules and Exhibits.** Purchaser shall have approved of any Exhibits or Schedules added hereto, or updated, following the Effective Date.

p. **Operations Transfer Agreement.** Seller and New Operator shall have entered into the OTA in the form of **Exhibit C**. All conditions precedent required for the consummation of the transactions set forth in the OTA shall have been met, except for the Closing hereunder.

q. **Special Use Permit.** The City of East Moline, Illinois shall have issued such opinions and/or new permits, if needed, allowing a non-governmental entity to own and operate the Property.

16. **CONDITIONS TO SELLER'S OBLIGATIONS.** All obligations of Seller under this Agreement are subject to fulfillment of each of the following conditions prior to the Closing Date (or on the Closing Date where so indicated), any one or all of which may be waived by Seller in writing (collectively, “*Seller's Conditions Precedent*”):

a. **Purchaser's Representations, Warranties and Covenants.** Purchaser's representations, warranties and covenants contained in this Agreement or in any certificate or document delivered in connection with this Agreement or the transactions contemplated herein shall be true at the Effective Date and as of the date of Closing as though such representations, warranties and covenants were then again made.

b. **Purchaser's Performance.** Purchaser shall have performed its obligations and covenants under this Agreement that are to be performed prior to or at Closing, including but not limited to application for all appropriate licenses and delivery of all of Purchaser's Closing deliveries.

c. **Absence of Litigation.** No action or proceeding shall have been instituted, nor any judgment, order or decree entered by any court or governmental body or authority preventing the acquisition by Purchaser of the Property or the acquisition by Purchaser of the Personal Property or the consummation of any other transaction contemplated hereby.

d. **Closing Deliveries.** On the Closing Date, Purchaser shall have executed and delivered to Seller all of Purchaser's Closing Deliveries under **Section 12(a)**.

e. **Special Use Permit.** The City of East Moline, Illinois shall have issued such opinions and/or new permits, if needed, allowing a non-governmental entity to own and operate the Property.

17. **ACCESS TO RECORDS.**

a. **Facility Records.** On the Closing Date, Seller shall leave at the Facility for Purchaser or New Operator all of Seller's records for the transferred Facility employees and residents.

b. **Seller's Access to Records.** Subsequent to the Closing Date, Purchaser and New Operator shall grant Seller and its respective agents and representatives access to (upon reasonable prior notice and during normal business hours), including the right to make copies of, the books and records and supporting material of the Facility relating to the period prior to and including the Closing Date, at Seller's own expense, to, among other things, enable Seller to investigate and defend audits, claims, litigation or to file or defend cost reports.

c. **Purchaser's and New Operator's Access to Records.** Subsequent to the Closing Date, Seller shall grant Purchaser, New Operator and their respective agents and representatives reasonable access to (upon reasonable prior notice and during normal business hours), including the right to make copies of, books and records and supporting material of the Facility relating to the three (3) year period prior to the Closing Date, at Purchaser's or New Operator's own expense and to the extent reasonably necessary to enable Purchaser and New Operator to investigate and defend audits, claims, litigation or to file or defend cost reports.

#### 18. **CASUALTY/CONDEMNATION.**

a. **Notice.** Seller shall promptly notify Purchaser of any casualty damage it becomes aware of, or notice of condemnation that Seller receives prior to the Closing Date.

b. **Non-Substantial Damage from Casualty.** If (i) any portion of the Property is damaged by fire or casualty after the Effective Date and is not repaired and restored substantially to its original condition prior to Closing, and (ii) at the time of Closing the estimated cost of repairs is Two Hundred Fifty Thousand Dollars (\$250,000.00) or less, as determined by an independent adjuster engaged by Seller, and (iii) for other reasons Purchaser has not otherwise elected to terminate pursuant to **Section 20(a)(ii)**, Purchaser shall be required to purchase the Property in accordance with the terms of this Agreement, and at Seller's option, (x) Purchaser shall receive a credit at Closing of the estimated cost of repairs determined by the aforesaid independent adjuster and Seller shall retain all insurance claims and proceeds with respect thereto, or (y) at Closing, Seller shall (A) assign to Purchaser, without recourse, all insurance claims and proceeds with respect thereto (less sums theretofore expended in connection with such fire or casualty, if any, by Seller, including for temporary repairs or barricades) (in which event Purchaser shall have the right to participate in the adjustment and settlement of any insurance claim relating to said damage), and (B) credit Purchaser at Closing with an amount equal to Seller's insurance deductible. Seller shall have no liability or obligation with respect to the quantity or condition of the Property to the extent affected by such fire or casualty and shall be released from any representation and warranty regarding same to the extent affected by such fire or casualty. Notwithstanding the foregoing, Purchaser shall not be obligated to purchase the Property as set forth in this Section in the event that such casualty materially interferes with the ability to operate the Facility as a skilled nursing facility with the Licensed Beds, in the sole discretion of Purchaser.

c. **Substantial Damage from Casualty.** If, at the time of Closing, the estimated cost of repairing such damage is more than Two Hundred Fifty Thousand Dollars (\$250,000.00) with respect to the Facility, as determined by such independent adjuster, or Purchaser determines pursuant to the final sentence of the foregoing Section 18(d) that such casualty materially interferes with such ability to operate the Facility, then in either such case [NOTE: this comment just connects the conclusion of Section b. above with the provision for return of deposit] Purchaser may, in its sole discretion (i) terminate this Agreement by notice to Seller within ten (10) days after receipt of notice of such casualty (which shall be deemed a termination pursuant to **Section 20(a)(ii)** of this Agreement), or (ii) proceed to Closing in accordance with **Section 18(b)**.



d. **Condemnation.** If, prior to Closing, a “material” portion of the Property is taken by eminent domain, then Purchaser shall have the right, within fifteen (15) days after receipt of notice of such material taking, to terminate this Agreement (which shall be deemed a termination pursuant to **Section 20(a)(i)** of this Agreement). If Purchaser elects to proceed and to consummate the purchase despite said material taking (such election being deemed to have been made unless Purchaser notifies Seller in writing to the contrary within fifteen (15) days after notice from Seller to Purchaser of any taking), or if there is less than a material taking prior to Closing, there shall be no reduction in or abatement of the Purchase Price, Purchaser shall be required to purchase the Property in accordance with the terms of this Agreement and Seller shall assign to Purchaser, without recourse, all of Seller’s right, title and interest in and to any award made or to be made in the eminent domain proceeding (in which event Purchaser shall have the right to participate in the adjustment and settlement of such eminent domain proceeding). For the purpose of this Section, the term “material” shall mean any taking of in excess of ten percent (15%) of the square footage of the Facility or twenty percent (20%) of the Real Property associated with the Facility that would (i) adversely affect Purchaser’s or New Operator’s ability after said taking to operate the Facility in compliance with the IDPH License, or (ii) eliminate after said taking a means of egress and ingress to and from the Facility to a public right of way, or (iii) cause the use of the Facility after said taking to no longer be in compliance with all applicable zoning and building rules, regulations and ordinances.

#### 19. **INDEMNIFICATION.**

a. **Indemnification by Purchaser.** Subject to the first dollar Basket and Ceiling described below, Purchaser agrees to indemnify and hold harmless Seller from and against all liabilities, claims, losses, demands and causes of action of any nature whatsoever (collectively, “*Losses*”) arising out of (i) any breach by Purchaser of its obligations, representations, warranties or covenants hereunder, (ii) injury to or death of persons or loss of or damage to property occurring on the Property or at the Facility on or after the Closing Date, (iii) any Third Party Claims (as hereinafter defined), or (iv) any liability which may arise from ownership, use or condition of the Property after the Closing Date to the extent it relates to the ownership or use of the Property on or after the Closing Date. Purchaser further agrees to pay any reasonable attorneys’ fees and expenses incident to the defense by Seller of any such Losses (as hereinafter defined).

b. **Indemnification by Seller.** Subject to the first dollar Basket and Ceiling described below, Seller hereby agrees to indemnify and hold harmless Purchaser from and against all Losses arising out of (i) any breach by Seller of its obligations, representations, warranties or covenants hereunder, (ii) injury to or death of persons or loss of or damage to property occurring on or at the Facility prior to the Closing Date or in any manner growing out of or connected with the use or occupancy of the Facility or the condition thereof, or the use of any adjoining sidewalks, streets or ways on or prior to the Closing Date, (iii) any Third Party Claims, or (iv) any liability which may arise from ownership, use or condition of the Property before the Closing Date to the extent it relates to the ownership or use of the Property before the Closing Date. Seller further agrees to pay any reasonable attorneys’ fees and expenses incident to the defense by Purchaser of any such Losses.

c. **Indemnification Claims.** In the event that any liability, claim (including any Third Party Claim), demand or cause of action which is indemnified against by or under any term, provision, Section or paragraph of this Agreement (“*Indemnitee’s Claim*”) is made against or received by any indemnified party (hereinafter “*Indemnitee*”) hereunder, said Indemnitee shall notify the indemnifying party (hereinafter “*Indemnitor*”) in writing within twenty one (21) calendar days of Indemnitee’s receipt of written notice of said Indemnitee’s Claim; provided, however, that Indemnitee’s failure to timely notify Indemnitor of Indemnitee’s receipt of an Indemnitee’s Claim

shall not impair, void, vitiate or invalidate Indemnitor's indemnity hereunder nor release Indemnitor from the same, which duty, obligation and indemnity shall remain valid, binding, enforceable and in full force and effect so long as Indemnatee's delay in notifying Indemnitor does not, solely by itself, directly and materially prejudice Indemnitor's right or ability to defend the Indemnified Claim. Upon its receipt of any or all Indemnatee's Claim(s), Indemnitor shall diligently and vigorously defend, compromise or settle said Indemnatee's Claim at Indemnitor's sole and exclusive cost and expense and shall promptly provide Indemnatee evidence thereof within twenty one (21) calendar days of the final, unappealable resolution of said Indemnatee's Claim, provided such claim is for litigation only. In the event of an Indemnatee's Claim unrelated to litigation (e.g., Medicaid takeback), Indemnitor shall be responsible for any damages, costs or expenses to Indemnatee, including, but not limited to, attorneys' fees incurred as a result of the indemnification event to be paid to Indemnatee within thirty (30) days of written demand for the same. Upon the receipt of the written request of Indemnatee, Indemnitor shall within fourteen (14) calendar days provide Indemnatee a true, correct, accurate and complete written status report regarding the then- current status of said Indemnatee's Claim. Indemnatee may not settle or compromise an Indemnatee's Claim without Indemnitor's prior written consent. Failure to obtain such consent shall be deemed forfeiture by Indemnatee of its indemnification rights hereunder.

d. **Third Party Claim.** As used herein, "**Third Party Claim**" shall mean any claim, suit, or proceeding that is instituted against an Indemnatee by a person or entity other than an Indemnitor and which, if prosecuted successfully, would result in a Loss for which such Indemnatee is entitled to indemnification hereunder.

e. **Basket.** Neither Seller nor Purchaser shall have the right to assert any Indemnatee's Claim unless the claim, in the aggregate with any other claims proposed to be asserted by such Indemnatee, exceeds Fifty Thousand Dollars (\$50,000) (the "**Basket**"), provided, however, that if and when such threshold is reached and thereafter, any and all claims shall be payable from the first dollar of such Losses, provided, however, the Basket shall not apply to indemnification for any Losses related to Recapture claims.

f. **Ceiling.** The maximum amount of liability that any party shall have to the other in all circumstances for any and all Losses or any other indemnification obligation related to this Agreement shall not exceed in the aggregate, an amount equal One Million Dollars (the "**Ceiling**").

g. **Indemnification Survival.**

i. The representations and warranties in **Section 13** and **Section 14** and the parties' obligations under this **Section 19** shall survive the Closing and remain effective for a period of for a period of twelve (12) months from the Closing Date, except for those related to the representations and warranties specifically surviving the Closing until barred by applicable law (collectively, the "**Survival Period**").

ii. Notwithstanding any provision herein to the contrary, no claim may be asserted from the breach of any representation, warranty, covenant, or agreement contained herein after the expiration of the Survival Period as set forth in **Section 19(c)(i)**. Notwithstanding any limitation set forth in **Section 19(c)**, neither party shall be precluded from continuing to seek a remedy for claims initiated prior to the expiration of the Survival Period or other deadline for the making of claims or for filing claims or counterclaims that arise out of claims made prior to the expiration of the Survival Period or other deadline for the making of claims.

## 20. TERMINATION.

a. **Termination.** This Agreement may be terminated at any time prior to the Closing under the following circumstances:

i. the mutual written consent of all parties hereto;

ii. by Purchaser, if a condition precedent to Purchaser's obligations hereunder is not satisfied prior to the Closing Date (as the same may be extended) as required by the terms of this Agreement or Seller is in breach of its obligation to consummate the transaction contemplated by this Agreement pursuant to the terms hereof, and such breach has not been (A) waived in writing by Purchaser, or (B) cured by Seller within ten (10) days after notice to Seller of such breach; provided, however, that in lieu of the termination rights offered under this clause (B), Purchaser may instead seek specific performance of this transaction; or

iii. by Seller, if Purchaser is unable to meet a condition precedent prior to the Closing Date (as the same may be extended) as required by the terms of this Agreement, including, specifically Seller's receipt of Board approval per **Section 16(e)**, or if Purchaser is in breach of its obligation to consummate the transaction contemplated by this Agreement pursuant to the terms hereof, and such breach has not been (A) waived in writing by Seller, or (B) cured by Purchaser within ten (10) days after notice to Purchaser of such breach.

b. **Effect of Termination.**

i. In the event this Agreement is terminated in accordance with the terms of **Section 20(a)**, the provisions of this Agreement shall immediately become void and of no further force and effect, except with respect to this **Section 20** and as otherwise specifically provided for in this Agreement.

ii. In the event that this Agreement is terminated in accordance with the terms of **Section 20(a)(i)** (including provisions deemed a termination of this Agreement by virtue of that Section), the entire Escrow Deposit shall be delivered to Purchaser and each party will thereafter be relieved of any obligation to the other party with respect to this Agreement, except as otherwise specifically provided for in this Agreement.

iii. In the event that this Agreement is terminated in accordance with the terms of **Section 20(a)(ii)** (or provisions deemed a termination of this Agreement by virtue of that Section), the entire Escrow Deposit shall be returned to Purchaser and Purchaser shall be entitled to reimbursement from Seller of all of Purchaser's out-of-pocket costs and expenses related to the potential acquisition of the Facility including, without limitation, legal fees and fees paid to third parties in connection with Purchaser's Due Diligence Review.

iv. In the event that this Agreement is terminated in accordance with the terms of **Section 20(a)(iii)** (or provisions deemed a termination of this Agreement by virtue of that Section), the entire Escrow Deposit shall be delivered to Seller as Seller's sole and exclusive remedy; provided that the foregoing shall not apply with respect to a termination as a result of conditions under **Sections 16(e)** to be satisfied and in either such case the Escrow Deposit shall be returned to Purchaser, and shall only apply with respect to a termination as a result of the condition under **Section 16(c)** to be satisfied to

the extent resulting from a breach by Purchaser of this Agreement. [NOTE: as previously drafted, the deposit could be forfeited if there are claims due to issues relating to Seller]

21. **LIABILITIES.**

a. **Seller's Liabilities.** Except as otherwise set forth in this Agreement, Purchaser does not assume, and shall not be liable for, any debts, liabilities or obligations of Seller including, but not limited to, any (i) liabilities or obligations of Seller to its creditors, (ii) liabilities or obligations of Seller with respect to any acts, events or transactions occurring after the Closing Date, (iii) liabilities or obligations of Seller for any federal, state, county or local taxes applicable to or assessed against Seller or the assets or business of Seller, or applicable to, incurred by and accrued or assessed against the Facility for periods on or prior to the Closing Date, (iv) contingent liabilities or obligations of Seller, whether known or unknown by Seller, Purchaser or New Operator, (v) any liabilities with respect to the Facility prior to the Closing Date, or (vi) any other liabilities resulting from any act or failure to act by Seller on or prior to the Closing Date.

b. **Purchaser's Liabilities.** Except as otherwise set forth in this Agreement, Seller does not assume, and shall not be liable for, any debts, liabilities or obligations of Purchaser including, but not limited to, any (i) liabilities or obligations of Purchaser to its creditors, (ii) liabilities or obligations of Purchaser with respect to any acts, events or transactions occurring on or after the Closing Date, (iii) liabilities or obligations of Purchaser for any federal, state, county or local taxes applicable to or assessed against Purchaser or the assets or business of Purchaser, or applicable to, incurred by and accrued or assessed against the Facility on or after the Closing Date, (iv) contingent liabilities or obligations of Purchaser, whether known or unknown by Purchaser, New Operator or Seller, or (v) any other liabilities resulting from any act or failure to act by Purchaser after the Closing Date.

c. **Anti-Sandbagging.** Notwithstanding anything herein to the contrary, neither party shall have liability for any inaccuracy or breach of any representation or warranty if, before the closing, the other party had knowledge of said inaccuracy or breach or the underlying facts giving rise to such inaccuracy or breach.

22. **NOTICES.** Any notice, request or other communication to be given by any party hereunder shall be in writing and shall be deemed adequately given only if (a) sent by personal delivery, (b) by Federal Express or other overnight messenger service, (c) first-class registered or certified mail, postage prepaid, return receipt requested or (d) by electronic mail, and addressed to the party for whom such notices are intended, addressed in each case as follows:

To Seller:                      Rock Island County Board  
c/o Richard Brunk, Chair  
1504 Third Avenue  
Rock Island, Illinois 61201  
Email: rbrunk@co.rock-island.il.us

Rock Island County Board  
c/o Jim Snider, County Administrator  
1504 Third Avenue  
Rock Island, Illinois 61201  
Email: jsnider@co.rock-island.il.us

with a copy to:                Marcus & Millichap  
c/o Ray Giannini, Senior Managing Director

13890 Bishops Drive, Ste. 300  
 Brookfield, WI 53005

with a copy to: Polsinelli PC  
 c/o Charles Sheets  
 150 N. Riverside Plaza, Ste. 3000  
 Chicago, IL 60606

To Purchaser: Aperion Care, Inc.  
 4655 West Chase  
 Lincolnwood, IL 60712  
 Attn: Frederick S. Frankel  
 Email: ffrankel@aperioncare.com

Each such notice and other communication under this Agreement shall be effective or deemed delivered or furnished (a) if given by mail, on the third business day after such communication is deposited in the mail, (b) if given by electronic mail, when such communication is transmitted to the email address specified above if sent before 5:00 p.m. (Central), otherwise on the following business day, and (c) if given by hand delivery, when left at the address specified above, and (d) if sent by recognized overnight carrier, then on the next business day immediately following the day sent. The above addresses may be changed by notice of such change, delivered as provided herein, to the last address designated.

23. **BROKERS.** Seller hereby represents, covenants, and warrants to Purchaser that, except for Marcus & Millichap, it has employed no broker with respect to the transactions contemplated under this Agreement, and Seller hereby indemnifies Purchaser with respect to any claims of brokers claiming to represent Seller with respect to the transactions contemplated under this Agreement. Purchaser hereby represents, covenants, and warrants to Seller that it has employed no broker with respect to the transactions contemplated under this Agreement, and Purchaser hereby indemnifies Seller with respect to any claims of brokers claiming to represent Purchaser with respect to the transactions contemplated under this Agreement.

24. **CONSENT.** Whenever the consent of a party is required hereunder, such consent shall not be unreasonably withheld, delayed or conditioned, unless this Agreement provides that such consent is given at the sole discretion of a party or as otherwise expressly provided for herein to the contrary.

25. **ASSIGNMENT.** Neither this Agreement nor the rights, duties or obligations arising hereunder shall be assignable or delegable by either party hereto without the express prior written consent of the other party hereto; provided, however, that Purchaser shall have the right to assign this Agreement to a newly formed entity such as East Moline Propco, LLC, an Illinois limited liability company or another entity affiliated with Purchaser formed for the purpose of being designated the permitted assignee of Purchaser's rights and obligations under this Agreement, and its rights, privileges and obligations hereunder shall be deemed assigned to such newly formed company. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

26. **EXHIBITS AND SCHEDULES.** Each Recital, Exhibit and Schedule shall be considered incorporated into this Agreement.

27. **TIME IS OF THE ESSENCE.** Time shall be of the essence in this Agreement.

28. **AMENDMENTS; SOLE AGREEMENT.** This Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by the parties hereto. This Agreement

constitutes the entire agreement between the parties hereto with respect to the subject matter of this Agreement, and the parties acknowledge and understand that, upon completion, all such Schedules and Exhibits shall be deemed to be made a part collectively hereof.

29. **SUCCESSORS.** Subject to the limitations on assignment set forth above, all the terms of this Agreement shall be binding upon and inure to the benefit of and be enforceable by and against the heirs, successors and assigns of the parties hereto.

30. **CAPTIONS.** The captions and table of contents of this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

31. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to conflict of laws' provisions. Each party to this Agreement hereby irrevocably agrees that any legal action or proceeding arising out of or relating to this Agreement or any agreements or transactions contemplated hereby shall be brought exclusively in the state courts located in Rock Island County, Illinois, or the federal courts located in the Central District of Illinois, and hereby expressly submits to the personal jurisdiction and venue of such courts for the purposes thereof and expressly waives any claim of improper venue and any claim that such courts are an inconvenient forum. Each party hereby irrevocably consents to the service of process of any of the aforementioned courts in any such suit, action or proceeding by the mailing of copies thereof by certified mail, postage prepaid, to the address set forth in the notice Section hereof, such service to become effective three (3) business days after such mailing.

32. **SEVERABILITY.** Should any one or more of the provisions of this Agreement be determined to be invalid, unlawful or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby and each such provision shall be valid and remain in full force and effect.

33. **USAGE.** All nouns and pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons, firm or firms, corporation or corporations, entity or entities or any other thing or things may require. "Any" or "any" when used in this Agreement shall mean "any and all." The word "including" when used in this Agreement, means "including, without limitation."

34. **HOLIDAYS.** Whenever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday or nationally recognized legal holiday, such time for performance shall be extended to the next business day.

35. **COUNTERPARTS; .PDF SIGNATURES.** This Agreement may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument. Signatures exchanged by email in .pdf format shall be treated as original signatures of the parties for the purposes hereto.

36. **NO JOINT VENTURE.** Nothing contained herein shall be construed as forming a joint venture or partnership between the parties hereto with respect to the subject matter hereof. The parties hereto do not intend that any third party shall have any rights under this Agreement.

37. **NO STRICT CONSTRUCTION.** The language used in this Agreement is the language chosen by the parties to express their mutual intent, and no rule of strict construction shall be applied against any of the parties hereto.

38. **ATTORNEYS FEES.** If any legal proceeding relating to this Agreement or the enforcement of any provision of this Agreement is brought against any party hereto, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and disbursements (in addition to any other relief to which the prevailing party may be entitled).

39. **WAIVER OF JURY TRIAL. EACH PARTY HERETO WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED IN CONNECTION HERewith OR HEREAFTER AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.**

[Signature Page Follows]

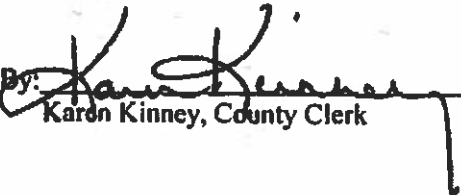
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by persons authorized to do so on behalf of each of them respectively as of the day and year first above written.

**SELLER:**

THE COUNTY OF ROCK ISLAND, ILLINOIS,  
a public body corporate and politic of the  
State of Illinois

By:   
Richard Brunk, County Board Chair

Attest:

By:   
Karen Kinney, County Clerk

**PURCHASER:**

APERION CARE, INC., an Illinois corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by persons authorized to do so on behalf of each of them respectively as of the day and year first above written.

**SELLER:**

THE COUNTY OF ROCK ISLAND, ILLINOIS,  
a public body corporate and politic of the  
State of Illinois

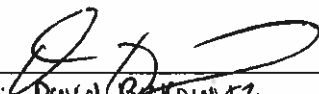
Attest:

By: \_\_\_\_\_  
Karen Kenney, County Clerk

By: \_\_\_\_\_  
Richard Brunk, County Board Chair

**PURCHASER:**

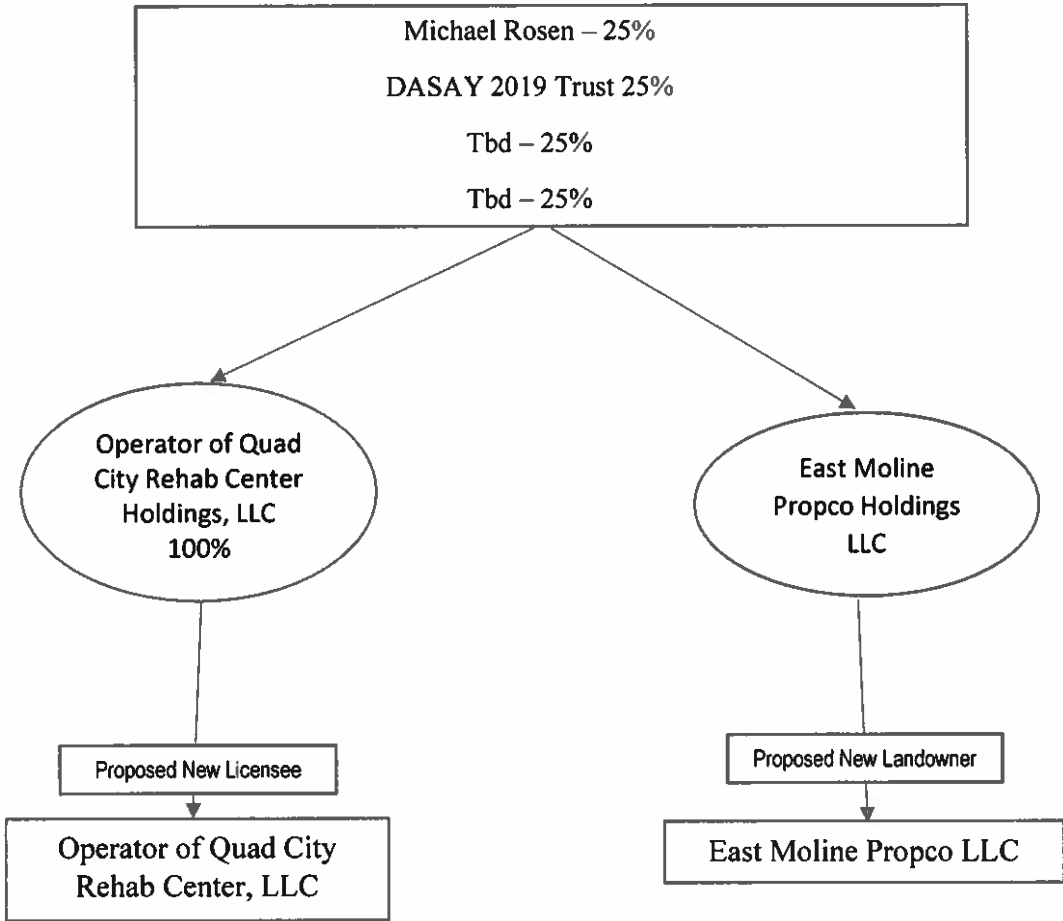
APERION CARE, INC.,  
an Illinois corporation

By:   
Name: David Berkowitz  
Title: President

Attachment-3

See Attachment-1

Attachment-4



**Attachment-5**

**Not applicable – project does not include construction activities**

**Attachment-6**

**Not applicable – project does not include alterations to any land or buildings**

Attachment-7

All Itemization is shown on page 5 of the Application

Attachment-8

Not applicable – The project does not involve a new facility, new category of service, new construction, or expenditures.

Attachment-9

No change to existing Square Footage - 124,976



## Attachment-11\*

\*review criterion of Section 1110.230 of the Illinois Administrative Code is applicable to In-Center Hemodialysis Projects which this project does not include.

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1. A listing of all health care facilities owned or operated by the applicant, including licensing, and certification if applicable:

**None**

2. A listing of all health care facilities currently owned and/or operated in Illinois, by any corporate officers or directors, LLC members, partners, or owners of at least 5% of the proposed health care facility:

**Bria of Chicago Heights – South Chicago Heights, IL****Aperion Care Moline - East Moline, IL****Aperion Care Galesburg – Galesburg, IL****Aperion Care Spring Valley – Spring Valley, IL**

3.a. A certified listing of any adverse action taken against any facility owned and/or operated by the applicant, directly or indirectly, during the three years prior to the filing of the application.

**Bria of Chicago Heights – South Chicago Heights, IL**

- 1/2/19 – Type A + 2 Type B violations
- No federal fines in last 3 years

**Aperion Care Moline - East Moline, IL**

- 6/20/17 – Federal fine of \$44,000
- 8/29/17 - Type AA violation
- 11/7/17 – Type A violation
- 4/30/19 – Type B violation

**Aperion Care Galesburg – Galesburg, IL**

- 6/14/18 – Type C Violation
- 12/13/18 – Type B violation
- 12/13/18 – Federal fine of \$21,154
- 1/29/19 – Federal Fine of \$30.752
- 2/22/19 – Type B violation

**Aperion Care Spring Valley – Spring Valley, IL**

- 07/31/2018 – Type B violation
- No federal fines in last 3 years

**Country Manor Health & Rehab Center – Sartell, MN**

- No federal fines in last 3 years

## Attachment-11 (Continued)

3.b.

None

3.c.

None

3.d.

None

3.e.

None

4. Please accept this statement as authorization permitting HFSRB and DPH to 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. This and all other attachments are a part of the CON Permit Application of Operator of Quad City Rehab Center, LLC and East Moline Propco LLC as Applicant and Co-Applicant and the Authorized Signatory of each has certified that the information provided in the application, including what has been appended thereto is complete and correct to the best of his/her knowledge and belief.

Attachment-12

Not applicable – the purpose of the project is the sale and transfer of operations at an existing freestanding nursing home.

Attachment-13

Not applicable – there are no alternatives to the proposed project.

Attachment-14

Not applicable – the project does not involve changes to the existing facility configuration

Attachment-15

Not applicable – only applicable to projects that involve services, functions or equipment for which HFSRB has established utilization standards or occupancy targets in 77 Ill. Adm. Code 1100

Attachments-16 & 17

Not Applicable – the project is not address existing, or creating any new shell space

## Attachment-19\*

\*review criterion of Section 1110.240(b) of the Illinois Administrative Code is applicable to Organ Transplantation which this project does not include. Current Statutes don't include review standards for freestanding nursing facilities

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

There will be no change in the number of licensed beds, or the services currently offered. The new operator will be Operator of Quad City Rehab Center, LLC. The reason for this transaction is the County of Rock Island has decided to transfer the facility operations to another entity and sell the real estate upon which the facility is being operated to another entity who will lease the premises to the new Operator. A cost-benefit analysis is not applicable.

## B. Criterion 1110.240(c), Access

The new operator intends to utilize the admissions policies currently in place until such time as new operator can review and assess the existing policies to determine whether changes are needed.

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

1. Explain what the impact of the proposed transaction will be on the other area providers.

**None known**

2. List all of the facilities within the applicant's health care system and provide the following for each facility.

**None**



Attachment-20

V. 1120.120 - Availability of Funds

The Co-Applicant will fund the real estate acquisition with cash and does not anticipate obtaining mortgage financing or any other type of assistance with the purchase.

Attachments-21 & 22

VI. 1120.130 - Financial Viability

All of the project's capital expenditures are expected to be completely funded through internal sources

Attachment-23

VII. 1120.140 - Economic Feasibility

The applicant anticipates that the total estimated project costs and related costs will be funded in total with cash and equivalents.

Attachment-24

Not Applicable – this is a non-substantive review

Attachment-25 (aka Attachment 44)

Not Applicable – the Applicant does not expect to provide any Charity Care



direct dial: 847-745-6931  
e-mail: [sprizant@gutnicki.com](mailto:sprizant@gutnicki.com)

May 19, 2020

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

**Re: Application for CON Permit – Sale of County Nursing Home known as  
Hope Creek Nursing & Rehab**

To Whom it May Concern,

Enclosed is an application for permit requiring non-substantive review due to a change in the licensed operator and landowner at the captioned freestanding nursing facility in East Moline.

A check covering the fee for such review and permit as well as any additional required documentation are available upon request. There has been a recent change to the Asset Purchase Agreement (APA) involving the price of the project. This has resulted in an Amendment to the APA which is currently being circulated for signature. Once signed this too will be provided.

Should you have any questions, please do not hesitate to contact me.

Kind Regards,

A handwritten signature in black ink, appearing to read "Susan Prizant", with a long, sweeping horizontal line extending to the right.

Susan Prizant, MJ  
*Senior Paralegal*

Enclosures