

RECEIVED

Feb 22 2019

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

CHRISTOPHER L. RICHARD  
DIRECT DIAL: 334.409.2233  
EMAIL: CRICHARD@GILPINGIVHAN.COM

**February 22, 2019**

Alabama State Health Planning and Development Agency  
RSA Union Building  
100 North Union Street, Suite 870  
Montgomery, Alabama 36104

*Re:* Notice of Change of Ownership – Rosewood Manor (Jackson County, AL)  
Our File No. 10186.0006

To Whom It May Concern:

Pursuant to Ala. Code § 22-21-270 and Ala. Admin. Code r. 410-1-7-.04, please find enclosed herewith a Notice of Change of Ownership/Control for Rosewood Manor Specialty Care (Facility ID No. 071-S3604). Our client, Rosewood Manor Real Estate, LLC, is acquiring the real property upon which this Specialty Care Assisted Living Facility (“SCALF”) is operated, and an affiliated entity, Rosewood Manor Operations, LLC will serve as the operating entity for the SCALF. Additional information is included with the Notice form.

This transaction also involves the acquisition of the Assisted Living Facility (“ALF”) Rosewood Manor Inc. II (Facility ID No. 071-A3604) and/or Rose Wood Manor Assisted Living (Facility ID No. 071-3605) by our clients. Though we do not believe a Notice of Change of Ownership/Control form to be required for the ALF portion of this acquisition, we share this information for your reference.

Should you have any questions or need additional information in order to process this change of ownership, please do not hesitate to contact me.

Very truly yours,

GILPIN GIVHAN, PC

Christopher L. Richard

CLR:pcd  
Enclosure  
pc:

Feb 22 2019

State Health Planning and Development Agency

Alabama CON Rules &amp; Regulations

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY**NOTICE OF CHANGE OF OWNERSHIP/CONTROL**

The following notification of intent is provided pursuant to all applicable provisions of ALA. CODE § 22-21-270 (1975 as amended) and ALA. ADMIN. CODE r. 410-1-7-.04. This notice must be filed at least twenty (20) days prior to the transaction.

- Change In Direct Ownership or Control (of a vested Facility; ALA. CODE §§ 22-20-271(d), (e))  
 Change in Certificate of Need Holder (ALA. CODE § 22-20-271(f))  
 Change in Facility Management (Facility Operator)

Any transaction other than those above-described requires an application for a Certificate of Need.

**Part I: Facility Information**

SHPDA ID Number: 071-S3604  
 (This can be found at [www.shpda.alabama.gov](http://www.shpda.alabama.gov), Health Care Data, ID Codes)  
 Name of Facility/Provider: Rosewood Manor Specialty Care  
 (ADPH Licensure Name)  
 Physical Address: 1513 County Park Road  
Scottsboro, Alabama 35769  
 County of Location: JACKSON  
 Number of Beds/ESRD Stations: 16  
 CON Authorized Service Area (Home Health and Hospice Providers Only). Attach additional pages if necessary. \_\_\_\_\_

**Part II: Current Authority** (Note: If this transaction will result in a change in direct ownership or control, as defined under ALA. CODE § 22-20-271(e), please attach organizational charts outlining current and proposed structures.)

Owner (Entity Name) of Facility named in Part I: Nationwide Health Properties, LLC  
 Mailing Address: c/o Ventas, Inc., 353 N Clark Street, Suite 3300  
Chicago, Illinois 60654  
 Operator (Entity Name): Ventas Incare, LLC

**Part III: Acquiring Entity Information**

Name of Entity: Rosewood Manor Real Estate, LLC  
 Mailing Address: 108 Michigan Court  
Madison, Alabama 35758

Operator (Entity Name): Rosewood Manor Operations, LLC

Proposed Date of Transaction is on or after: 03/14/2019

**Part IV: Terms of Purchase**

Monetary Value of Purchase: \$ 650,000.00

Type of Beds: ALF/SCALF

Number of Beds/ESRD Stations: 16

**Financial Scope:** to Include Preliminary Estimate of the Cost Broken Down by Equipment, Construction, and Yearly Operating Cost:

Projected Equipment Cost: \$ 0.00

Projected Construction Cost: \$ 0.00

Projected Yearly Operating Cost: \$ 810,000.00

Projected Total Cost: \$ 810,000.00

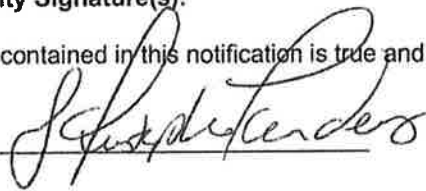
**On an Attached Sheet Please Address the Following:**

- 1.) The services to be offered by the proposal (the applicant will state whether he has previously offered the service, whether the service is an extension of a presently offered service, or whether the service is a new service).
- 2.) Whether the proposal will include the addition of any new beds.
- 3.) Whether the proposal will involve the conversion of beds.
- 4.) Whether the assets and stock (if any) will be acquired.

**Part V: Certification of Information**

**Current Authority Signature(s):**

The information contained in this notification is true and correct to the best of my knowledge and belief.

Owner(s):  \_\_\_\_\_

Operator(s): \_\_\_\_\_

Title/Date: 0/13/19 \_\_\_\_\_

SWORN to and subscribed before me, this 13<sup>th</sup> day of February, 2019.

(Seal)



Brenda Harris Garrison  
Notary Public

My Commission Expires: July 7, 2019

**Acquiring Authority Signature(s):**

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): \_\_\_\_\_

Operator(s): \_\_\_\_\_

Title/Date: \_\_\_\_\_

SWORN to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Author: Alva M. Lambert  
Statutory Authority: § 22-21-271(c), Code of Alabama, 1975  
History: New Rule



State Health Planning and Development Agency

Alabama CON Rules & Regulations

Operator (Entity Name): Rosewood Manor Operations, LLC

Proposed Date of Transaction is on or after: 03/14/2019

**Part IV: Terms of Purchase**

Monetary Value of Purchase: \$ 650,000.00

Type of Beds: ALF/SCALF

Number of Beds/ESRD Stations: 16

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- 3.) Whether the proposal will involve the conversion of beds.
- 4.) Whether the assets and stock (if any) will be acquired.

**Part V: Certification of Information**

**Current Authority Signature(s):**

The information contained in this notification is true and correct to the best of my knowledge and belief.

Owner(s): \_\_\_\_\_

Operator(s): \_\_\_\_\_

Title/Date: \_\_\_\_\_

State Health Planning and Development Agency

Alabama CON Rules & Regulations

Operator (Entity Name): Rosewood Manor Operations, LLC

Proposed Date of Transaction is on or after: 03/14/2019

**Part IV: Terms of Purchase**

Monetary Value of Purchase: \$ 650,000.00

Type of Beds: ALF/SCALF

Number of Beds/ESRD Stations: 16

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Projected Yearly Operating Cost: \$ 810,000.00

Projected Total Cost: \$ 810,000.00

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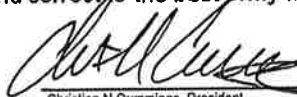
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- 2.) Whether the proposal will include the addition of any new beds.
- 3.) Whether the proposal will involve the conversion of beds.
- 4.) Whether the assets and stock (if any) will be acquired.

**Part V: Certification of Information**

**Current Authority Signature(s):**

The information contained in this notification is true and correct to the best of my knowledge and belief.

Owner(s): Nationwide Health Properties, LLC

 3/19/19  
 Christian N. Cummings, President Date

Operator(s): \_\_\_\_\_

Title/Date: \_\_\_\_\_

SWORN to and subscribed before me, this 19<sup>th</sup> day of March, 2019.

(Seal)



Theresa M. Kwasinski  
Notary Public

My Commission Expires: 8/5/22

**Acquiring Authority Signature(s):**

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): \_\_\_\_\_

Operator(s): \_\_\_\_\_

Title/Date: \_\_\_\_\_

SWORN to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Author: Alva M. Lambert  
Statutory Authority: § 22-21-271(c), Code of Alabama, 1975  
History: New Rule



State Health Planning and Development Agency

Alabama CON Rules & Regulations

Operator (Entity Name): Rosewood Manor Operations, LLC  
Proposed Date of Transaction is on or after: 03/14/2019

**Part IV: Terms of Purchase**

Monetary Value of Purchase: \$ 650,000.00  
Type of Beds: ALF/SCALF  
Number of Beds/ESRD Stations: 16

**Financial Scope:** to Include Preliminary Estimate of the Cost Broken Down by Equipment, Construction, and Yearly Operating Cost:

Projected Equipment Cost: \$ 0.00  
Projected Construction Cost: \$ 0.00  
Projected Yearly Operating Cost: \$ 810,000.00  
Projected Total Cost: \$ 810,000.00

**On an Attached Sheet Please Address the Following:**

- 1.) The services to be offered by the proposal (the applicant will state whether he has previously offered the service, whether the service is an extension of a presently offered service, or whether the service is a new service).
- 2.) Whether the proposal will include the addition of any new beds.
- 3.) Whether the proposal will involve the conversion of beds.
- 4.) Whether the assets and stock (if any) will be acquired.

**Part V: Certification of Information**

**Current Authority Signature(s):**

The information contained in this notification is true and correct to the best of my knowledge and belief.

Owner(s): \_\_\_\_\_ Veritas Incare, LLC (Operator)  
Operator(s): Christopher Landers by: Christopher Landers  
Title/Date: Pres/CEO 3/14/19 its: President and CEO



SWORN to and subscribed before me, this 14 day of March, 2019.

Brittany N. Hall  
Notary Public

My Commission Expires: 07-02-2020

**Acquiring Authority Signature(s):**

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): \_\_\_\_\_

Operator(s): \_\_\_\_\_

Title/Date: \_\_\_\_\_

SWORN to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Author: Alva M. Lambert  
Statutory Authority: § 22-21-271(c), Code of Alabama, 1975  
History: New Rule

SWORN to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Acquiring Authority Signature(s):**

I agree to be responsible for reporting of all services provided during the current annual reporting period, as specified in ALA. ADMIN. CODE r. 410-1-3-.12. The information contained in this notification is true and correct to the best of my knowledge and belief.

Purchaser(s): Sanjay Malhotra Rosewood Manor Real Estate LLC

Operator(s): Sanjay Malhotra Rosewood Manor Operations LLC

Title/Date: 3/13/19 by: Sanjay Malhotra, MD  
Manager for both entities

SWORN to and subscribed before me, this 13th day of March, 2019.

(Seal)

Kue N C  
Notary Public

My Commission Expires: 11/14/2020

Author: Alva M. Lambert  
Statutory Authority: § 22-21-271(c), Code of Alabama, 1975  
History: New Rule

Mar 12 2019

STATE HEALTH PLANNING AND  
DEVELOPMENT AGENCY

**ADDENDUM TO PART IV:**  
**SHPDA NOTICE OF CHANGE OF OWNERSHIP/CONTROL**

- 1.) The applicant has previously offered the services which will be provided at the facility. No new services will be provided.
- 2.) This transaction will not include the addition of any new beds.
- 3.) This transaction will not involve the conversion of beds.
- 4.) The applicant intends to acquire assets which are currently used to operate the facility.

**REINSTATEMENT AND FIRST AMENDMENT  
TO PURCHASE AND SALE AGREEMENT**

THIS REINSTATEMENT AND FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "**Amendment**") is executed as of this \_\_\_\_\_ day of January, 2019, by and between NATIONWIDE HEALTH PROPERTIES, LLC, a Delaware limited liability company ("**Seller**"), and ROSEWOOD MANOR REAL ESTATE, LLC, an Alabama limited liability company ("**Purchaser**").

WITNESSETH:

WHEREAS, as of October 30, 2018, Seller and Purchaser entered into that certain Purchase and Sale Agreement (the "**Agreement**"), relating to the purchase and sale of certain property located in Jackson County, Alabama, as more particularly described in the Agreement (the "**Property**"); and

WHEREAS, Purchaser terminated the Agreement by providing notice to Seller on December 20, 2018, pursuant to Section 15 thereof; and

WHEREAS, Seller and Purchaser desire to reinstate and amend certain terms and conditions of the Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Defined Terms.** All capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

2. **Reinstatement.** The Agreement is hereby reinstated in its entirety, as if the termination of the Agreement had never occurred. Buyer and Seller further agree that the Agreement shall remain in full force and effect, as amended by this Amendment.

3. **Due Diligence Period.** The first sentence of Section 4(a) of the Agreement is hereby deleted in its entirety and the following inserted in lieu thereof:

"On or before 5:00 PM (Chicago Time) on February 12, 2019 (the "**Due Diligence Expiration Date**"), Purchaser shall have completed its due diligence investigation of the Property."

4. **Closing Date.** Section 7 of the Agreement is hereby deleted in its entirety and the following inserted in lieu thereof:

"The closing of the acquisition of the Property (the "**Closing**") shall occur on or before the thirtieth (30<sup>th</sup>) day after the Due Diligence Expiration Date (the "**Closing Date**") contingent upon transfer of CON (Certificate of Need) to Rosewood Manor Operations, LLC."

5. **Deposit.** Within three (3) Business Day following the execution of this Amendment, Purchaser shall pay the sum of Twenty Thousand and 00/100 Dollars (\$20,000.00) by electronic wire transfer of immediately available federal funds to the account previously designated by the Title Company, which sum shall constitute the Deposit under the Agreement.

6. Effect. Except as specifically set forth above, all terms and conditions of the Agreement shall remain in full force and effect.

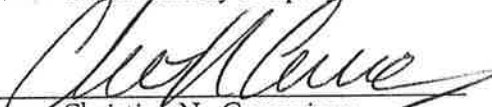
7. Counterparts/Electronic Delivery. This Amendment may be executed in any number of counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument. Delivery of executed copies of this Amendment by e-mail or facsimile shall constitute valid and binding delivery of this Amendment.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and Purchaser have caused this Reinstatement and First Amendment to Purchase and Sale Agreement to be executed as of the date first written above.


**SELLER:**

**NATIONWIDE HEALTH PROPERTIES, LLC, a**  
Delaware limited liability company

By:   
Name: Christian N. Cummings  
Title: President

**PURCHASER:**

**ROSEWOOD MANOR REAL ESTATE, LLC, an**  
Alabama limited liability company

By:   
Name: Kamal Malhotra  
Title: Manager

**CONSENT OF TITLE COMPANY**

The undersigned agrees to (a) accept this Amendment; (b) be escrow holder under the Agreement; and (c) be bound by the Agreement in the performance of its duties as the Title Company, and escrow holder. However, the undersigned will have no obligations, liability or responsibility under this Agreement or any amendment hereto unless and until this Agreement and such amendment, as applicable has been fully executed by the parties hereto and delivered to the undersigned.

**TITLE COMPANY:**

**FIRST AMERICAN TITLE INSURANCE COMPANY**

By: Cathy Hesseltine  
Name: Cathy Hesseltine  
Title: Escrow Assistant



## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made by and between **NATIONWIDE HEALTH PROPERTIES, LLC**, a Delaware limited liability company, (together, “**Seller**”) and **ROSEWOOD MANOR REAL ESTATE, LLC**, an Alabama limited liability company (“**Purchaser**”), effective as of October 30, 2018 (the “**Effective Date**”).

### R E C I T A L S

A. Seller is the owner of a fee simple interest in that certain real property located in Jackson County, Alabama as more particularly described on Exhibit A attached hereto, together with all improvements located thereon and appurtenances related thereto (the “**Real Property**”).

B. The Real Property is improved with an assisted living facility (the “**Facility**”). The Real Property is subject to that certain Amended and Restated Master Lease Agreement dated as of August 1, 2013 (as previously amended and assigned, the “**Lease**”), by and between Seller, as landlord, and Veritas Incare, LLC, a Delaware limited liability company (the “**Current Operator**”), as tenant. The Real Property and the tangible assets and personal property owned by Seller and used in the operation of the Property (the “**Personal Property**”), and the Lease are referred herein as the “**Property**.”

C. Seller desires to sell the Property to Purchaser, and Purchaser desires to purchase the Property from Seller, in accordance with the terms and conditions contained in this Agreement.

### A G R E E M E N T

**NOW, THEREFORE**, for and in consideration of the covenants, agreements and promises herein contained, and in consideration of the payment of the purchase price as stated below, and for other good and valuable consideration, the parties do hereby covenant and agree as follows:

**1. Agreement to Buy and Sell.** Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the Property upon the terms and conditions set forth in this Agreement.

**2. Purchase Price; Terms.** The purchase price for the Property (the “**Purchase Price**”) shall SIX HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$650,000). The Purchase Price shall be paid by Purchaser to Seller in cash or other immediately available funds at the Closing (as defined below).

**3. Deposit; Liquidated Damages.**

(a) Within five (5) business days after the Effective Date of this Agreement, Purchaser shall deliver to First American Title Insurance Company (“**FATIC**”), having its office at 30 North LaSalle Street, Suite 2700 Chicago, IL 60602, Attention: John Beckstedt (the “**Title Company**”), as escrow holder, the sum of TWENTY THOUSAND AND 00/100 DOLLARS

(\$20,000) (the “**Deposit**”). The parties hereby acknowledge that the Deposit shall, upon the Effective Date, be held by the Title Company in accordance with the terms of this Agreement.

(b) This Agreement, together with a standard, FATIC joint control escrow agreement, to be executed and delivered by Purchaser and Seller concurrently herewith (the “**Escrow Agreement**”), shall constitute the escrow instructions to the Title Company, including without limitation the standard printed general escrow instructions of the Title Company, incorporated herein by this reference. **IN THE EVENT SELLER IS ENTITLED TO RETAIN THE DEPOSIT PURSUANT TO THE FOREGOING SECTION 3(b), THE DEPOSIT SHALL BE RETAINED BY SELLER AS LIQUIDATED DAMAGES. THE PARTIES HERETO EXPRESSLY AGREE AND ACKNOWLEDGE THAT SELLER’S ACTUAL DAMAGES IN THE EVENT OF A DEFAULT BY PURCHASER WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO ASCERTAIN AND THAT THE AMOUNT OF THE DEPOSIT REPRESENTS THE PARTIES’ REASONABLE ESTIMATE OF SUCH DAMAGES AND DOES NOT CONSTITUTE A PENALTY.**

(c) The parties hereto expressly agree that if the parties give the Title Company contradictory instructions, the Title Company shall have the right at its election to file an action in interpleader requiring the parties to answer and litigate their several claims and rights among themselves and the Title Company is authorized to deposit with the clerk of the court all documents and funds held pursuant to this Agreement. If such action is filed, the parties agree (i) to each pay fifty percent (50.00%) the Title Company’s cancellation charges and costs, expenses and reasonable attorneys’ fees which the Title Company is required to expend or incur in the interpleader action, the amount thereof to be fixed and judgment therefor to be rendered by the court; and (ii) to reimburse and/or indemnify and hold harmless the other for any additional costs, damages or losses incurred (i.e., in excess of its obligation pursuant to the foregoing (i)) in the event it fails to comply with its obligation under the foregoing (i). Upon the filing of such an action, the Title Company shall thereupon be fully released and discharged from all obligations to further perform any duties or obligations otherwise imposed by the terms of this Agreement or any other instructions given to the Title Company hereunder.

(d) Seller and Purchaser hereby agree that the aggregate consideration for the Property to be recited on the Deed (as defined below) may differ from the total Purchase Price, with the balance being attributable to personal property and/or real estate intangibles. Seller and Purchaser further agree that for purposes of completing Form 8594 of the Internal Revenue Services in connection with the consummation of the sale of the Property to Purchaser, that the entire Purchase Price shall be allocated to Class V Assets and neither Seller nor Purchaser shall take any position inconsistent with the foregoing in any state income tax or federal income tax filings.

#### **4. Due Diligence Period.**

(a) On or before the date that is forty-five (45) days after the date Purchaser receives all the Due Diligence Materials, as required herein (the “**Due Diligence Expiration Date**”), Purchaser shall have completed its due diligence investigation of the Property. At any time prior to the Due Diligence Expiration Date, Purchaser may notify Seller expressly and in writing

that Purchaser has determined, for any reason or no reason, in its sole and absolute discretion that it will not complete the proposed acquisition of the Property and is thereby terminating this Agreement (the “**Termination Notice**”), whereupon the Deposit shall be immediately returned to Purchaser Subject to Sections 4(e) and 4(g) below, if Seller does not receive the Termination Notice on or before the Due Diligence Expiration Date, then, except for a default solely on the part of Seller under this Agreement, the Deposit shall become nonrefundable to Purchaser and Purchaser shall be obligated to close on its purchase of the Property upon the satisfaction of the conditions precedent in favor of Purchaser set forth in **Section 8(a)** below.

(b) No later than five (5) business days after the Effective Date, Seller shall deliver or cause to be delivered to Purchaser copies of all materials in its actual possession as reasonably requested by Purchaser (the “**Due Diligence Materials**”).

(c) At any time between the Effective Date and the Diligence Expiration Date, subject to the rights of the Current Operator under the Lease and tenants of the Property, and upon twenty-four (24) hours prior written notice to Seller and Current Operator, Purchaser and its agents, employees and contractors shall have the right to enter the Real Property during reasonable business hours and, while thereon, make surveys, investigations and appraisals, take measurements, make structural, mechanical, architectural, zoning, land use, market and engineering studies, and make any other inspections and studies of the Real Property deemed appropriate by Purchaser, all at Purchaser’s expense; provided, however Purchaser shall not (i) take any samples of materials of any kind from the Property, or (ii) perform any physically invasive procedure at the Property (such as a Phase II environmental audit) without, in each case, the prior written consent of Seller, which consent may be withheld in Seller’s sole discretion. Purchaser will cooperate with Seller and Current Operator to conduct the investigations, analyses, surveys, and reviews contemplated in this **Section 4(c)** in such a manner as to cause as little disruption to the business conducted at the Property as possible.

(d) Seller hereby agrees to use commercially reasonable efforts to cause the Current Operator to cooperate with Purchaser in connection with its investigation of the Property pursuant to **Section 4(c)** above; provided, however, the foregoing shall not be deemed to require Seller to expend any money, incur any expense or institute any judicial or other proceeding against tenant(s) in connection therewith. Additionally, Purchaser may contact tenant(s) and its representatives in connection with its due diligence review of the Property; provided, however, Purchaser may only interview or otherwise communicate (in person, by phone or otherwise) with tenant(s) and/or its employees or representatives with the participation of a representative of Seller, unless Seller specifically consents to the contrary in writing in each instance. Purchaser agrees that in connection with its investigation of the Property or contact with the Current Operator or its employees or representatives, Purchaser shall not unreasonably disrupt or interfere with the operations at the Property or Seller’s business relationship with the Current Operator. In the event Purchaser has violated the preceding sentence, Seller shall have the right, exercisable in its sole and absolute discretion, to limit, restrict or prohibit any further communication between Purchaser and tenant(s).

(e) Purchaser and/or its designated operator (“**New Operator**”) intend to enter into an Operations Transfer Agreement (the “**OTA**”) with Current Operator, pursuant to which,

inter alia, New Operator and Current Operator shall make certain agreements and arrangements concerning: (a) the orderly transfer and transition of the business operations at the Property and the applicable healthcare licenses and permits, and (b) the purchase by and transfer to New Operator from Current Operator of the operational assets of the Property. Purchaser hereby acknowledges and agrees that Seller is only selling to it the Property, and Purchaser/New Operator shall solely rely on the provisions of the OTA with respect to the transfer of any operational assets and liabilities in connection with the operation of the business conducted at the Property. Prior to the Due Diligence Expiration Date, and as a condition to Purchaser waiving its option to terminate this Agreement in accordance with Section 4(a), above, Purchaser shall provide Seller with a copy of the OTA executed by New Operator and Current Operator. Notwithstanding anything herein which may be construed to the contrary, the termination of the Lease as to the Property shall be a condition precedent to Seller's and Purchaser's obligation to proceed to Closing. Provided that Purchaser is diligently and in good faith negotiating the OTA, Purchaser may extend the Due Diligence Expiration Date by fifteen (15) days solely for purposes of negotiation of the OTA by delivering written notice to Seller prior to the expiration of the Due Diligence Period (the "OTA Extension"). Purchaser agrees that upon delivery of the OTA Extension, Purchaser shall be deemed to have waived its right to terminate this Agreement for any condition contained in this Section 4, other than the finalization of the form of the OTA or a violation by Seller of Section 4(g) or Section 4(i) hereof.

(f) If Purchaser exercises its rights under Section 4(c) above, it shall keep the Property free and clear of any liens or claims resulting therefrom, and Purchaser shall indemnify, defend, protect and hold harmless Seller and its direct and indirect subsidiaries and affiliates, and their respective agents, beneficiaries, members, managers, partners, employees and tenant(s) from and against any and all liability, loss, cost, damage or expense (including, without limitation, attorneys' fees and costs) caused by Purchaser or its agents, employees or contractors performing the inspections, tests or inquiries provided for in the Agreement in relation to the Property. Purchaser shall restore any portion of the Property to substantially the same condition immediately before such exercise. The rights and obligations of the parties under this subsection shall survive Closing or any earlier termination of this Agreement. Purchaser shall use care and consideration in connection with all of its inspections. Prior to any entry on the Property by Purchaser or its agents or consultants, Purchaser shall secure and maintain, or shall cause its agents and consultants to secure and maintain, the following insurance written by insurers that have an A.M. Best Rating of A-VII or better: (x) a commercial general liability policy (including contractual liability and independent contractors liability) written on an occurrence policy form, in an amount of not less than One Million Dollars (\$1,000,000) each occurrence and Three Million Dollars (\$3,000,000) in the aggregate and with a deductible (or self-insured retention) in an amount not to exceed \$10,000, which will cover the activities and actions of Purchaser and its agents and consultants on the Property and shall name Seller and its direct and indirect subsidiaries and affiliates, and their respective agents, beneficiaries, members, managers, partners, employees and any mortgagee of Seller or any ground lessor, as well as Current Operator, as additional insureds thereunder, (y) workers' compensation and employer's liability insurance in accordance with the provisions of Alabama law; and, (z) business auto liability insurance covering all owned, non-owned and hired vehicles in an amount of not less than One Million Dollars (\$1,000,000) each accident. Such insurance required in this Section 4(f) shall be primary and non-contributory with any insurance

maintained by Seller or tenant(s). Purchaser shall provide a certificate of insurance to Seller naming Purchaser as an additional named insured and evidencing the insurance required herein prior to any entry on the Property by Purchaser or its agents or consultants. If the commercial general liability insurance coverage is written on a claims made policy form, such coverage shall have a retroactive date not later than the Effective Date and Purchaser shall for a period of two (2) years after completion of Purchaser's due diligence, including physical inspections of the Property, (A) maintain commercial general liability insurance, at Purchaser's sole cost and expense, satisfying the foregoing, or (B) secure "tail" or extended reporting coverage. This provision shall survive the Closing or any earlier termination of this Agreement.

(g) Seller shall not in any way market the Property for sale to prospective third party purchasers during the term of this Agreement. In the event of a breach of this Section 4(g) by Seller, Purchaser shall be entitled to terminate this Agreement, without further notice to Seller, and to immediate return of the Earnest Money.

(h) If this Agreement terminates for any reason prior to Closing, Purchaser shall (i) deliver to Seller a copy of any tests, audits, surveys, reports, studies and the results of any and all investigations and inspections performed for Purchaser by third parties ("**Reports**") within ten (10) days of the termination of this Agreement (excluding any proprietary materials and materials subject to the attorney-client and/or work product privilege); and (ii) return to Seller or certify the destruction of any and all Due Diligence Materials (as defined below) given to Purchaser by or on behalf of Seller within ten (10) days of the termination of this Agreement.

(i) On or before the Closing Date, Seller (at Sellers' expense, except as otherwise provided herein) shall obtain all approvals and consents and all other authorizations, and shall deliver (or arranged to deliver after the Closing, in a manner satisfactory to Purchaser) all notifications required to be obtained from or delivered to any federal, state or local government agency, or any other third party, to carry out and consummate the sale of the Property to Purchaser (the "**Third Party Consents and Notifications**"). Purchaser shall reasonably cooperate with and assist Seller in obtaining and delivering the Third Party Consents and Notifications.

## 5. **Title Insurance.**

(a) Within fifteen (15) business days of the date of this Agreement, Seller shall deliver (or cause the Title Company to deliver to the Purchaser) (i) an ALTA survey (the "**Survey**"); and (ii) a commitment for the Title Policy described in **Section 5(c)** below dated on or after the Effective Date (the "**Title Commitment**"), together with legible copies of all of the underlying documentation described in such Title Commitment (the "**Title Documents**") to the extent not already delivered to Purchaser.

(b) Purchaser shall have a period of ten (10) calendar days after receipt by Purchaser of the latest of the Survey, the Title Commitment and the Title Documents ("**Title Review Period**") in which to review the Title Commitment, the Title Documents and the Survey and notify Seller in writing, at Purchaser's election, of such objections as Purchaser may have to any matters contained therein ("**Purchaser's Objection Notice**"; any of said objections listed on Purchaser's Objection Notice are deemed the "**Objectionable Exceptions**"). For the avoidance

of doubt, in no event shall the Title Review Period extend beyond the Due Diligence Period. If Seller does not notify Purchaser in writing within five (5) business days after receiving the Purchaser's Objection Notice, Seller shall conclusively be deemed to have elected not to cure said Objectionable Exceptions ("**Seller's Notice**"). If Seller elects not to cure any Objectionable Exceptions or is deemed to have made such an election, Purchaser shall have the right to either (i) terminate this Agreement by delivering written notice within three (3) business days after receipt of such Seller's Notice, in which event, the Deposit shall be returned to Purchaser and neither party shall have any further rights or obligations under the Agreement, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement, or (ii) Purchaser may consummate the transaction contemplated by this Agreement in accordance with the terms hereof, in which event, all those Objectionable Exceptions that Seller has so elected not to cure shall conclusively be deemed to constitute "**Permitted Encumbrances**". Notwithstanding the foregoing, Seller shall be required to discharge all mortgages imposed by or at the request of Seller on the Property which are due and payable on the Closing Date, and discharge all judgment liens, all mechanics' liens and similar liens for labor, materials or supplies, and other such monetary liens that may be removed solely through the payment of money prior to Closing, in each case, to the extent such liens were imposed on the Property by or at the request of Seller. In the event an exception to title or other title defect other than a Permitted Encumbrance is added to the Title Commitment after the Effective Date but prior to the Closing Date, and/or any matter is added to the Survey, the parties shall follow the procedure set forth in this subparagraph and Closing shall be adjourned for such time period as required to permit Seller and Purchaser the time periods set forth herein.

(c) The title insurance policy issued by the Title Company (the "**Title Policy**") shall include the endorsements specified in **Schedule 5(c)** attached hereto.

(d) Seller shall provide the Title Company with the owner's affidavit in the form of **Exhibit D** attached hereto (the "**Owner's Affidavit**").

## **6. Conveyance of Title; Closing Deliveries.**

(a) At the Closing, Seller shall convey and assign (i) title to the Real Property by special warranty deed in substantially the form of **Exhibit B** attached hereto (the "**Deed**"), subject to the Permitted Encumbrances, and (ii) all of Seller's right, title and interest in and to the Personal Property by bill of sale in substantially the form of **Exhibit C** attached hereto (the "**Bill of Sale**").

(b) On or prior to the Closing Date, Seller shall deliver to the Title Company in escrow:

- (i) a duly executed and acknowledged original of the Deed;
- (ii) a duly executed original of the Bill of Sale;
- (iii) a duly executed affidavit of non-foreign status;

(iv) a duly executed counterpart to a closing statement prepared by the Title Company and approved by Seller and Purchaser, which shall conform to the proration and other relevant provisions of this Agreement (the “**Closing Statement**”);

(v) a customary Owner’s Affidavit and Gap Undertaking;

(vi) (a) such documents reasonably required by the Title Company to establish the authority of Seller to enter into and close the transactions contemplated hereby, and (b) the Owner’s Affidavit; and

(vii) a certificate from the Seller stating that the representations and warranties of Seller set forth in this Agreement are true and correct as of the Closing Date or identifying those representations and warranties that have changed since the date hereof;

(viii) evidence of Seller’s authority to consummate the transactions contemplated herein as reasonably required by the Title Company; and

(ix) any other documents required (A) to comply with applicable federal, state or local laws, rules or regulations, including any filings or certifications required in connection with transfer taxes payable in connection with the Closing, (B) by a provision of this Agreement, or (C) to carry out the terms and intent of this Agreement.

(c) Prior to the Closing, Purchaser shall deliver to the Title Company in escrow:

(i) immediately available funds in the amount of the Purchase Price, *plus* any other sums required for costs to be paid by Purchaser pursuant to the terms of this Agreement, *less* any credits against the Purchase Price provided for herein, including, without limitation, the Deposit;

(ii) a duly executed counterpart to the Closing Statement;

(iii) such documents reasonably required by the Title Company to establish the authority of Purchaser to enter into and close the transactions contemplated hereby;

(iv) a copy of the fully executed OTA; and

(v) any other documents required (A) to comply with applicable federal, state or local laws, rules or regulations, including any filings or certifications required in connection with the transfer taxes payable in connection with the Closing, (B) by a provision of this Agreement, or (C) to carry out the terms and intent of this Agreement.

(d) The parties shall also deliver at the Closing any other documents reasonably requested by the other party to complete and evidence the acquisition of the Property contemplated hereby.

7. **Closing.** The closing of the acquisition of the Property (the “**Closing**”) shall occur on or before the thirtieth (30<sup>th</sup>) day after the Due Diligence Expiration Date unless Purchaser sends the Purchase Notice in accordance with **Section 4(g)** hereof, in which event the Closing shall occur on or before the thirtieth (30<sup>th</sup>) day after delivery of the Purchase Notice (the “**Closing Date**”).

8. **Conditions to Purchaser’s Obligation to Close.**

(a) Purchaser shall not be obligated to proceed with the Closing unless and until each of the following conditions has been either fulfilled or waived in writing by Purchaser:

(i) Purchaser shall have obtained financing sufficient to fund payment of at least seventy percent (70%) of the Purchase Price in accordance with this Agreement (provided, however, that Purchaser shall be required to exercise best efforts to obtain such financing);

(ii) This Agreement shall not have been previously terminated pursuant to any other provision hereof, and Seller shall have performed all of its obligations required to be performed hereunder on or before Closing;

(iii) Seller shall be prepared to deliver or cause to be delivered to Purchaser all instruments and documents to be delivered to Purchaser at the Closing pursuant to **Section 6(b)** and any other provision of this Agreement;

(iv) The Title Company shall have committed to issue the Title Policy satisfying the requirements of **Section 5(c)** hereof;

(v) All representations and warranties of Seller contained herein shall be true and correct in all material respects as of the Closing Date;

(vi) The Lease shall have been terminated with respect to the Property;

(vii) There shall exist no pending or threatened actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings challenging the enforceability of this Agreement or Seller’s ability to consummate the transactions under this Agreement; and

(viii) The closing under the OTA is occurring simultaneously with the Closing under this Agreement.

(b) In the event that any of the foregoing conditions shall not have been fulfilled on or before the time for Closing hereunder, then Purchaser may elect, upon notice to Seller, to



either (1) terminate this Agreement, in which event the Deposit shall be immediately returned to Purchaser and neither party shall have any further liability or obligation to the other, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement, or (2) waive any one or more of the foregoing conditions and proceed to Closing.

(c) Notwithstanding the foregoing, Purchaser may at any time or times, at its sole election, waive any of the conditions to its obligations under this Agreement, but any such waiver shall be effective only if contained in a writing signed by Purchaser. No such waiver shall reduce the rights or remedies available to Purchaser herein or under applicable laws. Should Purchaser waive any such condition and proceed with Closing, Purchaser shall be estopped from asserting any claim against Seller with respect to any waived condition.

#### **9. Conditions to Seller's Obligation to Close.**

(a) Seller shall not be obligated to proceed with the Closing unless and until each of the following conditions has been fulfilled or waived in writing by Seller:

(i) Purchaser shall be prepared to pay to Seller the Purchase Price and all other amounts to be paid to it at Closing pursuant to the provisions of this Agreement;

(ii) Purchaser shall be prepared to deliver to Seller all instruments and documents to be delivered to the Seller at the Closing pursuant to **Section 6(c)** and any other provision of this Agreement;

(iii) This Agreement shall not have been previously terminated pursuant to any other provision hereof and Purchaser shall have performed all of its obligations required to be performed hereunder on or before Closing;

(iv) There shall exist no pending or threatened actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings challenging the enforceability of this Agreement or Purchaser's ability to consummate the transactions under this Agreement;

(v) Purchaser has provided Seller with a copy of the OTA executed by New Operator and Current Operator;

(vi) The Lease has been terminated with respect to the Property; and

(vii) The closing under the OTA is occurring simultaneously with the Closing under this Agreement.

(b) In the event that any of the foregoing conditions shall not have been fulfilled on or before the time for Closing hereunder, then Seller may elect, upon notice to Purchaser, to terminate this Agreement, in which event the Deposit shall be immediately delivered to Seller and

neither party shall have any further liability or obligation to the other, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement.

**10. Allocation of Costs and Expenses.** Purchaser shall pay (a) the cost of any physical inspections of the Property that Purchaser elects to have performed, (b) the cost of a Phase I environmental report, (c) one half of the escrow fees, (d) the recording fees, (e) the cost of the Alabama state tax stamps, (f) Purchaser's attorneys' fees, (g) Title Policy endorsements not required to be paid by Seller and extended coverage, if any, and (h) the Mortgage Stamp Taxes. Seller shall pay (v) the cost of the Survey, (w) the cost of the basic title insurance premium, (x) the Title Policy endorsements set forth in **Schedule 5(c)** herein, and any Title Policy endorsements required to cure any Objectionable Exceptions, (y) one half of the escrow fees, and (z) Seller's attorneys' fees. Except as specifically provided herein, all costs and expenses incurred by either Seller or Purchaser in connection with this transaction shall be paid the party incurring such expense.

**11. Prorations.** The Lease is a triple net lease and Current Operator is responsible thereunder for all expenses of the Property, including the payment of real property taxes, maintenance and insurance, and therefore, there shall be no credits or prorations at the Closing for the costs which Current Operator is responsible for under the Lease. To the knowledge of Seller, Current Operator is in compliance with the Lease in all material respects.

**12. Broker.** Seller and Purchaser hereby represent that Blueprint Healthcare Real Estate Advisors is the broker who brought about this sale and that each party has not dealt with any other broker, banker, person, firm or entity who would by reason of such dealings be able to claim a real estate brokerage, business opportunity brokerage or finder's fee as the procuring cause of this transaction. Seller agrees to pay the Broker's fee if the commission becomes earned and payable. Purchaser and Seller hereby indemnify each other against and agree to defend and hold harmless the other from any and all claims for any commission or similar fees arising out of or in any way connected with any claimed agency relationship with the indemnitor and relating to the purchase and sale of the Property contemplated by this Agreement. The representations and indemnity obligations in this **Section 12** shall survive the Closing.

**13. Casualty Prior to Closing.**

(a) If, prior to the Closing Date, all or any portion of the Property is destroyed or damaged by fire or other casualty, Seller shall notify Purchaser of such fact promptly after Seller obtain knowledge thereof. If such casualty is "**Material**" (as hereinafter defined), Purchaser shall have the option to terminate this Agreement upon notice to Seller given not later than fifteen (15) days after receipt of Seller's notice, or the Closing Date, whichever is earlier. If this Agreement is terminated, the Deposit shall be returned to Purchaser and thereafter neither Seller nor Purchaser shall have any further rights or obligations to the other hereunder, except for those obligations which, pursuant to this Agreement, expressly survive the termination of this Agreement. If this Agreement is not terminated, Seller shall not be obligated to repair any damage or destruction but (i) Seller shall assign, without recourse, and turn over to Purchaser all of the insurance proceeds net of reasonable collection costs (or, if such have not been awarded, all of its right, title and interest therein) payable with respect to such fire or other casualty, including any rent abatement

insurance for such casualty and (ii) the parties shall proceed to Closing pursuant to the terms hereof without abatement of the Purchase Price, except for a credit to Purchaser in the amount of the applicable insurance deductible.

(b) If the casualty is not Material, then the Closing shall occur without abatement of the Purchase Price, except for a credit in the amount of the applicable insurance deductible, Seller shall not be obligated to repair such damage or destruction and Seller shall assign, without recourse, and turn over to Purchaser, all of the insurance proceeds, net of any costs of repairs and net of reasonable collection costs (or, if such have not been awarded, all of its right, title and interest therein) payable with respect to such fire or such casualty, including any rent abatement insurance for such casualty.

(c) For purposes of this **Section 13**, the term “**Material**” shall mean any casualty such that the cost of repair is in excess of ten percent (10%) of the Purchase Price.

#### **14. Condemnation Prior to Closing.**

(a) If, prior to the Closing Date, all or any portion of the Property is taken by condemnation or eminent domain, or is the subject of a pending taking which has not been consummated, Seller shall notify Purchaser of such fact promptly after Seller obtains knowledge thereof. If such condemnation is “**Material**” (as hereinafter defined), Purchaser shall have the option to terminate this Agreement upon notice to Seller given not later than fifteen (15) days after receipt of Seller’s notice, or the Closing Date, whichever is earlier. If this Agreement is terminated, the Deposit shall be returned to Purchaser and thereafter neither Seller nor Purchaser shall have any further rights or obligations to the other hereunder, except for those obligations which, pursuant to this Agreement, expressly survive the termination of this Agreement. If this Agreement is not terminated, Seller shall not be obligated to repair any damage or destruction but (x) Seller shall assign, without recourse, and turn over to Purchaser all of the condemnation proceeds, net of reasonable collection costs (or, if such have not been awarded, all of its right, title and interest therein) payable with respect to such condemnation, including any rent abatement insurance for such condemnation and (y) the parties shall proceed to Closing pursuant to the terms hereof without abatement of the Purchase Price.

(b) If the condemnation is not Material, then the Closing shall occur without abatement of the Purchase Price and, after deducting Seller’s reasonable costs and expenses incurred in collecting any award, Seller shall assign, without recourse, all remaining awards or any rights to collect awards to Purchaser on the Closing Date.

(c) For purposes of this **Section 14**, the term “**Material**” shall mean any taking that would (i) permanently and materially impair the current use of the Property, (ii) permanently and materially impair ingress or egress to or from the Property, (iii) take sufficient parking spaces or driveways located on the Property causing the Property to violate applicable zoning requirements, or (iv) take any portion of the Improvements located on the Property, excluding, however, any taking solely of subsurface rights or takings for utility easements or right of way easements, if the surface of the Real Property, after such taking, may be used in substantially the same manner as though such rights had not been taken.

**15. Notice.**

(a) Any notice, election or other communication required or permitted hereunder shall be delivered by hand (or nationally-recognized courier service) to the following named persons or by certified United States mail, return receipt requested, postage and charges prepaid, to the following addresses:

to Purchaser: Rosewood Manor Real Estate, LLC  
1111 Wayne Road NW, Suite 6  
Huntsville, Alabama 35806  
Attention: Sanjay Malhotra, MD

with a copy to: Gilpin Givhan, PC  
2660 EastChase Lane, Suite 300  
Montgomery, Alabama 36117  
Attention: D. Brent Wills, Esq.

to Seller: c/o Ventas, Inc.  
353 N. Clark Street, Suite 3300  
Chicago, Illinois 60654  
Attention: Legal Department, Asset Management Counsel

with a copy to: Levenfeld Pearlstein, LLC  
2 N. LaSalle, Suite 1300  
Chicago, Illinois 60602  
Attention: Linsey R. Neyt, Esq.

(b) Any notice, election or other communication delivered or mailed as aforesaid shall be effective upon delivery.

(c) Each party hereto may change its address and addressee for notice, elections and other communications from time to time by notifying the other parties hereto of the new address and addressee in the manner provided for giving notice herein.

**16. Representations and Warranties.**

(a) As an inducement to Purchaser to enter into this Agreement, Seller represents and warrants the following (which shall also be incorporated as a condition to Closing):

(i) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and duly qualified to transact business in the State of Alabama.

(ii) This Agreement and all the documents to be executed and delivered by Seller to Purchaser or the Title Company pursuant to the terms of this Agreement (A) will have been, as of the execution date of each respective document, duly

authorized, executed and delivered by Seller; (B) are or will be legal and binding obligations of Seller as of the date of their respective executions; (C) are or will be, as of the execution date of each respective document, enforceable in accordance with their respective terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally); and (D) do not, and will not at the Closing, violate any provision of any agreement to which Seller is a party, any of Seller's organizational documents or any existing obligation of or restriction on Seller under any order, judgment or decree of any state or federal court or governmental authority binding on Seller.

(iii) The Seller has provided (or upon the execution hereof will concurrently provide) to the Purchaser true, correct and complete copies of the Due Diligence Materials.

(iv) Seller is not aware of any consent, order, approval or authorization of, or declaration, filing or registration with, any governmental or regulatory authority that is required in connection with the execution or delivery by Seller of this Agreement, or the performance by Seller of this Agreement, prior to, or as of or at the Closing Date, or as a consequence thereof, or for the consummation by Seller of the transactions contemplated hereby to be consummated prior to, as of or at the Closing Date.

(v) Seller is not aware of any lawsuits, investigations or other proceedings pending or threatened against Seller or its affiliates, including lawsuits, governmental actions or other proceedings, including without limitation, any desk audit or full audit before any court, agency or other judicial, administrative or other governmental body or auditor materially affecting the Property.

(vi) Seller receives no income or payments in connection with its ownership of the Property, except for the rental income and other payments Seller receives from Current Operator pursuant to the Lease.

(vii) Seller has not entered into any contract or agreement that will be an obligation affecting any of the Property which would be binding on Purchaser subsequent to the Closing Date except for contracts entered into in the ordinary course of business that are terminable without cause and without payment of a fee or penalty on not more than 30-days' notice.

(viii) Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

(ix) To the knowledge of Seller, the Property is in compliance, in all material respects, with applicable zoning ordinances and applicable land use restrictions. Seller is not aware of and has not received any notice of any pending or threatened requests, applications or proceedings to alter or restrict the zoning or

other use restrictions applicable to the Property, or any other plan, study or effort by the any government agency or authority that would materially adversely affect the present use or zoning of the Property or modify or realign any adjacent street or highway.

(x) To the knowledge of Seller, the Property is in compliance with all Environmental Law, and no notice, demand, claim or other communication has been given to or served on Seller, and Seller has no knowledge of any such notice given to previous owners, tenants or occupants of the Property, from any entity, governmental body or individual claiming any violation of any Environmental Law or demanding payment, contribution, indemnification, remedial action, removal action or any other action or inaction with respect to any actual or alleged environmental damage or injury to persons, property or natural resources (each of the foregoing, whether now existing or hereafter brought, a **"Claim"**). Without limiting the foregoing, to the knowledge of Seller, (i) the soil, surface water and ground water of, under, or on the Property are free from any Hazardous Materials; (ii) no Hazardous Materials have been discharged, dispersed, released, disposed of, or allowed to escape on, under or in the Property; (iii) no Hazardous Materials, including without limitation asbestos or asbestos-containing materials, have been installed, used, incorporated into or disposed of on the Property by Seller; and (iv) no PCBs are located on, in, or used in connection with the Property by Seller; (v) no investigation, administrative order, administrative order by consent, consent order, agreement, litigation or settlement is proposed or in existence or, to the best knowledge of Seller, threatened or anticipated, with respect to or arising from the presence of any Hazardous Materials or the transport of Hazardous Materials with respect to the Property. As used herein, **"Hazardous Materials"** shall mean any substance, material, waste, gas or particulate matter which is regulated by any local governmental authority, the State where the Property is located, or the United States Government, including without limitation any material or substance which is: (s) defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of the environmental law of the state where the Real Property is located or federal law, (t) petroleum, (u) asbestos and asbestos-containing materials, (v) polychlorinated biphenyls (**"PCBs"**), (x) radioactive material, (x) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. §1251 *et seq.*, (33 U.S.C. §1317), (y) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6903), or (z) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.* (42 U.S.C. 9601). The term **"Environmental Law"** shall mean all statutes specifically described in the foregoing grammatical sentence and all federal, state and local environmental, health and safety statutes, ordinances, codes, rules, regulations, orders and decrees regulating, relating to or imposing liability or standards concerning or in connection with Hazardous Materials.

Notwithstanding the foregoing, in no event will Seller's liability under this **Section 16** exceed an amount greater than ten percent (10%) of the Purchase Price in the aggregate for any reason or reasons and further limited by a tipping basket amount of \$5,000.00 for Purchaser to pay out prior to seeking reimbursement from Seller on any or all of the representations and warranties; provided, however, that the foregoing limitations shall not apply in respect to any breach of a representation or warranty in subsections (i), (ii), or (viii) herein, or any representations or warranties of Seller under **Section 12** herein.

(b) As an inducement to Seller to enter into this Agreement, Purchaser represents and warrants as follows:

(i) Purchaser is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Alabama, and its federal employer identification number is \_\_\_\_\_.

(ii) This Agreement and all the documents to be executed and delivered by Purchaser to Seller or the Title Company pursuant to the terms of this Agreement (A) will have been, as of the execution date of each respective document, duly authorized, executed and delivered by Purchaser; (B) are or will be legal and binding obligations of Purchaser as of the date of their respective executions; (C) are or will be, as of the execution date of each respective document, enforceable in accordance with their respective terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally); and (D) do not, and will not at the Closing, violate any provision of any agreement to which Purchaser is a party, any of Purchaser's organizational documents or any existing obligation of or restriction on Purchaser under any order, judgment or decree of any state or federal court or governmental authority binding on Purchaser.

(c) The provisions of subsections 16(a) and 16(b) hereof shall expire twelve (12) months from the Closing Date; provided, however, that the foregoing shall not apply in respect to representations and warranties of Seller in subsections (i), (ii), (vii), (ix) or (x) in **Section 16(a)** or **Section 12** herein, and the representations of Purchaser in **Section 16(b)** or **Section 12** herein, all of which shall survive indefinitely.

(d) The continued validity in all respects of the foregoing representations and warranties shall be a condition precedent to the obligation of the party to whom the representation and warranty is given to close the transaction contemplated herein. If (i) any of Seller's representations and warranties shall not be true and correct at any time on or before the Closing whether not true and correct as of the date of this Agreement, or (ii) any change in facts or circumstances has made the applicable representation and warranty no longer true and correct and regardless as to whether Purchaser becomes aware of such fact through the Seller's notification or otherwise, then Purchaser may, at Purchaser's option, exercised by written notice to the Seller (and as its sole and exclusive remedy), either (y) proceed with this transaction, accepting the applicable representation and warranty as being modified by such subsequent matters or knowledge and waiving any right relating thereto, if any, or (z) terminate this Agreement and declare this

Agreement of no further force and effect, in which event the Deposit shall be immediately returned to Purchaser and Seller shall have no further liability hereunder by reason thereof, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement.

**17. RELEASE; AS-IS/WHERE-IS.**

(a) **EXCEPT AS OTHERWISE PROVIDED HEREIN, PURCHASER, ON BEHALF OF ITSELF AND ITS EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS, ATTORNEYS AND OTHER REPRESENTATIVES, AND EACH OF THEM, HEREBY RELEASES SELLER FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, OBLIGATIONS, DAMAGES AND LIABILITIES OF ANY NATURE WHATSOEVER, WHETHER ALLEGED UNDER ANY STATUTE, COMMON LAW OR OTHERWISE, DIRECTLY OR INDIRECTLY, ARISING OUT OF OR RELATED TO THE CONDITION, OPERATION OR ECONOMIC PERFORMANCE OF THE PROPERTY.**

(b) Except for the representations of Seller set forth in **Section 16(a)** and those warranties of title to be included in the Deed, Seller is not making any representations or warranties with respect to the Property, and the Property is being sold "AS-IS, WHERE-IS WITH NO REPRESENTATIONS OR WARRANTIES EXPRESSED OR IMPLIED AND WITH ALL FAULTS" in accordance with the provisions of this **Section 17**, it being understood and agreed that the Purchase Price has been adjusted by prior negotiation to reflect that the Property is being sold by Seller and purchased by Purchaser to the foregoing. Purchaser has or shall perform its own due diligence in determining whether to purchase the Property and Purchaser is not relying on any representations or warranties of Seller in determining whether to purchase the Property. Except for those warranties of title to be included in the Deed and those representations of Seller set forth in **Section 16(a)**, Purchaser acknowledges and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to: (i) the value of the Property; (ii) the income to be derived from the Property; (iii) the suitability of the Property for any and all activities and uses which Purchaser may conduct thereon, including any development of the Property; (iv) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; (v) the manner, quality, state of repair or lack of repair of the Property; (vi) the nature, quality or condition of the Property, including, without limitation, the water, soil and geology; (vii) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (viii) the manner, condition or quality of the construction or materials incorporated into the Property; (ix) compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements; (x) the presence or absence of hazardous materials at, on, under or adjacent to the Property; (xi) the conformity of the improvements to any plans or specifications for the Property; (xii) the conformity of the Property to past, current or future applicable zoning or building requirements; (xiii) adequacy or deficiency of any drainage; (xiv) the existence of vested land use, zoning or building entitlements affecting the Property; or (xv) with respect to any other matter concerning the Property, including any and all such matters referenced, discussed or



disclosed in any documents delivered by Seller to Purchaser, in any public records of any governmental agency or entity or utility company.

**18. Default; Termination.**

(a) If Purchaser defaults in any material respect hereunder, Seller's sole remedy shall be to terminate this Agreement by giving written notice thereof to Purchaser, whereupon the Deposit shall be retained by Seller as liquidated damages as Seller's sole and exclusive remedy, and neither party shall have any further liability or obligation to the other, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement. The parties acknowledge and agree that Seller's actual damages in the event of Purchaser's default are uncertain in amount and difficult to ascertain and that said amount of liquidated damages was reasonably determined and is not a penalty. Seller may not exercise its sole remedy if the Seller is in default in any material respect under this Agreement.

(b) If Seller defaults in any material respect hereunder, Purchaser may, at its sole election, either:

(i) Terminate this Agreement, whereupon the Deposit shall be immediately returned to the Purchaser and neither party shall have any further liability or obligation to the other, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement; or

(ii) Assert and seek judgment against Seller for specific performance.

**19. Time of Essence.** Time is of the essence as to all dates and times of performance pursuant to this Agreement. Notwithstanding the foregoing, in the event the date for the performance of an action or the giving of a notice falls on a Saturday, Sunday or holiday, then the date for the performance of such action or giving of such notice shall be automatically extended to the next succeeding business day.

**20. Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and may not be amended except by written instrument executed by all the parties hereto.

**21. Headings; Defined Terms; Interpretation.** The paragraph and section headings are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope or content of this Agreement or any provision hereof. As used herein, a "**business day**" shall mean a day other than Saturday, Sunday or any day on which banking institutions in Jackson County, Alabama are authorized by law or other governmental action to close. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but, if any provision of this Agreement shall be invalid or prohibited thereunder, such invalidity or prohibition shall be construed as if such invalid or prohibited provision had not been inserted herein and shall not affect the remainder of such provision or the remaining provisions of this Agreement. The language in all parts of this Agreement shall be in all cases

construed simply according to its fair meaning and not strictly against the party that drafted such language.

**22. Applicable Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Alabama.

**23. Attorneys' Fees.** If either party commences an action against the other to interpret or enforce any of the terms of this Agreement or because of the breach by the other party of any of the terms hereof, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, whether or not the action is prosecuted to a final judgment.

**24. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser, and their respective successors and assigns, if any. It is specifically agreed that Purchaser may nominate another party to take title to the Property at Closing, but no such nomination shall relieve Purchaser of any liability hereunder. If Purchaser nominates another party to take title to the Property, Purchaser shall, prior to the Closing, provide to Seller the federal employer identification number for such nominee.

**25. Counterparts.** This Agreement, including exhibits, may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile, email or other electronic means and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

**26. Confidentiality.** Cradle LLC, an affiliate of Purchaser, executed that certain Confidentiality Letter Agreement with respect to the Property dated July 19, 2018 (the "**Confidentiality Agreement**"). Purchaser hereby agrees that the provisions of the Confidentiality Agreement shall control with respect to all information provided by Seller to Purchaser under this Agreement.

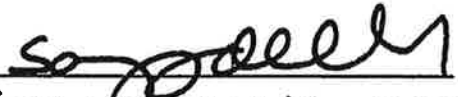
**27. Submission Not An Offer.** Submission of this Agreement to Purchaser does not constitute an option or offer to sell the property and this Agreement shall not be effective unless and until execution and delivery occurs by both Purchaser and Seller.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

**PURCHASER:**


Rosewood Manor Real Estate, LLC,  
an Alabama limited liability company

By:   
Name: SANJAY MAHOTRA  
Title: President

*[Signatures continue on next page]*

**SELLER:**

**NATIONWIDE HEALTH PROPERTIES, LLC,**  
a Delaware limited liability company

By:   
Name: CHRISTIAN N. CUMMINGS  
Title: President

**CONSENT OF TITLE COMPANY**

The undersigned agrees to (a) accept this Agreement; (b) be escrow holder under this Agreement; and (c) be bound by this Agreement in the performance of its duties as the Title Company, and escrow holder. However, the undersigned will have no obligations, liability or responsibility under this Agreement or any amendment hereto unless and until this Agreement and such amendment, as applicable has been fully executed by the parties hereto and delivered to the undersigned.

**TITLE COMPANY:**

**FIRST AMERICAN TITLE INSURANCE COMPANY**

By:           *Cathy Hesseltine*            
Name:           Cathy Hesseltine            
Title:           Escrow Assistant

## EXHIBIT A

### Legal Description

A part of the Southeast Quarter (SE 114) of Section Thirty-one (31), Township Four (4) South, Range Six (6) East of the Huntsville Meridian in Jackson County, Alabama and being more particularly described as follows:

Commence at the Northwest Corner of Delwood Subdivision being the Southwest Corner of the tract therein described and being on the East margin of County Park Road and the true point of beginning; thence with said East margin North 40 degrees 49 minutes West a distance of 497.6 feet to the Southeast Margin of a proposed street; thence leaving said East margin and with said Southeast margin North 49 degrees 11 minutes East a distance of 266 feet, thence leaving said Southeast Margin South 40 degrees 49 minutes East a distance of 450 feet to the Northwest boundary of said Delwood Subdivision, thence with said Northwest boundary South 39 degrees 02 minutes West a distance of 270.3 feet to the point of beginning and containing 2.894 acres more or less.

**EXHIBIT B**

Form of Deed

**SPECIAL WARRANTY DEED**

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that in consideration of One Hundred and no/100 –DOLLARS and other valuable considerations to the undersigned **NATIONWIDE HEALTH PROPERTIES, LLC**, a Delaware limited liability company, (referred to as GRANTOR), in hand paid by the GRANTEE herein, the receipt and sufficiency of which are hereby acknowledged, the said GRANTOR does by these presents, GRANT, BARGAIN, SELL and CONVEY unto \_\_\_\_\_ (herein referred to as GRANTEE), its successors and assigns, the following described real estate, situated in the County of Jackson and State of Alabama, to-wit:

SEE **EXHIBIT A** ATTACHED HERETO

This conveyance is made subject to any and all easements, restrictions, reservations, and rights-of-way appearing of record affecting the above-described property.

For purposes of *ad valorem* tax appraisal only, the mailing address of the property herein is \_\_\_\_\_. The mail address of Grantee herein is: \_\_\_\_\_.

TO HAVE AND TO HOLD, the aforementioned premises, together with improvements, easements and appurtenances thereunto appertaining, unto the said GRANTEE, its successors and assigns forever.

And GRANTOR does covenant with the said GRANTEE, its successors and assigns, that it is lawfully seized in fee simple of the aforementioned premises; that they are free from all encumbrances except as hereinabove provided; that it has a good right to sell and convey the same to the said GRANTEE, its successors and assigns forever, and the GRANTOR will warrant and defend the premises unto the said GRANTEE, its successors and assigns forever, and the GRANTOR will warrant and defend the premises unto the said GRANTEE, its successors and assigns forever, against the lawful claims and demands of all persons, except as hereinabove provided.

*[Signatures begin on next page]*





**EXHIBIT C**

Form of Bill of Sale

**BILL OF SALE**

Pursuant to that certain Purchase and Sale Agreement dated as of \_\_\_\_\_, 201\_ (the "**Purchase Agreement**"), by and between **NATIONWIDE HEALTH PROPERTIES, LLC**, a Delaware limited liability company, ("**Seller**"), and [\_\_\_\_\_] ("**Purchaser**"), and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby grant, bargain, sell, convey, assign and transfer to Purchaser, all of Seller's right, title and interest, if any, in and to, all personal property which is located on that certain real property described on Exhibit A attached hereto (the "**Personal Property**").

TO HAVE AND TO HOLD, all and singular, the Personal Property hereby sold, assigned, transferred and conveyed to Purchaser, its successors and assigns, to and for its own use and benefit. PURCHASER HEREBY ACKNOWLEDGES AND AGREES THAT ANY AND ALL PERSONAL PROPERTY BEING TRANSFERRED HEREUNDER ARE ON AN AS-IS, WHERE-IS BASIS WITH ALL FAULTS AND CONDITIONS. SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE WHATSOEVER, INCLUDING ANY REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE.

Dated as of this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

**SELLER:**

**NATIONWIDE HEALTH PROPERTIES, LLC,**  
a Delaware limited liability company

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

**EXHIBIT D**

**Form of Owner's Affidavit**

**SELLER'S DECLARATION**

TITLE COMPANY: FIRST AMERICAN TITLE INSURANCE COMPANY

ORDER NO.: \_\_\_\_\_

SELLER: **NATIONWIDE HEALTH PROPERTIES, LLC**, a Delaware limited liability company

PURCHASER: \_\_\_\_\_

PROPERTY DESCRIPTION (the "**Property**"): See Exhibit A attached hereto

The undersigned, on behalf of Seller, declares that, to the undersigned's actual and current knowledge, the following information is true and correct:

1. Purpose of Declaration. This declaration is made to the Title Company as an inducement to it to complete a transaction concerning the Property. Seller acknowledges that Title Company is relying upon the representations in this declaration as being true and correct and that the transaction contemplated would not be consummated without this declaration being executed.
2. Debts and Liens. Except as indicated below, there are no loans, tax liens, abstract of judgment liens or other real estate liens affecting the Property that are not of public record.  
  
Exceptions: \_\_\_\_\_
3. Real Property and Personal Property Taxes. All real property taxes assessed against the Property which are due and payable have been paid in full, except as shown on the public records.
4. Improvement debts and liens. During the six (6) months immediately preceding the date of this declaration, Seller has not contracted with any person to whom a debt is due for labor or materials furnished in the erection, alteration, repair or removal of a building or structure upon the Property, or to the improvement of or alteration to the Property, in procuring or furnishing such labor or materials for work performed during the past six (6) months.
5. Other Contracts. Other than the agreement to sell the Property to Purchaser (which agreement is set forth in that certain Purchase and Sale Agreement dated as of \_\_\_\_\_, 201\_\_, by and between Seller and Purchaser, there are no other

unreleased contracts of sale concerning the Property. That there are no unrecorded contracts, rights of first refusal or options to purchase the land, except the following:

EXECUTED this \_\_\_ day of \_\_\_\_\_, 201\_\_

**SELLER:**

**NATIONWIDE HEALTH  
PROPERTIES, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Schedule 5(c)**

1. Survey and Same as Survey (Lenders and Owners)
2. Tax Parcel Number (Lenders and Owners)
3. Street Assessments (Lenders and Owners)
4. Zoning (Lenders and Owners)
5. Environmental Protection Lien Endorsement (Lenders and Owners)
6. ALTA 9 Restrictions, Encroachment and minerals (Lenders and Owners)
7. Single Tax Parcel (ALTA 18-06)
8. Encroachments (ALTA 17.1) or (ALTA 28-1-06)
9. Commercial Environmental Protection Lien (ALTA 8.2-06)
10. Same as Survey (ALTA 25-06)