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E-028-16

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AUG 05 2016

HEALTH FACILITIES & SERVICES REVIEW BOARD

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD
APPLICATION FOR EXEMPTION FOR THE
CHANGE OF OWNERSHIP FOR AN EXISTING HEALTH CARE FACILITY

1. INFORMATION FOR EXISTING FACILITY

Current Facility Name_Machesney Park Dialysis_____
Address __7170 North Perryville Road_____
City ___Machesney Park_____ Zip Code _61115___ County __Winnebago_____
Name of current licensed entity for the facility __Total Renal Care Inc._____
Does the current licensee: own this facility _____OR lease this facility____X____(if leased, check if sublease □)
Type of ownership of the current licensed entity (check one of the following:) _____ Sole Proprietorship
_____ Not-for-Profit Corporation ____X____ For Profit Corporation _____ Partnership _____ Governmental
_____ Limited Liability Company _____ Other, specify _____
Illinois State Senator for the district where the facility is located: Sen._Steve Stadelman_____
State Senate District Number ____34____ Mailing address of the State Senator _200 South Wyman Street, Suite 301__
_Rockford, IL 61101_____
Illinois State Representative for the district where the facility is located: Rep. _John M. Cabello_____
State Representative District Number ___68___ Mailing address of the State Representative _1941 Harlem Road____
__Loves Park, IL 61111_____

2. OUTSTANDING PERMITS. Does the facility have any projects for which the State Board issued a permit that will not be completed (refer to 1130.140 "Completion or Project Completion" for a definition of project completion) by the time of the proposed ownership change? Yes X No □ If yes, refer to Section 1130.520(f), and indicate the projects by Project # _15-004_____

3. NAME OF APPLICANT (complete this information for each co-applicant and insert after this page).
Exact Legal Name of Applicant __DaVita HealthCare Partners Inc._____
Address __2000 16th Street_____
City, State & Zip Code _Denver, CO 80202_____
Type of ownership of the current licensed entity (check one of the following:) _____ Sole Proprietorship
_____ Not-for-Profit Corporation ____X___ For Profit Corporation _____ Partnership _____ Governmental
_____ Limited Liability Company _____ Other, specify _____

NAME OF CO-APPLICANT (complete this information for each co-applicant and insert after this page).
Exact Legal Name of Co-Applicant __Total Renal Care Inc._____
Address __2000 16th Street_____
City, State & Zip Code _Denver, CO 80202_____
Type of ownership of the current licensed entity (check one of the following:) _____ Sole Proprietorship
_____ Not-for-Profit Corporation ____X___ For Profit Corporation _____ Partnership _____ Governmental
_____ Limited Liability Company _____ Other, specify _____

NAME OF CO-APPLICANT (complete this information for each co-applicant and insert after this page).
Exact Legal Name of Co-Applicant __Machesney Bay Dialysis, LLC_____
Address __2000 16th Street_____
City, State & Zip Code _Denver, CO 80202_____
Type of ownership of the current licensed entity (check one of the following:) _____ Sole Proprietorship
_____ Not-for-Profit Corporation _____ For Profit Corporation _____ Partnership _____ Governmental
___X___ Limited Liability Company _____ Other, specify _____

4. **NAME OF LEGAL ENTITY THAT WILL BE THE LICENSEE/OPERATING ENTITY OF THE FACILITY NAMED IN THE APPLICATION AS A RESULT OF THIS TRANSACTION.**

Exact Legal Name of Entity to be Licensed _Machesney Bay Dialysis, LLC_____
Address__2000 16th Street_____
City, State & Zip Code _Denver, CO 80202_____
Type of ownership of the current licensed entity (check one of the following:) _____ Sole Proprietorship
_____ Not-for-Profit Corporation _____ For Profit Corporation _____ Partnership _____ Governmental
___X___ Limited Liability Company _____ Other, specify _____

5. **BUILDING/SITE OWNERSHIP. NAME OF LEGAL ENTITY THAT WILL OWN THE "BRICKS AND** MORTAR" (BUILDING) OF THE FACILITY NAMED IN THIS APPLICATION IF DIFFERENT FROM THE OPERATING/LICENSED ENTITY

Exact Legal Name of Entity That Will Own the Site__Machesney Perryville Investments LLC_____
Address__6801 Spring Creek Road_____
City, State & Zip Code __Rockford, IL 61114_____
Type of ownership of the current licensed entity (check one of the following:) _____ Sole Proprietorship
____ Not-for-Profit Corporation _____ For Profit Corporation _____ Partnership _____ Governmental
__X___ Limited Liability Company _____ Other, specify _____

6. **TRANSACTION TYPE. CHECK THE FOLLOWING THAT APPLY TO THE TRANSACTION:**
   - X Purchase resulting in the issuance of a license to an entity different from current licensee;
   - o Lease resulting in the issuance of a license to an entity different from current licensee;
   - o Stock transfer resulting in the issuance of a license to a different entity from current licensee;
   - o Stock transfer resulting in no change from current licensee;
   - X Assignment or transfer of assets resulting in the issuance of a license to an entity different from the current licensee;
   - o Assignment or transfer of assets not resulting in the issuance of a license to an entity different from the current licensee;
   - o Change in membership or sponsorship of a not-for-profit corporation that is the licensed entity;
   - o Change of 50% or more of the voting members of a not-for-profit corporation's board of directors that controls a health care facility's operations, license, certification or physical plant and assets;
   - o Change in the sponsorship or control of the person who is licensed, certified or owns the physical plant and assets of a governmental health care facility;
   - o Sale or transfer of the physical plant and related assets of a health care facility not resulting in a change of current licensee;
   - o Any other transaction that results in a person obtaining control of a health care facility's operation or physical plant and assets, and explain in "Attachment 3 Narrative Description"

7. **APPLICATION FEE.** Submit the application fee in the form of a check or money order for $2,500 payable to the Illinois Department of Public Health and append as **ATTACHMENT #1.**

8. **FUNDING.** Indicate the type and source of funds which will be used to acquire the facility (e.g., mortgage through Health Facilities Authority; cash gift from parent company, etc.) and append as **ATTACHMENT #2.**

9. **ANTICIPATED ACQUISITION PRICE: $_1,859,000_____**

10. **FAIR MARKET VALUE OF THE FACILITY: $_1,859,000_____**
    (to determine fair market value, refer to 77 IAC 1130.140)

11. **DATE OF PROPOSED TRANSACTION: __07/15/2016_____**

12. **NARRATIVE DESCRIPTION.** Provide a narrative description explaining the transaction, and append it to the application as **ATTACHMENT #3.**

13. **BACKGROUND OF APPLICANT** (co-applicants must also provide this information). Corporations and Limited Liability Companies must provide a current Certificate of Good Standing from the Illinois Secretary of State. Limited Liability Companies and Partnerships must provide the name and address of each partner/ member and specify the percentage of ownership of each. Append this information to the application as **ATTACHMENT #4.**

14. **TRANSACTION DOCUMENTS.** Provide a copy of the complete transaction document(s) including schedules and exhibits which detail the terms and conditions of the proposed transaction (purchase, lease, stock transfer, etc). Applicants should note that the document(s) submitted should reflect the applicant's (and co-applicant's, if applicable) involvement in the transaction. The document must be signed by both parties and contain language stating that the transaction is contingent upon approval of the Illinois Health Facilities and Services Review Board. Append this document(s) to the application as **ATTACHMENT #5.**

15. FINANCIAL STATEMENTS. (Co-applicants must also provide this information) Provide a copy of the applicants latest audited financial statements, and append it to this application as ATTACHMENT #6. If the applicant is a newly formed entity and financial statements are not available, please indicate by checking YES _X__ , and indicate the date the entity was formed _01/28/2016__

16. **PRIMARY CONTACT PERSON**. Individual representing the applicant to whom all correspondence and inquiries pertaining to this application are to be directed. (Note: other persons representing the applicant not named below will need written authorization from the applicant stating that such persons are also authorized to represent the applicant in relationship to this application).

Name: Tim Tincknell, FACHE
Address: DaVita HealthCare Partners Inc. 1600 West 13th Street, Suite 3
City, State & Zip Code: Chicago, Illinois 60608
Telephone (312) 243-9286 Ext. 230

17. **ADDITIONAL CONTACT PERSON. Consultant, attorney, other individual who is also authorized to discuss this** application and act on behalf of the applicant.

Name: Lynanne Hike
Address: DaVita HealthCare Partners Inc. 622 Roxbury Road
City, State & Zip Code: Rockford, IL 61107
Telephone (815) 543-8015

Name: Charles Sheets, Attorney
Address: Polsinelli PC 161 North Clark Street, Suite 4200
City, State & Zip Code: Chicago, Illinois 60601
Telephone (312) 873-3605

18. CERTIFICATION **Machesney Bay Dialysis, LLC**

I the undersigned certify that the above information and all attached information are true and correct to the best of my knowledge and belief.

I the undersigned certify that no adverse action has been taken against the applicant(s) by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois.

I the undersigned certify that I am fully aware that a change of ownership will void any permits for projects to establish a health care facility that have not been obligated unless such projects will be completed or altered pursuant to the requirements in 77 IAC 1130.520(d) (2) prior to the effective date of the proposed ownership change.

I the undersigned certify that the applicant has not already acquired the facility named in this application or entered into an agreement to acquire the facility named in the application unless the contract contains a clause that the transaction is contingent upon approval by the State Board.

I the undersigned certify that the health care facility will not adopt a charity care policy that is more restrictive than the policy in effect during the year prior to the transaction.

I the undersigned certify that within 90 days after the closing of the transaction that I will provide a letter stating that the change of ownership has been completed in accordance with the letter of the intent provided in the application for exemption. If the terms of the letter of the intent have changed, those changes will be provided with this letter. I understand if the State Board determines that terms of the transaction have changed a new application for exemption will be submitted to the State Board.

Signature of Authorized Officer _____

Typed or Printed Name of Authorized Officer Arturo Sida

Title of Authorized Officer Assistant Secretary, Total Renal Care, Inc., Mng. Mbr.

Address 2000 16th Street

City, State & ZIP Code Denver, CO 80202

Telephone (303) 876-2686 Date May 23, 2016

Notary Signature See Attached Date _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

On May 23, 2016 before me, Kimberly Ann K. Burgo, Notary Public,
(here insert name and title of the officer)

personally appeared *** Arturo Sida ***

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

KIMBERLY ANN K. BURGO
Comm. #2055858
Notary Public · California
Los Angeles County
Comm. Expires Jan 25, 2018

OPTIONAL INFORMATION

Law does not require the information below. This information could be of great value to any person(s) relying on this document and could prevent fraudulent and/or the reattachment of this document to an unauthorized document(s)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: Certification: Machesney Bay, LLC (COE)

Document Date: May 23, 2016 Number of Pages: 1 (one)

Signer(s) if Different Than Above: _____

Other Information: _____

CAPACITY(IES) CLAIMED BY SIGNER(S)

Signer's Name(s):

☐ Individual

☒ Corporate Officer Assistant Secretary
(Title(s))

☐ Partner
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian/Conservator
☐ Other: _____

SIGNER IS REPRESENTING: Name of Person or Entity Total Renal Care, Inc., Mng. Mbr. Machesney Bay, LLC

CERTIFICATION **Total Renal Care Inc.**

I the undersigned certify that the above information and all attached information are true and correct to the best of my knowledge and belief.

I the undersigned certify that no adverse action has been taken against the applicant(s) by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois.

I the undersigned certify that I am fully aware that a change of ownership will void any permits for projects to establish a health care facility that have not been obligated unless such projects will be completed or altered pursuant to the requirements in 77 IAC 1130.520(d) (2) prior to the effective date of the proposed ownership change.

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Signature of Authorized Officer _____

Typed or Printed Name of Authorized Officer Arturo Sida

Title of Authorized Officer Assistant Secretary

Address 2000 16th Street

City, State & ZIP Code Denver, CO 80202

Telephone (303) 876-2686 Date May 23, 2016

Notary Signature See Attached Date _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

On May 23, 2016 before me, Kimberly Ann K. Burgo, Notary Public,
(here insert name and title of the officer)

personally appeared *** Arturo Sida ***

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

KIMBERLY ANN K. BURGO
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Notary Public · California
Los Angeles County
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DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: Certification: Total Renal Care, Inc. (re Machesney Bay, LLC COE)

Document Date: May 23, 2016 Number of Pages: 1 (one)

Signer(s) if Different Than Above: _____

Other Information: _____

CAPACITY(IES) CLAIMED BY SIGNER(S)

Signer's Name(s):

☐ Individual

☒ Corporate Officer Assistant Secretary
(Title(s))

☐ Partner
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian/Conservator
☐ Other: _____

SIGNER IS REPRESENTING: Name of Person or Entity Total Renal Care, Inc.

CERTIFICATION **DaVita HealthCare Partners Inc.**

I the undersigned certify that the above information and all attached information are true and correct to the best of my knowledge and belief.

I the undersigned certify that no adverse action has been taken against the applicant(s) by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois.

I the undersigned certify that I am fully aware that a change of ownership will void any permits for projects to establish a health care facility that have not been obligated unless such projects will be completed or altered pursuant to the requirements in 77 IAC 1130.520(d) (2) prior to the effective date of the proposed ownership change.

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Signature of Authorized Officer _____

Typed or Printed Name of Authorized Officer Arturo Sida

Title of Authorized Officer Assistant Corporate Secretary

Address 2000 16th Street

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(here insert name and title of the officer)

personally appeared *** Arturo Sida ***

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Signer's Name(s):

☐ Individual

☒ Corporate Officer Assistant Corporate Secretary
(Title(s))

☐ Partner
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian/Conservator
☐ Other: _____

SIGNER IS REPRESENTING: Name of Person or Entity DaVita HealthCare Partners Inc.

DaVita. DATE: 24-Jun-16 VENDOR NAME: ILLINOIS DEPARTMENT OF NO. 6575677

INVOICE NUMBER	INVOICE DATE	DESCRIPTION	FACILITY	DISCOUNT AMOUNT	NET AMOUNT
IL14312051216	05/12/2016	COE EXEMPTION APP FEE	PE	$0.00	$2,500.00
PLEASE DETACH AND RETAIN THIS STATEMENT AS YOUR RECORD OF PAYMENT				$0.00	$2,500.00

▼ DETACH CHECK ALONG PERFORATION ▼ ▼ DETACH CHECK ALONG PERFORATION ▼

DaVita

TOTAL RENAL CARE, INC. — DAVITA PAYMENT TRUST OF DELAWARE — 6575677

A SUBSIDIARY OF DAVITA

P.O. BOX 2002

[illegible] WA 98083-2002

CHECK DATE	CHECK NUMBER	PAY THIS AMOUNT
[illegible]	[illegible]	$2,500.00

PAY Two Thousand Five Hundred Dollars And Zero Cents

TO THE ORDER OF ILLINOIS DEPARTMENT OF PUBLIC HEALTH
525 W JEFFERSON STREET
SPRINGFIELD IL 62761

DOCUMENT CONTAINS MULTI-COLORED PANTOGRAPH & MICROPRINTING AND HAS REMOVABLE PUBLIC INK & WATERMARK. HOLD AT AN ANGLE TO VIEW. VOID IF NOT PRESENT.

⑈00065756 7⑈ ⑆031100351⑆ ⑈3009610 4 2⑈

FUNDING – Indicate the type and source of funds which will be used to acquire the facility.

The acquisition will be funded with cash and in kind contributions.

Narrative Description

DaVita Healthcare Partners Inc., Total Renal Care, Inc. and Machesney Bay Dialysis, LLC seek approval from the Illinois Health Facilities and Services Review Board (the "State Board") for the change of the operating entity of Machesney Park Dialysis (the "Proposed Transaction"). Machesney Bay Dialysis, LLC, a joint venture between Total Renal Care, Inc. and Rockford Nephrology Partners, Ltd., will be the operating entity of Machesney Park Dialysis. Total Renal Care will contribute the assets of Machesney Park Dialysis in exchange for an 80% membership interest in Machesney Bay Dialysis, LLC. Rockford Nephrology Partners, Ltd. will contribute $371,800 in exchange for a 20% membership interest in Machesney Bay Dialysis, LLC. DaVita Healthcare Partners, Inc. as the ultimate parent of Total Renal Care, Inc. will maintain operational control of Machesney Park Dialysis. There will be no change in the operation of Machesney Park Dialysis as a result of the Proposed Transaction.

Following the change of ownership, the facility will continue to be known as Machesney Park Dialysis.

(See the attached Operating Agreement (Attachment 5) which describes the transaction in more detail.)

File Number 0553207-8

STATE OF ILLINOIS

OFFICE OF THE SECRETARY OF STATE

To all to whom these Presents Shall Come, Greeting:

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

MACHESNEY BAY DIALYSIS, LLC, A DELAWARE LIMITED LIABILITY COMPANY HAVING OBTAINED ADMISSION TO TRANSACT BUSINESS IN ILLINOIS ON JANUARY 28, 2016, APPEARS TO HAVE COMPLIED WITH ALL PROVISIONS OF THE LIMITED LIABILITY COMPANY ACT OF THIS STATE, AND AS OF THIS DATE IS IN GOOD STANDING AS A FOREIGN LIMITED LIABILITY COMPANY ADMITTED TO TRANSACT BUSINESS IN THE STATE OF ILLINOIS.

In Testimony Whereof, *I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this* 21ST *day of* MARCH *A.D.* 2016 .

Authentication #: 1608101474 verifiable until 03/21/2017
Authenticate at: http://www.cyberdriveillinois.com

Jesse White

SECRETARY OF STATE

Attachment - 4

File Number 5823-002-2

STATE OF ILLINOIS

OFFICE OF THE SECRETARY OF STATE

To all to whom these Presents Shall Come, Greeting:

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

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

In Testimony Whereof, *I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this* 23RD *day of* NOVEMBER *A.D.* 2015 .

Authentication #: 1532702232 verifiable until 11/23/2016
Authenticate at: http://www.cyberdriveillinois.com

Jesse White

SECRETARY OF STATE

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "DAVITA HEALTHCARE PARTNERS INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-THIRD DAY OF NOVEMBER, A.D. 2015.

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

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

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

2391269 8300

SR# 20151041024

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 10475571

Date: 11-23-15

Financial Statements

Machesney Bay Dialysis, LLC is a newly formed entity and does not have financial statements available.

A copy of DaVita's 2015 10-K Statement evidencing sufficient internal resources to fund the project was previously submitted and are the same financials that pertain to this application.

A copy of DaVita's 2014 10-K Statement was previously submitted with Proj. No. 15-020 and a copy of DaVita's 2013 10-K Statement was previously submitted with Proj. No. 14-016.

OPERATING AGREEMENT
OF
MACHESNEY BAY DIALYSIS, LLC

This Operating Agreement, dated as of July 15, 2016 (the "Closing Date"), is made and entered into by and among Machesney Bay Dialysis, LLC, a Delaware limited liability company ("Company"), Total Renal Care, Inc., a California corporation, as LLC Manager and as a Member, and Rockford Nephrology Partners, Ltd., an Illinois corporation ("Group"), as a Member, and each other person or entity that hereafter executes this Agreement as a Member.

Section 1. DEFINITIONS

The following words and terms shall have the following respective meanings:

1.1 "Act" shall mean the Delaware Limited Liability Company Act.

1.2 "Additional Capital Contribution" shall mean any additional capital contributed by any Member pursuant to Section 6.2(a) below or paid by any Member for Additional Units pursuant to Section 6.2(b) below.

1.3 "Additional Center" shall have the meaning given to that term in Section 9.6(f)(i) below.

1.4 "Additional Units" shall have the meaning given to that term in Section 6.2(b) below.

1.5 "Adjusted Capital Account Deficit" shall mean, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments: (a) credit to such Capital Account of amounts that such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations; and (b) debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Regulations. The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

1.6 "Adjusted Capital Contribution" of any Member shall mean the Initial Capital Contribution made by such Member pursuant to Section 6.1 below, decreased by any portion of capital returned to such Member in connection with a repurchase of any of such Member's Units or otherwise, and increased by any Additional Capital Contributions made by such Member pursuant to Section 6.2 below.

1.7 "Affected Member" shall have the meaning given to that term in Section 12.2 below.

1.8 "Affiliate" shall mean, with respect to any Person ("Specified Person"), any Person, directly or indirectly through one or more intermediaries, controlling, controlled by or

under common control with, or owning, owned by or under common ownership with, the Specified Person.

1.9 "Agreement" shall mean this Operating Agreement, as the same may be amended from time to time in accordance with the provisions hereof.

1.10 "Anti-Kickback Statute" means the anti-fraud and abuse statute, 42 U.S.C. §1320a-7b(b), or any successor thereto.

1.11 "Call Option" shall have the meaning given to that term in Section 11.5(b) below.

1.12 "Call Option Value" shall have the meaning given to that term in Section 11.5(b) below.

1.13 "Capital Account" of any Member shall mean (a) the Adjusted Capital Contribution of such Member, decreased by (b) any Distributions made to such Member, increased by (c) the income or gain allocated to such Member and, decreased by (d) the amount of losses allocated to such Member. Company shall establish and maintain an individual Capital Account for each Member in accordance with Regulations Section 1.704-1(b)(2)(iv).

1.14 "Capital Call Notice" shall have the meaning given to that term in Section 6.2(a) below.

1.15 "Capital Contribution" shall mean the total investment and contribution to the capital of Company in cash or kind by a Member for his, her or its Units pursuant to Sections 6.1 and 6.2 below.

1.16 "Cash Available for Distribution" on any date shall mean the net positive cash balance held by Company on such date, less a reasonable amount of cash reserves held by Company as of such date, all as determined in good faith by LLC Manager, which cash reserves shall include an amount of cash reasonably necessary or appropriate to meet the current foreseeable business needs of Company, including without limitation, the payment, when due, of the obligations of Company, including any debt service and the repayment of any outstanding advances, reserves as against possible losses, bad debt or reimbursement expenses, and reserves for intended expenditures, including capital expenditures.

1.17 "Center" and "Centers" shall have the meanings given to those terms in Section 4 below.

1.18 "Certificate" shall mean the Certificate of Formation of Company and any and all amendments thereto and restatements thereof filed on behalf of Company from time to time with the office of the Secretary of State of Delaware pursuant to the Act.

1.19 "Closing" shall have the meaning given to that term in Section 11.6 below.

1.20 "Closing Date" shall have the meaning given to that term in the Preamble.

1.21 "Code" shall mean the Internal Revenue Code of 1986, as amended to date, or the corresponding provisions of any subsequent, superseding revenue laws.

1.22 "Code of Conduct" shall mean the Code of Conduct of DaVita that is applicable to its domestic dialysis business, as the same shall be amended, updated or modified from time to time.

1.23 "Company" shall have the meaning given to that term in the Preamble above.

1.24 "Company Minimum Gain" shall have the meaning ascribed to the term "Partnership Minimum Gain" in the Regulations Section 1.704-2(d).

1.25 "Competitor" means any Person, including, without limitation, any clinic, management services organization, proprietorship, independent practice association, firm or association which engages in or derives any economic benefit from, or is preparing to engage in or derive any economic benefit from, the business of providing or offering, arranging or subcontracting Dialysis Services within the Restricted Area.

1.26 "CON" shall have the meaning given to that term in Section 5 below.

1.27 "Consent Notice" shall have the meaning given to that term in Section 16.3(f)(i) below.

1.28 "Confidential Information" shall have the meaning given to that term in Section 19.9 below.

1.29 "Contractual Manager" shall mean DaVita, an Affiliate of LLC Manager, acting as the manager under the Management Agreement.

1.30 "Covered Person" means LLC Manager, and any Member (including, without limitation, LLC Manager when acting in its capacity as a Member).

1.31 "DaVita" means DaVita HealthCare Partners Inc., a Delaware corporation.

1.32 "Defendant" shall have the meaning given to that term in Section 19.10(c) below.

1.33 "Demand" shall have the meaning given to that term in Section 19.10(c) below.

1.34 "Dialysis Services" means all dialysis and renal care services and related services, including but not limited to, hemodialysis, acute dialysis, apheresis services, peritoneal dialysis of any type, staff assisted hemodialysis, dialysis related laboratory and pharmacy services, the provision of home dialysis services and supplies, administration of dialysis-related pharmaceuticals (including, without limitation, EPO, Aranesp, iron supplements, vitamin D supplements, or other products related to the treatment of anemia and secondary hyperparathyroidism) to ESRD patients or to patients treated in an acute care hospital due to temporary kidney failure, and any other service or treatment for persons diagnosed as having ESRD, including any dialysis or renal care service provided in a hospital.

1.35 "Distributions" shall mean cash from any source or other property distributed to the Members in respect of their Percentage Interest, but shall not include any payments to LLC Manager as reimbursement for Company expenses or as compensation for services rendered pursuant to this Agreement or any other agreement.

1.36 "Due Date" shall have the meaning given to that term in Section 6.2(b) below.

1.37 "Effective Date" shall mean July 1, 2016.

1.38 "End Stage Renal Disease" or "ESRD" shall mean that stage of renal impairment that appears irreversible and permanent, and requires a regular course of dialysis or kidney transplantation to maintain life, which definition is set forth in Title 42, Code of Federal Regulation Section 405.2101 as of the date hereof. To the extent such regulation is changed or amended, the term shall have the same meaning as set forth in Title 42, Code of Federal Regulation Section 405.2101 et seq. or any successor thereto.

1.39 "Excess Units" shall have the meaning given to that term in Section 6.2(b) below.

1.40 "Exercise Period" shall have the meaning given to that term in Section 11.5 below.

1.41 "Group" shall have the meaning given to that term in the Preamble above.

1.42 "Group Physician" shall mean each of the individual physicians who are owners of equity interest in Group.

1.43 "Guaranteed Obligations" shall have the meaning given to that term in Section 19.10(a) below.

1.44 "Guarantor" shall have the meaning given to that term in Section 19.10(b) below.

1.45 "Guaranty" shall have the meaning given to that term in Section 19.10(a) below.

1.46 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the implementing regulations at 45 CFR Parts 160 and 164, as amended by the Health Information Technology for Economic and Clinical Health Act.

1.47 "Incapacity" means that a Member or Group Physician, who is an individual, is adjudicated mentally incompetent by a court of appropriate jurisdiction.

1.48 "Initial Capital Contribution" shall have the meaning given to that term in Section 6.1 below.

1.49 "Laboratory Services Agreement" shall mean the Laboratory Services Agreement dated as of the Effective Date by and among Company, Total Renal Laboratories, Inc., a Florida corporation d/b/a DaVita Labs and DVA Laboratory Services, Inc., a Florida corporation d/b/a DaVita Labs.

1.50 "Liquidator" shall have the meaning given to that term in Section 13.2 below.

1.51 "LLC Manager" shall mean Total Renal Care, Inc., a California corporation and an Affiliate of DaVita, or any other Person who succeeds it in such capacity.

1.52 "LLC Manager Call Option Value" shall have the meaning given to that term in Section 11.5(b) below.

1.53 "LLC Manager Put Option Value" shall have the meaning given to that term in Section 11.5(a) below.

1.54 "LLC Manager Sale Value" shall have the meaning given to that term in Section 12.4(b) below.

1.55 "Majority of Members" shall mean, at any time, Members that, individually or together with other Members, hold more than fifty percent (50%) of the total outstanding Units in Company at such time.

1.56 "Management Agreement" means the Dialysis Management Services Agreement in the form and substance attached hereto as **Exhibit A** between Company and the Contractual Manager, pursuant to which the Contractual Manager will manage the business of one or more of the Centers.

1.57 "Member" shall mean each Person who shall be admitted as a member of Company from time to time in accordance with this Agreement, in each case, when acting in the capacity as a member of Company, and "Members" shall refer collectively to LLC Manager, in its capacity as a Member, and all of the other Members. For all purposes of the Act, all Members shall constitute a single class or group of members. Any Person who ceases to own any Units shall cease to be a Member.

1.58 "Member Call Option Value" shall have the meaning given to that term in Section 11.5(b) below.

1.59 "Member Nonrecourse Debt" shall have the meaning ascribed to the term "Partner Nonrecourse Debt" in Regulations Section 1.704-2(b)(4).

1.60 "Member Nonrecourse Deductions" shall mean items of Company loss, deduction, or Code Section 705(a)(2)(B) expenditures which are attributable to Member Nonrecourse Debt.

1.61 "Member Put Option Value" shall have the meaning given to that term in Section 11.5(a) below.

1.62 "Member Sale Value" shall have the meaning given to that term in Section 12.4(b) below.

1.63 "Membership Interest" shall mean, at any time, all of the outstanding Units at such time.

1.64 "Net Income" shall mean the taxable income or gain and "Net Loss" shall mean the taxable loss, both as determined in accordance with the accounting methods followed by Company for federal income tax purposes pursuant to the Code, including net ordinary income and loss, net capital gains and losses and net Code Section 1231 gains and losses.

1.65 "New JV Company" shall have the meaning given to that term in Section 9.6(f)(i) below.

1.66 "Nonrecourse Liability" shall have the meaning set forth in Regulations Section 1.752-1(a)(2).

1.67 "Offer Notice" shall have the meaning given to that term in Section 6.2(b) below.

1.68 "Offered Units" shall have the meaning given to that term in Section 11.1(a) below.

1.69 "Percentage Interest" of any Member shall mean, at any time, the percentage derived by dividing the number of Units held by such Member at such time by the aggregate number of Units outstanding at such time.

1.70 "Person" shall mean any natural person, partnership, limited liability company, corporation, association or other legal entity.

1.71 "Policies and Procedures" shall have the meaning given to that term in Section 16.6 below.

1.72 "Pre-Closing Costs" shall have the meaning given to that term in Section 6.6 below.

1.73 "Pre-Closing Interest" shall have the meaning given to that term in Section 6.6 below.

1.74 "Prime Rate" means an adjustable rate of interest equal to the prime rate, as published by the Wall Street Journal on the first business day of each calendar month.

1.75 "Proposal" shall have the meaning given to that term in Section 9.6(f)(i) below.

1.76 "Put Option" shall have the meaning given to that term in Section 11.5(a) below.

1.77 "Put Option Value" shall have the meaning given to that term in Section 11.5(a) below.

1.78 "Regulations" shall, unless the context clearly indicates otherwise, mean the regulations in force as final or temporary that have been issued by the United States Department of Treasury pursuant to its authority under the Code, and any successor regulations.

1.79 "Restricted Area" shall mean (i) for purposes of any business providing any peritoneal dialysis services and/or any home dialysis services (including any related supplies business), anywhere within a forty (40) mile radius of the Center as of the Effective Date and its location at any time during the Restricted Period, or (ii) for purposes of any other type of dialysis services business or renal care services business, anywhere within a radius of twenty-five (25) miles of the Center as of the Effective Date and its location at any time during the Restricted Period.

1.80 "Restricted Period" shall have the meaning given to that term in Section 9.6(a) below.

1.81 "ROFR Area" shall mean a thirty-five (35) mile radius of each Center's location as of the Effective Date and its location at any time during the Term.

1.82 "Sale Value" shall have the meaning given to that term in Section 12.4(b) below.

1.83 "Secured Party" shall have the meaning given to that term in Section 19.10(a) below.

1.84 "Stark Law" means the disclosure requirements and self-referral prohibitions of the Federal Ethics in Patient Referrals Act, 42 U.S.C. §1395nn, or any successor thereto.

1.85 "Term" shall have the meaning given to that term in Section 5 below.

1.86 "Transferring Member" shall have the meaning given to that term in Section 11.1(a) below.

1.87 "Unit" means a portion of the Membership Interest that entitles the holder thereof to one vote and to a percentage, at any time, of the entire Membership Interest in Company derived by dividing one by the aggregate number of Units outstanding at such time. Without limiting the generality of the foregoing, at any time each Unit shall entitle the holder to the aforesaid percentage, at such time, of the Net Income and Net Losses of Company and of Distributions to the Members in accordance with the provisions of this Agreement and the Act.

Section 2. ORGANIZATION

2.1 Formation. Company was formed by the filing of a Certificate with the Delaware Secretary of State on January 27, 2016. The Members ratify the filing of the Certificate and the formation of the Company.

2.2 Name. The name of Company is "Machesney Bay Dialysis, LLC". The business of Company may be conducted, upon compliance with all applicable laws, under such name or any other name designated by LLC Manager.

Section 3. PRINCIPAL OFFICE

The principal office of Company shall be located at c/o DaVita HealthCare Partners Inc., 2000 16th Street, Denver, Colorado 80202, or at such other place as may be determined by LLC Manager from time to time.

Section 4. BUSINESS

Company is formed for the purpose of developing, establishing, owning or leasing, and operating one or more licensed outpatient dialysis and renal care service centers (each, a "Center" and collectively, the "Centers") to have the names and initial addresses set forth on **Exhibit B** and for the purpose of doing such other things as are necessary, convenient, desirable or incidental to the foregoing, and for such other purposes as may be agreed upon from time to time by a Majority of the Members.

Section 5. TERM

The term of Company (the "Term") shall continue perpetually unless Company is sooner dissolved in accordance with the provisions of this Agreement. Notwithstanding the above, in the event that Company is denied approval for a Certificate of Need pertaining to the initial Center from the Illinois Health Facilities and Services Review Board (the "CON"), the Company will be dissolved in accordance with the provisions of Section 13 of this Agreement.

Section 6. CAPITAL CONTRIBUTIONS

6.1 Initial Number of Units; Initial Capital Contributions. As of the Effective Date, each Member shall acquire the number of Units set forth opposite such Member's name on **Exhibit C** attached hereto. On the Closing Date, each Member shall pay to Company the amount set forth opposite such Member's name on **Exhibit C**, which shall be deemed to be such Member's "Initial Capital Contribution" made effective as of the Effective Date. The Initial Capital Contribution includes the capital required for construction of the Center, working capital required for the Center's initial operations, and the Development Management Fee due to Contractual Manager pursuant to the terms of the Management Agreement. Notwithstanding the foregoing, LLC Manager may pay its Initial Capital Contribution in cash, or in-kind, or in any combination thereof.

6.2 Additional Capital Contributions.

(a) Whenever LLC Manager determines that Company's capital is or is likely to become insufficient for the conduct of its business, LLC Manager, in its discretion, may either: (i) by written notice to all Members (a "Capital Call Notice"), require each Member to contribute additional capital to Company in an amount equal to such Member's Percentage Interest of the amount of capital that LLC Manager determines to be appropriate; or (ii) cause Company to issue Additional Units to existing Members in accordance with Section 6.2(b) below. Each Member shall make payment to Company of any amount required to be contributed by such Member pursuant to any Capital Call Notice within thirty (30) days after the date that such Capital Call Notice is deemed delivered to such Member, and each such payment shall be made in cash; provided, however, that LLC Manager may make any such additional capital contribution in cash, or in-kind, or by forgiveness of amounts due to it, Contractual Manager, or

any of their Affiliates, or in any combination thereof. If a Member fails to respond and timely satisfy such obligation, such Member's Percentage Interest shall be diluted accordingly.

(b) At any time, LLC Manager, in its discretion may by written notice to all Members (each, an "Offer Notice"), offer all Members the opportunity to acquire additional Units ("Additional Units") in consideration for additional contributions of capital at a rate per Unit to be established by LLC Manager and set forth in such Offer Notice. Each Member shall be entitled to acquire such number of Additional Units as would enable such Member to maintain his, her or its Percentage Interest in Company immediately prior to the date on which such Offer Notice is given. Within ten (10) days after the giving of the Offer Notice, each Member shall notify LLC Manager and each other Member in writing of the number, if any, of Additional Units offered to such Member pursuant to the Offer Notice that such Member will acquire, in which case, such Member shall be obligated to acquire such Additional Units on the Due Date (as defined below). If one or more Members shall elect to acquire less than all of the Additional Units offered to him, her or it, then the Members, if any, that elected to acquire all of the Additional Units offered to them shall be entitled, by giving notice to LLC Manager by the deadline established by LLC Manager, to acquire any of the available Additional Units (the "Excess Units"); provided, however, if there shall not be a sufficient number of Excess Units for each such Member to acquire the number of Excess Units desired, LLC Manager may, in its discretion, either (i) increase the number of Additional Units offered so that there will be a sufficient number of Excess Units to meet such demand, or (ii) issue only such number of Excess Units, in which case, each Member electing to acquire Excess Units shall be obligated to acquire a percentage of the Excess Units equal to the ratio that the number of Excess Units he, she or it offered to acquire bears to the total number of Excess Units that all of the Members offered to acquire. The Additional Capital Contributions for the Additional Units, including any Excess Units, to be acquired shall be payable in cash no later than the date specified in the Offer Notice ("Due Date"), which Due Date shall be the first day of the month following the date that is at least thirty (30) days after the notice is given; provided, however, LLC Manager may make any such Additional Capital Contribution in cash, or in-kind, or in any combination thereof.

6.3 Asset Value. Any assets contributed to Company by LLC Manager shall be valued at the fair market value thereof at the time of such contribution.

6.4 No Priorities of Members. Except as set forth in this Agreement, no Member shall have the right to withdraw his, her or its Capital Contributions, and no Member shall have the right to demand or to receive property other than cash in return for his, her or its Capital Contributions or shall have priority over the other Members, either as to the return of Capital Contributions or as to profits, losses or distributions.

6.5 Interest on Capital Contributions. No Member shall receive interest on his, her or its Capital Contribution.

6.6 Interest on Pre-Closing Costs. Any and all costs that are incurred by LLC Manager or an Affiliate thereof relating to the development or operation of the Center prior to the Closing Date ("Pre-Closing Costs") shall be reimbursed by Company to LLC Manager or such Affiliate. The pro rata portion of all Pre-Closing Costs attributable to Members other than LLC Manager shall be subject to an interest charge at the Prime Rate ("Pre-Closing Interest").

Each Member (other than LLC Manager) shall be responsible for paying its pro rata portion of Pre-Closing Interest on the Closing Date, as set forth next to each Member's name on **Schedule 6.6** attached hereto. The Pre-Closing Interest charge will be calculated by applying the Prime Rate, as adjusted monthly, to the amounts described in the contribution schedule set forth on **Schedule 6.6**.

Section 7. TITLE

Except as otherwise expressly provided in the Agreement, title to all Company property shall be taken in the name of Company, and the Units shall for all purposes be personal property and shall not entitle any Member to an interest in specific Company property.

Section 8. DISTRIBUTIONS

Company may make Distributions to the Members on a quarterly basis as LLC Manager shall determine, and in any event, all Cash Available for Distribution shall be distributed to the Members no more than thirty (30) days after the end of each fiscal month of Company; provided, however, that at all times Company shall maintain a minimum positive cash balance in Company's account as determined by LLC Manager, which amount shall be no less than at least two (2) months' operating expenses for Company. Any such Distributions shall be payable by a check drawn on the account of Company or by wire transfer to a Member's designated bank account. Any Distribution made in accordance with this Section 8 shall be made to the Members pro rata based on their respective Percentage Interests on the record date for such Distribution. Each Member acknowledges that inasmuch as Company's books will be maintained on an accrual basis and not on a cash basis, each Member may be assessed federal, state and other income taxes based upon the income of Company, whether or not Company has distributed cash to its Members, or has Cash Available for Distribution for each Member to finance such tax obligations.

Section 9. MANAGEMENT

9.1 Control in LLC Manager. Except as otherwise expressly set forth in this Agreement, the Act or other applicable law, LLC Manager shall have full, exclusive and complete discretion and authority to manage and control the business and affairs of Company, to make all decisions affecting the business and affairs of Company, and to take all such actions as it deems necessary or appropriate to accomplish the purposes of Company. Only LLC Manager shall have the power to bind Company, except and to the extent that such power is expressly delegated to any other Person by LLC Manager, and it is expressly agreed that LLC Manager shall be permitted to assign, delegate, appoint, or subcontract any of its powers and authority hereunder to any Person or Persons as agent for Company or LLC Manager. Any such delegation shall not cause LLC Manager to cease to be manager of Company.

(a) Without limiting the generality of the foregoing, LLC Manager shall have the right, in its sole discretion, to take or do the following in Company's name and at Company's expense, except as provided in Section 9.2 below:

(i) Expend the assets of Company in furtherance of Company's business, including, without limitation, to acquire, repair, improve, develop, manage, insure and upgrade the Centers;

(ii) Sell or purchase, transfer or accept, assign or assume, convey or receive, lease (as lessor or lessee), sublet (as sublessor or sublessee), or otherwise dispose of or acquire or deal with all or any part of Company's business or interest in any real or personal or mixed property;

(iii) Value unsold Company property in anticipation of liquidation pursuant to Section 13.2 below;

(iv) Borrow funds from any Person on behalf of Company in connection with Company's business and to guarantee the repayment of such borrowed funds through the pledge of, or grant of a security interest in, or mortgage upon, any or all of the assets of Company, and in connection therewith, execute and deliver promissory notes, loan agreements, security agreements and any other certificates, documents or instruments that LLC Manager deems to be necessary or appropriate in connection therewith;

(v) Negotiate, execute, acknowledge and deliver such agreements, contracts, leases, licenses, undertakings, documents, certificates, bills of sale and other instruments as LLC Manager may deem to be necessary or appropriate in connection with the business of Company;

(vi) Exercise the right of Company to acquire the Units of any Affected Member pursuant to Section 12.4(a) below;

(vii) Protect and preserve the title and interest of Company with respect to the assets of Company, to collect all amounts due to Company, to enforce all rights of Company and to retain counsel and institute such suits or proceedings, in the name and on behalf of Company or the Members, as LLC Manager may deem to be necessary or appropriate;

(viii) To the extent that funds of Company are available, pay all debts and obligations of Company; it being understood that LLC Manager is specifically permitted to satisfy any Company obligations as to which LLC Manager is personally liable, if any, before satisfying Company obligations as to which LLC Manager has no such personal liability, if any;

(ix) Maintain on Company's behalf such contracts of liability, casualty and other insurance or otherwise obtain indemnity coverage as LLC Manager may deem to be necessary or appropriate in connection with the business of Company;

(x) Employ or retain such agents, employees, managers, accountants, attorneys, consultants, independent contractors and other Persons as LLC Manager may deem to be necessary or appropriate to carry out the business and affairs of Company, whether or not any such Person is an Affiliate of any Member, and to pay such fees, expenses, salaries, wages and other compensation to such Persons as LLC Manager may determine to be appropriate;

(xi) Pay, settle, extend, renew, modify, adjust, submit to arbitration, prosecute, defend or compromise, upon such terms as LLC Manager may determine and upon such evidence as it may deem sufficient, any demand, proceeding, obligation, suit, liability, cause of action or claim, including a claim for taxes, either in favor of or against Company;

(xii) Pay any and all reasonable fees and make any and all reasonable expenditures that LLC Manager may deem to be necessary or appropriate in connection with the management of the affairs of Company and the carrying out of its obligations and responsibilities under this Agreement;

(xiii) Establish and maintain reserves for such purposes and in such amounts as LLC Manager may deem, in accordance with Section 1.16 above, to be appropriate from time to time;

(xiv) Establish and maintain one or more accounts for Company in a bank or banks insured by the Federal Deposit Insurance Corporation as LLC Manager may designate from time to time;

(xv) Lend or advance money for any proper purpose, and to take and hold real and personal property for the payment of funds so loaned;

(xvi) Make Distributions to the Members in accordance with the provisions of this Agreement;

(xvii) Engage in any kind of activity and enter into, perform and carry out contracts of any kind necessary to, or in connection with or convenient or incidental to, the accomplishment of the purposes of Company, including contracts with Affiliates, so long as such activities and contracts may be lawfully carried on or performed by Company under any applicable laws;

(xviii) Establish a record date with respect to all actions to be taken hereunder that require a record date be established, including with respect to votes, allocations and Distributions;

(xix) Issue Additional Units to existing Members in accordance with Section 6.2(b) above;

(xx) Assume the overall duties imposed on LLC Manager by the Act; and

(xxi) Make or not make any elections available to Company in accordance with the Code, including an election pursuant to Section 12.3 below.

(b) No Person dealing with Company shall be required to inquire into the authority of LLC Manager to take any action or make any decision hereunder.

(c) The expression of any power or authority of LLC Manager in this Agreement shall not in any way limit or exclude any other power or authority which is not

specifically or expressly set forth in this Agreement. Without limiting the generality of the foregoing, it is expressly agreed that LLC Manager shall cause Company to enter into the following agreements on the Effective Date: the Management Agreement, the Medical Director Agreements, and the Laboratory Services Agreement.

9.2 Limitation on LLC Manager's Authority. Notwithstanding any other provision of this Agreement, LLC Manager shall not have authority, without first obtaining the approval of all of the Members, to:

(a) Do any act in contravention of this Agreement or applicable law;

(b) Do any act that would make it impossible to carry on the ordinary business of Company other than as specifically permitted in this Agreement;

(c) Issue any Units other than pursuant to Sections 6.1 or 6.2 above;

(d) Cause the sale of all or substantially all of the Company assets or merge or consolidate the Company with or into any partnership, limited liability company, corporation or other entity, unless part of a larger transaction involving three or more centers owned by LLC Manager or any of its Affiliates; or

(e) Sell all or any portion of its Units in the Company, unless to an Affiliate of LLC Manager or as part of a larger transaction involving at least three other centers owned by LLC Manager or any of its Affiliates (other than the Company).

9.3 Devotion of Time. LLC Manager shall devote such time to managing Company's business and performing its duties hereunder as it may deem to be necessary or advisable in order to manage Company's business in an efficient manner; provided, however, that LLC Manager is not obligated to devote its full time to the affairs of Company. LLC Manager and any Affiliate thereof may have interests in other businesses and endeavors and other entities all of which may compete directly or indirectly with Company, and neither Company nor other Members shall have any right, title or interest therein or in any income or profits realized therefrom or any claim against LLC Manager or any Affiliate thereof for actions with respect to such other business endeavors and other entities.

9.4 Medical Director of Center. Company shall be assigned all right, title and interest in, and shall assume all obligations of Total Renal Care, Inc. in connection with that certain Medical Director Agreement dated January 14, 2016, by and among Total Renal Care, Inc., RNA of Rockford, LLC, and Michael Robertson, M.D., John Maynard, M.D., and Deane Charba, M.D., a copy of which is attached hereto as **Exhibit D**.

9.5 Exculpation and Indemnification.

(a) No Member shall be personally liable to any other Member for the return of capital or any contributions to Company by the Members. No Member shall have any liability to any other Member if, upon audit, the Internal Revenue Service disallows any deductions or allocations taken by Company or determines that Company should be taxed as an association taxable as a corporation.

(b) No Covered Person shall be liable to Company or to any Member for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of Company and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence, fraud or willful misconduct. For these purposes, a Covered Person shall be deemed to be acting in good faith if he, she or it relies upon information, opinions, reports or statements presented to Company by any Person as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of Company.

(c) To the fullest extent permitted by applicable law, each Covered Person shall be entitled to indemnification from Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of Company and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of gross negligence, fraud or willful misconduct with respect to such acts or omissions.

(d) Company may purchase and maintain insurance, to the extent and in such amounts as LLC Manager shall, in its sole discretion, deem reasonable, on behalf of Covered Persons and such other Persons as LLC Manager shall determine, against any liability that may be asserted against or expenses that may be incurred by any such Person in connection with the activities of Company or such indemnities.

9.6 Non-Competition and Non-Solicitation; Opportunity to Participate in Additional Center.

(a) Each Member (other than LLC Manager) hereby agrees that as a material inducement to LLC Manager to enter into this Agreement, and for other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, except as set forth in Section 9.6(d) below, such Member covenants and agrees that such Member will not, for so long as he, she, or it is a Member, and for a period of seven (7) years after any date on which such Member ceases to be a Member of Company (the "Restricted Period"), directly or indirectly:

(i) Become a Competitor by taking any action that results or could reasonably result in owning any interest in, leasing any assets to, operating, managing, extending credit to, or otherwise participating in, a Competitor, anywhere within the Restricted Area. As used in this Section 9.6, "directly or indirectly" means any and all activities undertaken by, through or on behalf of a Member, or any of a Member's Affiliates, or any and all entities with respect to which a Member or any of its Affiliates serves as contractor, agent, employee or representative or has a direct or indirect financial interest.

(ii) Solicit the termination of, diversion or interference with any relationship that Company has with any independent contractor, supplier or provider;

(iii) Solicit, induce or encourage any employee, or physician affiliated with Company or LLC Manager (presently employed by or affiliated with Company or LLC Manager or within the most recent twelve (12) month period) to curtail or terminate such Person's affiliation or employment, or take any action that results in, or may reasonably be expected to have the same result. For the purposes of this Section 9.6(a)(iii), the term "LLC Manager" shall include all of LLC Manager's Affiliates.

(b) As a condition to LLC Manager entering into this Agreement, throughout the Restricted Period, the Members (except for LLC Manager and its Affiliates) shall ensure that each Person or entity who is or hereafter becomes employed by or a shareholder, partner, member or other owner of such Member shall execute and comply with the Joinder set forth as **Exhibit E**.

(c) If the provisions of this Section 9.6 are violated, in whole or in part, Company and LLC Manager shall be entitled, upon application to any court of proper jurisdiction, to a temporary restraining order or preliminary injunction to restrain and enjoin the Member and/or any Person who has executed a Joinder described in Section 9.6(b) from such violation without prejudice as to any other remedies Company or LLC Manager may have at law or in equity. In the event of a violation by a Member, such Member agrees that it would be virtually impossible for Company or LLC Manager to calculate its monetary damages and that Company and LLC Manager would be irreparably harmed. If Company or LLC Manager seeks such temporary restraining order or preliminary injunction, neither Company nor LLC Manager shall be required to post any bond or other security with respect thereto, or, if, nonetheless, a bond is required, it may be posted without surety thereon. If any restriction contained in this Section 9.6 is held by any court to be unenforceable, or unreasonable, as to time, geographic area or business limitation, Company, LLC Manager, and the Members agree that such provisions shall be and are hereby reformed to the maximum time, geographic area or business limitation permitted by applicable laws. The parties further agree that the remaining restrictions contained in this Section 9.6 shall be severable and shall remain in effect and shall be enforceable independently of each other.

(d) Nothing in this Agreement shall be interpreted to:

(i) prevent any Group Physician who is a practicing physician or any physician employed by Group from engaging in the professional practice of nephrology or medicine, or interfering with such physician's independent medical judgment while not limiting or unduly influencing a patient's right to choose where he or she desires to receive dialysis;

(ii) require the referral of any patients for any Dialysis Service provided by Company, LLC Manager, or any of their respective Affiliates, or for treatment at the Center or any dialysis facility owned, operated or managed by Company, LLC Manager or any of their respective Affiliates;

(iii) prohibit Group and any Group Physician who is a practicing physician from engaging in managed care contracting as a participating provider of medical services so long as such relationship does not either (A) provide Group and any such Group Physician with remuneration related or attributable to Dialysis Services, or (B) involve Group or

any such Group Physician who is a practicing physician contracting with any person or entity that is, directly or indirectly, owned, managed, operated or controlled by, or affiliated with any person or entity (other than Company) that provides Dialysis Services;

(iv) prevent any Member from establishing 100% wholly-owned centers outside of the Restricted Area; or

(v) prohibit any Member from purchasing on the open market (and continuing to own) up to two percent (2%) of the issued shares of any company whose common stock is listed for trading on any national securities exchange or on the NASDAQ National Market System.

(e) The Members specifically acknowledge, represent and warrant that the covenants set forth in this Section 9.6 are reasonable, necessary, and enforceable to protect the legitimate interests of Company and LLC Manager, and that LLC Manager would not have entered into this Agreement in the absence of such covenants. Notwithstanding the foregoing, the provisions of this Section 9.6 shall not apply upon dissolution of Company, in accordance with Section 13.1(e), as a result of the failure to obtain CON approval required for operation of the Center.

(f) Mutual Non-Solicit Relating to Additional Centers. DaVita and the Company agree that, if at any time during the Term and while Group is a Member, DaVita directly, or indirectly through a subsidiary, develops a new outpatient dialysis center anywhere within the ROFR Area, DaVita and the Company shall enter into a mutual non-solicitation agreement covering the employees of such center and the Centers.

(g) Opportunity to Participate in Additional Center.

(i) During the Term, if LLC Manager or any of its Affiliates decides to construct, develop, or otherwise establish a new outpatient renal dialysis center or program (an "Additional Center") with premises located within the ROFR Area, LLC Manager or its Affiliate will notify all of the Members with a written proposal (the "Proposal") to participate in the ownership of such Additional Center either through Company or through a newly formed joint venture entity between the Members and LLC Manager or its Affiliate, or, at the election of the Members, between LLC Manager or its Affiliate and any of the Group Physicians (the "New JV Company"). The New JV Company shall be a manager-managed limited liability company organized under Delaware law, and LLC Manager or any of its Affiliates shall be the sole manager of the New JV Company, with full power and authority to bind the new JV Company and authorize all actions to be taken by the New JV Company, subject to such actions requiring the approval of the unanimous consent of the members, and to require capital calls by the members of the New JV Company when the New JV Company reasonably requires additional capital so long as such capital calls are proportionate to each member's ownership percentage in the New JV Company. The terms and conditions of the New JV Company shall be on terms substantially similar to those set forth in this Agreement; provided that in no event shall LLC Manager own less than eighty percent (80%) of any such Additional Center. The New JV Company shall enter into a twenty-five (25) year management services agreement with

Contractual Manager, in substantially the same form as the Management Agreement of Company.

(ii) All of the Members shall review the Proposal and take action with respect thereto in good faith within thirty (30) days following receipt. Any of the Members' failure to provide a timely response will be deemed a rejection of the Proposal and LLC Manager or its Affiliate may enter into discussions with a third party with respect to such Additional Center. Nothing herein shall be construed as requiring LLC Manager or any of its Affiliates to develop an Additional Center or to require LLC Manager or any of its Affiliates and the Members to enter into any joint venture with each other or to continue negotiations for greater than sixty (60) days after the Members' acceptance of the Proposal. The parties understand and acknowledge that this participation right shall not apply to any existing or relocated dialysis center or program or any dialysis center or program that is acquired by LLC Manager or any of its Affiliates from a third party, whether acquired through purchase, merger or otherwise; nor shall it apply to any proposal by LLC Manager or any of its Affiliates to manage any dialysis program owned by a third party.

Section 10. NET INCOME AND NET LOSS

10.1 Allocation of Net Income and Net Loss.

(a) For federal, state and local income tax purposes, Net Income and Net Loss shall be allocated among the Members in accordance with their Percentage Interests; provided, however, that loss allocations to a Member shall be made only to the extent that such loss allocations will not create an Adjusted Capital Account Deficit for that Member at the end of any fiscal year. Any loss not allocated to a Member because of the foregoing provision shall be allocated to the other Members (to the extent the other Members are not limited in respect of the allocation of losses under this Section 10.1(a)). In the event that there are any remaining Net Losses in excess of the limitations set forth in the preceding two (2) sentences, such remaining Net Losses shall be allocated among the Members in proportion to their Percentage Interests. Any loss reallocated under this Section 10.1(a) shall be taken into account in computing subsequent allocations of income and losses pursuant to this Section 10 upon liquidation of Company, so that the net amount of any item so allocated and the income and losses allocated to each Member pursuant to this Section 10 upon liquidation of Company, to the extent possible, shall be equal to the net amount that would have been allocated to each such Member pursuant to this Section 10 if no reallocation of losses had occurred under this Section 10.1(a).

(b) The Members agree that, to the fullest extent possible with respect to the allocations of depreciation and gain for tax accounting purposes, Section 704(c) of the Code shall apply with respect to non-cash property contributed to Company by any Member. The Members further agree that, to the fullest extent possible, in the event the value of any Company asset is adjusted to reflect a revaluation thereof on the books of Company, subsequent allocations of depreciation and gain with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its value as reflected on the books of Company in the same manner as under Section 704(c) of the Code. For purposes hereof, any allocation of income, loss, gain or any item thereof to a Member pursuant to Section

704(c) of the Code or the immediately preceding sentence shall only affect that Member's interest in the contributed non-cash property and shall not affect that Member's Capital Account.

10.2 Special Allocations. Notwithstanding anything in Section 10.1 above:

(a) Minimum Gain Chargeback. If there is a net decrease in Company Minimum Gain during any fiscal year (as defined in Section 17.1 below), each Member shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, in subsequent fiscal years) in an amount equal to the portion of such Member's share of the net decrease in Company Minimum Gain that is allocable to the disposition of Company property subject to a Nonrecourse Liability, which share of such net decrease shall be determined in accordance with Regulations Section 1.704-2(g)(2). Allocations pursuant to this Section 10.2(a) shall be made in proportion to the amounts required to be allocated to each Member under this Section 10.2(a). The items to be so allocated shall be determined in accordance with Regulations Section 1.704-2(f). This Section 10.2(a) is intended to comply with the minimum gain chargeback requirement contained in Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Chargeback of Minimum Gain Attributable to Member Nonrecourse Debt. If there is a net decrease in Company Minimum Gain attributable to a Member Nonrecourse Debt, during any fiscal year, each Member who has a share of Company Minimum Gain attributable to such Member Nonrecourse Debt (which share shall be determined in accordance with Regulations Section 1.704-2(i)(5)) shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, in subsequent fiscal years) in an amount equal to that portion of such Member's share of the net decrease in Company Minimum Gain attributable to such Member Nonrecourse Debt that is allocable to the disposition of Company property subject to such Member Nonrecourse Debt (which share of such net decrease shall be determined in accordance with Regulations Section 1.704-2(i)(5)). Allocations pursuant to this Section 10.2(b) shall be made in proportion to the amounts required to be allocated to each Member under this Section 10.2(b). The items to be so allocated shall be determined in accordance with Regulations Section 1.704-2(i)(4). This Section 10.2(b) is intended to comply with the minimum gain chargeback requirement contained in Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Nonrecourse Deductions. Any nonrecourse deductions (as defined in Regulations Section 1.704-2(b)(1)) for any fiscal year or other period shall be specially allocated to the Members in proportion to their Percentage Interests.

(d) Member Nonrecourse Deductions. Those items of Company loss, deduction or Code Section 705(a)(2)(B) expenditures which are attributable to Member Nonrecourse Debt for any fiscal year or other period shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such items are attributable in accordance with Regulations Section 1.704-2(i).

(e) Qualified Income Offset. If a Member unexpectedly receives any adjustments, allocations or distributions described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), or any other event creates a deficit balance in such Member's Capital Account in

excess of such Member's share of Company Minimum Gain (including without limitation such Member's share of Company Minimum Gain attributable to Member Nonrecourse Debt), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate such excess deficit balance as quickly as possible. Any special allocations of items of income and gain pursuant to this Section 10.2(e) shall be taken into account in computing subsequent allocations of income and gain pursuant to this Section 10 so that the net amount of any item so allocated and the income, gain, and losses allocated to each Member pursuant to this Section 10 to the extent possible, shall be equal to the net amount that would have been allocated to each such Member pursuant to the provisions of this Section 10.2(e) if such unexpected adjustments, allocations, or distributions had not occurred.

Section 11.CERTAIN TRANSFERS.

11.1 Transfers of Units in Company.

(a) For purposes of this Section 11, the term "transfer" shall include any sale, assignment, pledge, hypothecation or other transfer of all or any part of any Unit or any interest therein or right with respect thereto, or the grant or occurrence of any lien, security interest, or other encumbrance on all or any part of any Unit or any interest therein or right with respect thereto. Moreover, any direct or indirect change in control of any Member (other than LLC Manager), including, without limitation, any transfer of fifty percent (50%) or more of the equity in such Member or any Person directly or indirectly controlling such Member, by reason of equity sale, merger, consolidation or similar transaction (whether in one transaction or in a series of transactions) shall be deemed to be a transfer by such Member of its Units. During the term of this Agreement, except as otherwise expressly provided in this Section 11, no Member (other than LLC Manager) shall transfer any of its Units without the prior written consent of LLC Manager. After the first five (5) years following the date on which a Person first becomes a Member, if such Member other than LLC Manager (a "Transferring Member") proposes to transfer any of its Units (the "Offered Units"), then, prior to entering into discussions with any third party with respect thereto, the Transferring Member will give written notice to LLC Manager of its desire to make such a transfer. If, within ten (10) days after the receipt of such notice, LLC Manager notifies the Transferring Member of its desire to acquire the Offered Units, the Transferring Member and LLC Manager will then negotiate diligently and in good faith the terms of an acquisition by LLC Manager of the Offered Units. In the event that, within a period of sixty (60) days following the Transferring Member's notice to LLC Manager, the parties fail to reach agreement on such terms, the Transferring Member may enter into discussions with a third party for the sale of the Offered Units; provided, however, that prior to any sale of the Offered Units to any third party, LLC Manager shall have the right of first refusal to purchase the Offered Units in accordance with Section 11.1 (b), below.

(b) If, after the five (5) year time period referred to in Section 11.1(a) above with respect to a Transferring Member and upon compliance with the procedures of Section 11.1(a), above, such Transferring Member receives a bona fide offer, whether or not solicited by it, from any third party for the purchase of all or any portion of the Offered Units, and if the Transferring Member is willing to accept such offer, the Transferring Member shall give written notice to LLC Manager of: (i) the amount and terms of the offer; (ii) the identity of the proposed transferee; and (iii) its willingness to accept the offer. LLC Manager shall have the option,

within sixty (60) days after that notice is given, to elect to purchase that portion of the Offered Units designated in the third party offer on the same terms as those contained in the third party offer. Upon the expiration of such sixty (60) day period without exercise of the option, the Transferring Member shall be permitted to complete the sale of the Offered Units exactly as described in such notice, which sale must close within sixty (60) days of the expiration of such sixty (60) day period. If the sale shall not occur during such sixty (60) day period, then such Transferring Member shall not be permitted to sell the Units pursuant to such bona fide offer.

(c) The provisions of this Section 11.1 shall not apply to transfers of Units by an Affected Member.

(d) Nothing in the provisions contained in this Section 11.1 or elsewhere in this Agreement shall be deemed to restrict or limit a Member from granting a lien, security interest or similar encumbrance in all or any part of its Units to a bank or other financial institution for the purpose of securing financing to purchase the Units; provided, however, that in the event that any such bank or financial institution shall foreclose or attempt to foreclose, or engage in any similar type transaction, upon all or any portion of the Units owned by a Member (or any successor to a Member's Units), LLC Manager shall have the right immediately to purchase such Units at then fair market value as determined in accordance with Section 12.4(b) below.

(e) If a transfer is made under this Section 11.1, LLC Manager shall have the right to review and approve all transfer documents that could have an impact in the operation of the Company, including but not limited to, any sale of membership interest agreement.

11.2 Transfers of Interests in Group. Each Group Physician, by his or her execution of the Joinder as set forth on **Exhibit E** hereto, hereby agrees that, during the first three (3) years following the Effective Date, a Group Physician may transfer any of his or her interest in Group to another Person without LLC Manager's consent only if (a) such Person is a Group Physician and executes and complies with the Joinder set forth as **Exhibit E** hereto, and (b) the interest to be transferred, together with all ownership interests that previously were transferred by any of the Group Physicians during such three (3) year period, does not exceed fifty percent (50%) of the aggregate ownership interest in Group. Except for any transfer of a Group Physician's ownership interest in Group to one or more other Group Physicians, any transfer by a Group Physician of his or her ownership interest in Group after the third anniversary of the Effective Date shall require the prior written consent of LLC Manager, which consent shall not be unreasonably withheld if made to a physician who (i) is board eligible or board certified in nephrology, specializes in the treatment of patients with ESRD, and is experienced in the medical administration of ESRD facilities, (ii) has worked with a Center for at least six (6) months, and (iii) if requested by LLC Manager, agrees to become signatory to and be bound by all terms and conditions of the Medical Director Agreement and this Agreement.

11.3 Transferee's Joinder. Notwithstanding anything to the contrary set forth in this Agreement, it shall be a condition to any sale or other transfer of a Member's Units to any party other than LLC Manager that the proposed transferee shall execute and deliver to LLC Manager a joinder agreement, in form and substance reasonably satisfactory to LLC Manager, pursuant to which such transferee shall agree to be bound by all of the terms and conditions of this

Agreement as a Member of Company, including, without limitation, the provisions of Section 9.6 of this Agreement. Such transferee shall be deemed a Member of Company effective as of the first day of the month following the date of the Closing.

11.4 Transfers to LLC Manager. Any Member may transfer all or any of his, her or its Units to LLC Manager or Company on such terms and conditions and for such price as such transferring Member and LLC Manager shall agree.

11.5 Put/Call Options.

(a) Within ten (10) business days after the fifth (5th) anniversary of the Effective Date and within ten (10) business days after each anniversary thereafter (each such ten (10) day period shall be referred to as the "Exercise Period"), each Member (other than LLC Manager) shall have the right to require LLC Manager or an Affiliate designated by LLC Manager to purchase all or a portion of such Member's Units in Company (the "Put Option"); provided that the Put Option shall be exercisable on not more than two (2) separate occasions, with the first such exercise being for not less than fifty (50%) percent of the selling Member's Units, and the second such exercise (if any) being for not less than all of the selling Member's remaining Units. The Put Option hereunder is to be exercised by delivering to LLC Manager written notice of an intent to elect to exercise the Put Option within the Exercise Period. To determine the exercise price of the Put Option, LLC Manager and the selling Member shall first negotiate in good faith for thirty (30) days to agree on the fair market value of the Units to be sold by the selling Member. At the end of such thirty (30) day period if LLC Manager and the selling Member have not reached agreement on the fair market value of the Units to be sold by the selling Member then each of them shall select a reputable appraiser to determine the fair market value of the selling Member's Units as of the date the Put Option was exercised (the "Put Option Value"). If either the selling Member or LLC Manager fails to select a reputable appraiser within fifteen (15) days following the end of the thirty (30) day negotiation period, the other party's appraiser shall determine the Put Option Value. If neither party selects a reputable appraiser within such fifteen (15) day period, the Put Option shall lapse until the next Exercise Period. LLC Manager shall provide the same financial and related information about Company's operations to each appraiser based on a list of requested information mutually agreed upon by the appraisers. If the difference between the Put Option Value as determined by LLC Manager's appraiser (the "LLC Manager Put Option Value") and the Put Option Value as determined by the selling Member's appraiser (the "Member Put Option Value") is less than or equal to ten percent (10%) of the higher of the two appraisals, the Put Option Value shall equal the aggregate of the LLC Manager Put Option Value and the Member Put Option Value divided by two. If the difference between the LLC Manager Put Option Value and Member Put Option Value is more than ten percent (10%) of the higher of the two appraisals, then, within twenty (20) days of the completion of both appraisals, LLC Manager's appraiser and the selling Member's appraiser shall select a third appraiser for the purpose of making a final determination of the Put Option Value, which determination shall be completed within a period of sixty (60) days of the appointment of such appraiser and shall be binding upon LLC Manager and the selling Member. All appraisers engaged to determine the Put Option Value shall make their evaluations based on valuation methodologies generally utilized by appraisers accredited by the American Society of Appraisers. The Put Option shall be available on an annual basis on and after the fifth (5th) anniversary of the Effective Date, but shall expire for any particular year upon expiration of each

Exercise Period, unless a written notice of an intent to exercise the Put Option is received within such Exercise Period.

(b) At any time on or after the fifth (5th) anniversary of the Effective Date, LLC Manager shall have the right to require any or all of the Members to sell to LLC Manager all or a portion of their respective Units (the "Call Option"); provided that the Call Option shall be exercisable on not more than two (2) separate occasions with respect to any selling Member, with the first such exercise being for not less than fifty (50%) percent of the selling Member's Units, and the second such exercise (if any) being for not less than all of the selling Member's remaining Units. To determine the exercise price of the Call Option, LLC Manager and the selling Member shall first negotiate in good faith for thirty (30) days to agree on the fair market value of the Units to be sold by the selling Member. At the end of such thirty (30) day period if LLC Manager and the selling Member have not reached agreement on the fair market value of the Units to be sold by the selling Member then each of them shall select a reputable appraiser to determine the fair market value of the selling Member's Units as of the date the Call Option was exercised (the "Call Option Value"). If either the selling Member or LLC Manager fails to select a reputable appraiser within fifteen (15) days following the end of the thirty (30) day negotiation period, the other party's appraiser shall determine the Call Option Value. LLC Manager shall provide the same financial and related information about Company's operations to each appraiser. If the difference between the Call Option Value as determined by LLC Manager's appraiser (the "LLC Manager Call Option Value") and the Call Option Value as determined by the selling Member's appraiser (the "Member Call Option Value") is less than or equal to ten percent (10%) of the higher of the two appraisals, the Call Option Value shall equal the aggregate of the LLC Manager Call Option Value and the Member Call Option Value divided by two. If the difference between the LLC Manager Call Option Value and Member Call Option Value is more than ten percent (10%) of the higher of the two appraisals, then, within twenty (20) days of the completion of both appraisals, LLC Manager's appraiser and the selling Member's appraiser shall select a third appraiser for the purpose of making a final determination of the Call Option Value, which determination shall be completed within a period of sixty (60) days of the appointment of such appraiser and shall be binding upon LLC Manager and the selling Member. All appraisers engaged to determine the Call Option Value shall make their evaluations based on valuation methodologies generally utilized by appraisers accredited by the American Society of Appraisers. Any Call Option hereunder is to be exercised upon at least thirty (30) days prior written notice by LLC Manager to any Member. The Call Option may be exercised by LLC Manager as to the Units of different Members on separate occasions.

11.6 Closing. The closing of any purchase of Units by LLC Manager pursuant to Section 11.1 or Section 11.5 (the "Closing") shall occur at the offices of Company and be effective on the first day of the month that occurs at least ten (10) business days following the date on which the notice of exercise is given and the date on which the purchase price for the Units to be purchased is finally determined in accordance with Section 11.1(a) or Section 11.1(b), whichever date is later, or at such other time and place as may be mutually agreed to in writing. At the Closing, the Member whose Units are being sold shall deliver a duly executed assignment of the Units being sold and LLC Manager shall deliver payment for the Units in an amount equal to the price determined in accordance with Section 11.1 or Section 11.5, whichever is applicable, in cash (or a certified or cashier's check) or, in the case of a sale pursuant to Section 11.1(b), at the option of LLC Manager, in consideration consistent with the terms of the

third party offer. The Members each shall execute and deliver such other documents as may reasonably be requested by any of the Persons mentioned above in connection with this transaction. Any sale of Units to LLC Manager pursuant to Section 11.1 or 11.5 shall be made free and clear of all liens, claims, security interests, pledges and encumbrances of any type or nature whatsoever. At LLC Manager's option, to be exercised or waived on behalf of Company in LLC Manager's sole discretion, it shall be a condition of LLC Manager's obligation to purchase a Member's Units that the Medical Director Agreement be extended for a period of up to ten (10) years (or shorter in LLC Manager's discretion) from the Closing.

Section 12. DEATH, INCAPACITY OR BANKRUPTCY OF A MEMBER OR OF A GROUP PHYSICIAN

12.1 Occurrence of Event. Upon the death or Incapacity of a Member who is an individual or of any Group Physician (if and when applicable), and upon the bankruptcy of any Member or Group Physician, subject to the other provisions of this Agreement, Company shall not terminate and Company business shall continue.

12.2 Continued Liability. Upon the death, Incapacity or bankruptcy of a Member or upon the death, Incapacity or bankruptcy of any Group Physician (the Member to whom or to which such event relates shall be deemed to be an "Affected Member"), nothing herein contained shall be construed to relieve or release such Affected Member, or his, her or its successors, assigns, heirs or legal representatives from any breaches or defaults or obligations of such Member to Company pursuant to the provisions of this Agreement incurred as a result of, in connection with or prior to the termination or transfer, as the case may be, of his, her or its Units, and all such breaches, defaults and obligations shall survive such event.

12.3 Optional Adjustment to Basis of Company Property. In the event of a transfer of all or any of the Units of a Member, LLC Manager may elect, on behalf of Company, to adjust the basis of Company property pursuant to Section 754 of the Code, as amended. All other elections required or permitted to be made by Company under the Code and the Treasury Regulations shall be made by LLC Manager in such manner as will, in its sole and absolute discretion, be most advantageous to Members holding a majority of Percentage Interests.

12.4 Sale of Units Following Death, Incapacity or Bankruptcy of a Member or of a Group Physician.

(a) For one hundred eighty (180) days after any Member becomes an Affected Member, such Affected Member or his, her or its legal representative shall negotiate with LLC Manager in good faith in an attempt to reach a mutually acceptable sale to LLC Manager or Company of that Affected Member's Units. In the event such Units remain unsold after the expiration of such one hundred eighty (180) day period, then LLC Manager or, in the discretion of LLC Manager, Company may, but shall not be obligated to, purchase the Affected Member's Units and shall pay the fair market value for such Units. If LLC Manager or Company shall not have given the Affected Member notice of an election to purchase said Affected Member's Units in accordance with the preceding sentence within thirty (30) days after the end of such one hundred eighty (180) day period, then Company shall be liquidated and dissolved in accordance with Section 13 below.

(b) LLC Manager and the Affected Member shall cooperate in good faith to determine the fair market value of the Affected Units. If LLC Manager and the Affected Member do not reach agreement on the fair market value of the Affected Units within thirty (30) days after the commencement of negotiations, then LLC Manager and the Affected Member, or its, his or her legal representative, shall each select a reputable appraiser to determine the fair market value of the Affected Member's Units (the "Sale Value"). If the difference between the Sale Value as determined by LLC Manager's appraiser (the "LLC Manager Sale Value") and the Sale Value as determined by the Affected Member's appraiser (the "Member Sale Value") is less than or equal to ten percent (10%) of the higher of the two appraisals, the Sale Value shall equal the aggregate of the LLC Manager Sale Value and the Member Sale Value divided by two. If the difference between the LLC Manager Sale Value and Member Sale Value is more than ten percent (10%) of the higher of the two appraisals, then, within twenty (20) days of the completion of both appraisals, LLC Manager's appraiser and the Affected Member's appraiser shall select a third appraiser for the purpose of making a final determination of the Sale Value, which determination shall be completed within a period of sixty (60) days of the appointment of such appraiser and shall be binding upon LLC Manager and the Affected Member. All appraisers engaged to determine the Sale Value shall not make their evaluations based solely on historical information (e.g., last twelve (12) months EBITDA). The costs of such appraisals shall be borne equally by the Affected Member and Company.

(c) LLC Manager or Company, as the case may be, shall pay in cash the Sale Value so determined at the closing of such purchase and sale, which closing shall occur at the offices of Company during business hours on such date and at such time as shall be designated by LLC Manager in a notice to the Affected Member; provided that such closing date shall not be more than ninety (90) days after the last day of the one hundred eighty (180) day period referred to in Section 12.4(a) above. The Person or Persons transferring the Units shall execute such documents as may be required to effect the transfer.

12.5 Death or Incapacity of Member or a Group Physician. If a Member or Group Physician dies or becomes Incapacitated, the Member's or Group Physician's executor, personal representative, administrator, guardian, conservator or other legal representative may exercise all of such Member's or Group Physician's rights for the purpose of settling such Member's or such Group Physician's estate or administering such Member's or such Group Physician's property.

Section 13. DISSOLUTION AND LIQUIDATION

13.1 Conditions of Dissolution. Company shall be dissolved and terminated on the earlier of:

(a) Thirty (30) days following written agreement by all of the Members to dissolve Company;

(b) When no LLC Manager exists for any reason including, but not limited to, sale of Units, death, removal, expulsion, adjudication of insanity, incompetency, bankruptcy or insolvency or inability of a LLC Manager to serve;

(c) Upon the sale of all or substantially all of the assets of Company;

(d) If and as required pursuant to Section 12.4(a) above or Section 14.5 below;

(e) If Company is denied approval for a CON pertaining to the Center from the Illinois Health Facilities and Services Review Board; or

(f) Upon the occurrence of any other event which, under the Act, would cause the termination or dissolution of a limited liability company.

13.2 Liquidation. Upon dissolution of Company upon the occurrence of any of the above described events or by operation of law, Company shall be terminated, in which event LLC Manager, if there exists a LLC Manager, or a Member designated by all of the Members if no LLC Manager exists (the "Liquidator"), shall take full account of Company assets and liabilities, and the receivables of Company shall be collected, and its assets liquidated as promptly (e.g., within one (1) year of dissolution) as is consistent with obtaining the fair market value thereof; provided, however, that LLC Manager or Liquidator may, in its reasonable discretion, distribute all or any portion of the assets of Company in kind (as undivided interests or as one hundred percent (100%) interests in different Company assets to each of the Members). If property shall be distributed in kind, Capital Accounts shall be adjusted as if such property had been sold for its net fair market value (taking into account existing encumbrances) immediately before such distribution as reasonably determined by LLC Manager or Liquidator. Upon dissolution, Company shall engage in no further business thereafter other than that necessary to collect its receivables and to liquidate its assets.

13.3 Proceeds of Liquidation. The proceeds from the liquidation of Company assets and collection of Company receivables together with assets distributed in kind, to the extent sufficient therefor, shall be applied and distributed in the following order:

(a) To the expenses of liquidation (including reasonable compensation to LLC Manager or Liquidator in connection with services rendered during liquidation) and the debts of Company (including debts of Company to the Members), in the order of priority as provided by this Agreement or by law, and the claims of secured creditors whose obligations will be assumed or otherwise transferred on the liquidation of Company assets;

(b) To the creation of any reserves that LLC Manager or Liquidator may deem necessary;

(c) To the Members having positive balances in their respective Capital Accounts in accordance with the ratio of such positive balances until no Member shall have a positive Capital Account; and

(d) Thereafter, to the Members pro rata based upon their respective Percentage Interests prior to liquidation.

Section 14.GOVERNMENTAL ACTION

14.1 Purchase Option. Under the circumstances set forth below, LLC Manager shall have the option, in its sole discretion, to purchase, or to cause Company to purchase, all of the

Units in Company of each Member or only the Units of such Persons whose Units are the basis for the determination or effect described in Sections 14.1(a), 14.1(b) or 14.1(c) below:

(a) If LLC Manager determines that this Agreement or performance hereunder by any Member or continued participation by a Member as a Member would jeopardize licensure of any Center under any federal or state governmental program covering end stage renal disease, or by any other regulatory agency, or that, for any reason, this Agreement or performance hereunder would be in violation of any statute or regulation, or for any reason be or become illegal;

(b) Upon the enactment of legislation or issuance of regulations, or interpretations thereof, by any federal or state governmental agency, or the issuance of case law or governmental ruling or opinion, or any other similar event which in LLC Manager's sole judgment adversely impacts the operations of Company, or otherwise requires LLC Manager or any Member to divest himself, herself or itself of interests in investments such as Company, or which would result in a reduction in or elimination of the amount of or rate of reimbursement to any Center, Company or any Member from the Medicare program, the Medicaid program or any other payor program, whether governmental or non-governmental, or which would result in an alteration of the agreements or relationships between the parties; or

(c) Upon the exclusion of any Member or any of Members' owners from participation in any federal health care program, as defined under 42 U.S.C. § 1320a-7b(f), for the provision of items or services for which payment may be made under such federal health care programs.

14.2 Notice of Election to Exercise Option. LLC Manager may give notice of its election to exercise the option to purchase (or cause Company to purchase) pursuant to this Section 14 at any time after its determination that the conditions set forth in Section 14.1 above have been satisfied. Such notice shall be delivered to the other Members by certified mail, postage and charges prepaid, nationally recognized overnight courier service, or hand delivery, addressed to the Member address set forth on **Exhibit C** attached hereto.

14.3 Valuation. Upon the election of LLC Manager to exercise the option to purchase (cause Company to purchase) pursuant to this Section 14, the price to be paid by LLC Manager shall be the fair market value of Units determined in accordance with the procedure set forth in Section 12.4(b) above.

14.4 Closing. Should LLC Manager exercise its option on behalf of itself or Company pursuant to this Section 14, the closing of such purchase and sale shall occur at the offices of Company during business hours on such date and at such time as shall be designated by LLC Manager; provided that such closing date shall not be more than thirty (30) days after the date on which the fair market value of the Units to be purchased is determined. At any such closing, the selling Member shall deliver a duly executed assignment of its Units being sold, and LLC Manager shall (or shall cause Company to) deliver cash (or a certified or cashier's check) in an amount equal to the price set in accordance with Section 14.3 above. The selling Member shall execute and deliver such other documents as may reasonably be requested by LLC Manager in connection with the closing of such purchase and sale transaction.

14.5 Legal Restriction. The purchase price determined in this Section 14 shall not be paid and the transfer provided for in this Section 14 shall not occur if LLC Manager is advised by legal counsel that payment of such price for the Units to be transferred pursuant to this Section 14 would result in a violation of any federal or state law in which case Company will be dissolved in accordance with Section 13 above.

Section 15.AMENDMENTS

15.1 Amendment by Members. Except as otherwise required by law, this Agreement may be amended in any respect upon the written agreement of all of the Members, or upon the vote of all of the Members at a properly noticed meeting of the Members.

15.2 Amendment by LLC Manager. In addition to any amendments otherwise authorized herein, LLC Manager may amend this Agreement (a) to reflect changes made in the membership of Company and the Capital Contributions of the Members to Company in accordance with this Agreement, or (b) to comply with the then existing requirements of the Code, Treasury Regulations and rulings of the Internal Revenue Service affecting the status of Company as a partnership for federal income tax purposes.

Section 16.MEMBERS

16.1 Powers of Members. Except as otherwise required by applicable law, the Members shall have only the power to exercise any and all rights or powers granted to the Members pursuant to the express terms of this Agreement.

16.2 No Preemptive Rights. Except as expressly provided in Section 6.2 above, no Member shall have any preemptive rights to purchase or subscribe for any new or additional Units in Company by reason of the issuance of any new or additional Units in Company.

16.3 Meetings of Members.

(a) In General. LLC Manager shall hold meetings of the Members of Company at least quarterly. Except as expressly set forth in this Agreement or as required by the Act or by other applicable law, no vote of the Members shall be required to take any action with respect to Company or any of its assets or liabilities.

(b) Meetings. Meetings of the Members may be called by LLC Manager or the Majority of Members and shall be held at such place, either within or without the State of Illinois, as shall be designated from time to time by LLC Manager or a Majority of Members, as the case may be, calling such meeting. Members may participate in any meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and such participation shall constitute presence in person at the meeting.

(c) Notice of Meetings. Written notice (which need not state the purpose or purposes for which the meeting is called) of each meeting of the Members stating the place, date and hour of the meeting shall be given by or at the direction of LLC Manager or a Majority of Members to each Member entitled to vote at the meeting not less than ten (10) calendar days nor

more than sixty (60) calendar days prior to the scheduled date of the meeting. LLC Manager or a Majority of Members calling such meeting shall establish and set forth in the notice the record date for determining the Members entitled to vote at the meeting and for determining the number of Units of each such Member entitled to be voted at the meeting. When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and at the adjourned meeting any business may be transacted that might have been transacted at the original date of the meeting.

(d) Waiver of Notice. Notice of any meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by such Member.

(e) Meeting Agenda; Meeting Minutes. All Members shall review and approve the meeting agenda and the meeting minutes for each Member meeting. The date and attendees of all Member meetings shall be recorded in the meeting agenda and the meeting minutes. A review of the financial and clinical operations of Company shall be on the agenda and reviewed at each Member meeting.

(f) Action by Members Without a Meeting.

(i) Whenever the Members are required or permitted to take any action by vote, then, upon at least two (2) business days' notice to all Members setting forth the subject matter of the vote (the "Consent Notice"), such action may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the Members who hold the number of Units that would be necessary to authorize or take such action at a meeting at which all of the Members entitled to vote thereon were present and voted, and delivered to the office of Company, at its principal place of business or to LLC Manager, or such other employee or agent of Company having custody of the records of Company. Any notice of objection which is received by LLC Manager within two (2) business days of the date on which the Consent Notice is given, and which sets forth any Member's objection to the written consent, shall be recorded along with such consent in the minutes of the Company.

(ii) A written consent signed by any Member shall remain effective to take the action referred to therein unless such Member shall revoke such consent in a writing delivered in the manner required by this Section 16.3(f) prior to Company's receipt in accordance with this Section 16.3(f) of written consents signed by a sufficient number of Members to take such action.

(iii) Within ten (10) business days after the taking of any action without a meeting by less than unanimous written consent, written notice shall be given to those Members who have not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting; provided, however, failure to deliver any such notice of action shall not in any way affect the effectiveness of any such action.

(g) Proxies. Each Member may issue or withhold such Member's vote by proxy executed in writing by such Member or by such Member's duly authorized attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be freely revocable by the Member executing it unless otherwise provided in the proxy.

(h) Quorum; Approvals. A quorum of Members for the transaction of business at a meeting of Members shall be deemed present only if LLC Manager and a Majority of Members as of the record date for such meeting (including LLC Manager within such Majority of Members) are present, in person or by proxy, at such meeting. Except as otherwise expressly provided in this Agreement or the Act, the approval of LLC Manager and Members holding a majority of the outstanding Units shall be required for any action requiring approval of the Members.

(i) Meeting Conducted by LLC Manager. Each meeting of Members shall be conducted by a representative of LLC Manager or by such other Person whom LLC Manager may designate. Except as provided for herein, LLC Manager, in its sole discretion, shall establish all provisions relating to meetings of Members, including any matter with respect to the exercise of any right to vote.

16.4 Identity of Members. The Members shall permit their names to be listed as affiliates of Company for all reasonable purposes, including without limitation complying with all federal, state and local regulatory requirements and the requirements of third party payors, and in educational and promotional materials.

16.5 Financial Interest Disclosures. Each Group Physician shall disclose in writing or as otherwise required to patients who require health care items or services provided by Company, or any of Company's Affiliates, all financial relationships between Group Physician or Group Physician's immediate family members and Company or its Affiliates prior to making such a referral. The purpose of such disclosure shall be to ensure that the patient may make a fully informed choice regarding his or her health care. Each Group Physician will advise patients of the right to receive care from alternative providers of the items or service and will provide the names of alternative providers of the items or service should the patient so request. This provision is not intended to limit Group Physician's obligation to make disclosures of other financial relationships as may be required by applicable law.

16.6 DaVita Compliance Program and Training. The Members acknowledge that DaVita and its Affiliates promote compliance and have established a culture that fosters the prevention, detection and resolution of instances of misconduct. In furtherance thereof, Group agrees to comply with the corporate compliance program of DaVita (including, but not limited to, its HIPAA policies, Code of Conduct, and Policies and Procedures as defined below) as follows: (a) by participating in (and causing its equity holders to participate in) required compliance training (including on-line training on an annual basis that includes, but is not limited to, training on the Anti-Kickback Statute) and (b) Group and each equity owner of Group shall provide a written affirmation to LLC Manager on an annual basis certifying compliance with the training requirements of the corporate compliance program of DaVita. The required compliance training shall include training on Company policies and procedures designed to

ensure compliance with relevant Federal health care program requirements that are applicable to the activities of such parties as required by this Agreement ("Policies and Procedures"), the Company's compliance program and the Company's Code of Conduct. At least one hour of compliance training will discuss the Anti-Kickback Statute and provide examples of arrangements that potentially implicate the Anti-Kickback Statute. Company shall provide copies of the Policies and Procedures and the Code of Conduct in electronic or hard copy form as part of the compliance training or in advance of the training.

16.7 Compliance with the Anti-Kickback Statute. The Members enter into this Agreement with the intent of conducting their relationship in full compliance with applicable federal, state and local laws, including, without limitation, the Anti-Kickback Statute. Each Member certifies that such Member will not violate the Anti-Kickback Statute with respect to its performance of this Agreement and will not intentionally conduct itself under the terms of this Agreement in a manner that would violate such law.

16.8 Notice of Certain Matters. Group shall provide written notice to LLC Manager or the Chief Compliance Officer of DaVita, or such other appropriate individual as designated by LLC Manager, of suspected violations of any federal health care program requirements or of the corporate compliance program of DaVita (including its Code of Conduct and Policies and Procedures). Such notice shall be provided within two (2) business days of Group learning of the event giving rise to such notice and shall include a description of the matters at issue.

Section 17.ACCOUNTING, BANK ACCOUNTS, RECORDS AND OPERATING REPORTS

17.1 Fiscal Year. The fiscal year end of Company shall be December 31.

17.2 Books and Records. At all times, LLC Manager shall maintain originals or complete copies of full and accurate books and records showing all expenditures and finances of Company on an accrual basis. The books and records of Company shall (a) reflect all Company transactions, and (b) be appropriate and adequate for Company's business.

17.3 Bank Accounts. Company funds shall be deposited in an account or accounts in one (1) or more banks or savings and loan associations as are appropriate in the judgment of LLC Manager.

17.4 Informational Returns for Company. On a timely basis, LLC Manager shall prepare or cause to be prepared, at the cost and expense of Company and file, on behalf of Company, informational returns for federal and state tax purposes.

17.5 Tax Matters. LLC Manager shall cause to be prepared, at Company's expense, and shall furnish to each Member by the required due date, including extensions, a copy of Company's federal and state Schedule K-1 or equivalents. LLC Manager shall be the "Tax Matters Partner" of Company, as that term is used in Subchapter C of Chapter 63 of the Code, and all Members will take such actions as may be necessary, appropriate or convenient to effect the designation of LLC Manager as such Tax Matters Partner. LLC Manager, as such Tax Matters Partner, shall have full and unlimited discretion to perform or to fail to perform any acts or to make any decision (including, without limitation, choosing a form in which to file a petition

for readjustment of Company items for any taxable year, under Section 6226(a) of the Code, and entering into an agreement, as authorized by Section 6229(b)(1)(B) of the Code) to extend the period described in Section 6229(a) of the Code (including an extension period under Section 6229(b) of the Code) with respect to all Members which under the Code may be performed or made by a Tax Matters Partner. LLC Manager, as Tax Matters Partner, shall cause to be filed all other applicable federal, state and local tax returns, and shall pay any taxes due, including but not limited to sales, use and personal property taxes. Any taxes, expenses or fees incurred by LLC Manager as such Tax Matters Partner shall be expenses of Company and LLC Manager shall be reimbursed by Company for such taxes, expenses and fees.

17.6 Operating Reports. LLC Manager shall cause to be prepared, at the expense of Company, and shall furnish to each Member within ninety (90) days after the end of Company's fiscal year, operating reports for such fiscal year, including a balance sheet and the related statements of income and retained earnings and changes in financial position. Notwithstanding the foregoing, nothing in this Agreement shall be construed to grant to any Member any right to review any underlying books or records other than books or records in the name of Company and which relate solely to income and expenditures of Company and the Centers. Such operating reports need not be audited, but each Member shall have the right to review and inspect the underlying books and records of Company related to the preparation of such operating reports. LLC Manager may, but shall not be obligated, to prepare monthly and/or quarterly unaudited operating reports, which, if prepared, shall also be furnished to each Member as described above.

17.7 Accounting Method. Company's accounting method shall be the accrual method of accounting.

Section 18.NOTICES

Any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement to any party hereto shall be deemed to have been sufficiently given or served for all purposes if in writing and delivered to the party or to an office of the party to whom the same is directed, and shall either be (a) delivered by hand, (b) sent by confirmed facsimile, provided that such notice is contemporaneously sent by another method permitted hereby, (c) sent by nationally recognized overnight courier, or (d) sent by certified mail, return receipt requested and postage prepaid, addressed as follows:

If to LLC Manager and/or to Company:

Total Renal Care, Inc.
c/o DaVita HealthCare Partners Inc.
2000 16th Street, 12th Floor
Denver, CO 80202
Attention: Chief Operating Officer
Facsimile No.: (303) 876-0963

With Copies to:

DaVita HealthCare Partners Inc.
2000 16th Street, 12th Floor
Denver, CO 80202

Attention: Chief Legal Officer
Facsimile No.: (303) 876-0963

DaVita HealthCare Partners Inc.
2000 16th Street, 12th Floor
Denver, CO 80202
Attention: Group Vice President, Mergers and Acquisitions
Facsimile No.: (303) 876-0963

If to a Member other than LLC Manager, at such Member's address which is set forth on **Exhibit C** attached hereto. Any such notice shall be deemed effective (i) if by hand, at the time of the delivery thereof to the address of the receiving party set forth above, (ii) if sent by facsimile, on the date of transmission by confirmed facsimile if sent during the normal business hours of the recipient and if not, on the next business day, provided that such notice is contemporaneously sent by another method permitted hereby, (iii) if sent by overnight courier, on the next business day following the day such notice is delivered to the courier service, or (iv) if sent by certified mail, three (3) business days following the day such mailing is made. Any party hereto may change its address by written notice in accordance with this Section 18.

Section 19.MISCELLANEOUS

19.1 Successors and Assigns. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the personal representatives, heirs, successors and assigns of all the parties executing this Agreement; provided, however, that nothing herein contained shall be construed as limiting or in any way modifying the provision contained herein restricting the right to transfer any Units.

19.2 Entire Agreement. This Agreement, including the exhibits hereto, is the entire agreement between the Members with respect to the subject matter hereof, and supersedes all prior agreements among them with respect thereto.

19.3 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterpart. Copies of signatures sent by facsimile or PDF via email transmission shall be deemed to be originals.

19.4 Headings. The headings of the several sections of this Agreement are inserted solely for the convenience of reference, and are not a part of and are not intended to govern, to limit or to aid in the construction of any term or provision hereof.

19.5 Gender. Where the context so requires, the use of one gender shall include the masculine, feminine and neuter genders. The use of a singular shall include the plural where the context so requires.

19.6 Governing Law. This Agreement and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Delaware, including all

matters of construction, validity, performance and enforcement and without giving effect to contrary principles of conflict of laws.

19.7 Severability. If any term, clause, or provision of this Agreement, or any component verbiage thereof, is held to be invalid, void, or unenforceable by a court of competent jurisdiction, such invalid term, clause, provision, or component verbiage thereof shall be deemed stricken, and the remaining provisions shall not be affected thereby and shall continue in full force and effect in accordance with the terms of this Agreement without being impaired or invalidated in any way.

19.8 Waiver. The failure of any Member or Company to seek redress for violation, or to insist upon strict performance, of any covenant or condition of this Agreement shall not prevent a subsequent act which would have constituted a violation from having the effect of an original violation.

19.9 Confidentiality.

(a) The Members agree that all information not disclosed to the public by LLC Manager regarding Company business or operations, and the medical information of any patient currently receiving treatment or having previously received treatment at each Center which is kept by Company in the ordinary course of business, is acknowledged to be confidential information, trade secrets and the exclusive property of Company (collectively, "Confidential Information").

(b) The term "Confidential Information" shall include the terms of this Agreement and the agreements between Company and its Affiliates contemplated hereby. Each of the Members agrees not to divulge, directly or indirectly, any Confidential Information in any manner contrary to the interests of Company, use or cause or suffer to be used any Confidential Information in competition with Company, or use Confidential Information in violation of the patients' confidentiality rights under the HIPAA or any applicable state Law. Each of the parties acknowledges that the breach or threatened breach of the provisions of this Section 19.9 would cause irreparable injury to Company that could not be adequately compensated by money damages. Accordingly, LLC Manager, on behalf of Company, may obtain a restraining order and/or injunction prohibiting a breach or threatened breach of the provisions of this Section, in addition to any other legal or equitable remedies that may be available. If requested by legal process to disclose any Confidential Information of Company, the Member in receipt of such request shall promptly give notice thereof to LLC Manager so that LLC Manager may seek an appropriate protective order or, in the alternative, waive compliance to the extent necessary to comply with such request if a protective order is not obtained. If a protective order or waiver is granted, the Member subject to such legal process may disclose the Confidential Information to the extent required by such court order or as may be permitted by such waiver.

(c) The term "Confidential Information" does not include information that is at the time of disclosure or later becomes generally known to the public or within the industry or segment of the industry to which such information relates without violation by a Member of any of its obligations hereunder and not through any action by any of its equity owners, directors,

officers, employees and agents which, if committed by such Member, would have constituted a violation by it of any of its obligations hereunder.

19.10 Guaranty of Company Obligations.

(a) In the event that LLC Manager or any of its Affiliates, including without limitation Contractual Manager, has provided or at any time during the Term is asked to provide a guaranty in connection with any lease, loan or other obligation of Company (in each case, a "Guaranty"), the Members agree, as among themselves, that they will each be liable and responsible for their respective Percentage Interest of any obligations (the "Guaranteed Obligations") that now or hereafter become due or owing under the Guaranty and under any and all replacement and/or supplementary guaranties therefor, and that they will be bound by the terms and conditions contained in the Guaranty. Moreover, the Members will use their respective best efforts to obtain the agreement of each beneficiary of the Guaranty (each, a "Secured Party") to recognize that the Members will be severally, and not jointly and severally, liable for such Guaranteed Obligations. If a Secured Party is unwilling to recognize such Guaranteed Obligations as being several, and not joint and several, then each Member will nonetheless jointly and severally guaranty such Guaranteed Obligations and will rely on the provisions of this Section 19.10 to protect their relative limits on liability under such Guaranty. In furtherance of the foregoing, Company and each Member jointly and severally agree to indemnify and hold harmless each Member against any loss sustained by such Member in respect of any Guaranteed Obligation to the extent such loss, together with all other losses sustained by such Member in respect of Guaranteed Obligations, exceeds such Member's Percentage Interest of the aggregate amount of all losses in respect of Guaranteed Obligations sustained by all of the Members. Each Member shall execute and deliver such further agreements, instruments, documents and certificates to evidence such Member's participation, as set forth above, in the Guaranty (even on a joint and several basis if necessary) and, if applicable, to cause the Secured Party to recognize the several, and not joint and several, nature of such participation. Any such agreements, instruments, documents and certificates will be in form and substance acceptable to the Secured Party.

(b) The parties, including Company, acknowledge that, as among the Members and Company, Company shall be primarily liable for all of the Guaranteed Obligations and all reasonable costs and expenses, including, without limitation, reasonable legal fees and expenses, incurred in connection with defending against any demands made under the Guaranty. Accordingly, the parties shall cooperate and use their commercially reasonable efforts to cause Company to satisfy all Guaranteed Obligations when due or as soon thereafter as practicable. Company shall, to the extent it shall have funds available therefor, immediately reimburse any Member participating in the Guaranty pursuant to this Section 19.10 (each, a "Guarantor") for any Guaranteed Obligation satisfied by such Guarantor. If for any reason Company shall have funds available to reimburse the Guarantors for some, but not all, of the Guaranteed Obligations satisfied by them, then each Guarantor shall be entitled to reimbursement from Company for a pro rata portion of the funds so available based on the ratio that the loss sustained by him, her or it in respect of the Guaranty bears to the total amount of loss sustained by all of the Members in respect of the Guaranty.

(c) If at any time any Secured Party makes a demand against any Guarantor for payment or performance under the Guaranty, the applicable Guarantor shall promptly give notice to Company and each other Guarantor of such demand, and such affected Guarantor shall not, unless otherwise required by order of a court of competent jurisdiction, make any payment of the demanded amount for at least ten (10) business days after he, she or it shall have delivered notice of such demand to each of Company and the other Guarantors. Company or any Guarantor (whether or not such Guarantor shall be the one against whom the demand is made) may elect to defend against any such demand by a Secured Party, including any lawsuit, proceeding, arbitration or other legal or equitable action (each, a "Demand") against the affected Guarantor (the "Defendant") to collect any Guaranteed Obligation. If Company or any Guarantor shall elect to defend against any Demand, then each of the other Guarantors shall deliver to legal counsel selected by any Guarantor, including, without limitation, the Defendant (and approved by the other parties, which approval shall not be unreasonably withheld, delayed or conditioned) an amount equal to each such other Guarantor's Percentage Interest of any amount reasonably requested by such legal counsel as a retainer or for accrued legal fees and expenses with respect to defending against such Demand. So long as any legal counsel shall be defending against any Demand in accordance with the foregoing, no Defendant shall comply with such Demand unless such legal counsel retained in accordance with this clause (c) shall advise such Defendant that he, she or it must comply with the Demand. If there shall be multiple Defendants to any Demand, the parties shall use their respective commercially reasonable efforts and shall fully cooperate with each other to avoid duplicative or excessive legal fees and expenses in connection with defending such Demands. Notwithstanding anything to the contrary contained in this clause (c), Company shall be primarily liable for all of the costs and expenses of defending against any Demand, and shall, upon demand (if funds are available therefor) fund any such defense and reimburse the Guarantors for the amounts paid by them to fund such defense in accordance with this clause (c).

(d) Without limiting the generality of any of the other provisions of this Section 19.10, each Guarantor hereby consents to and waives notice of the granting of any credit, the acceptance of partial payment of any of the Guaranteed Obligations, the acceptance of any Guaranteed Obligation and the acceptance of a sum less than the full amount of any of the Guaranteed Obligations, whether in any arrangement, proceeding, reorganization, bankruptcy, composition or insolvency proceeding or otherwise. The obligations of the parties under this Section 19.10 are direct, continuing, absolute and unconditional and shall be unaffected and unimpaired by reason of (i) any actions or omissions of Company, any Secured Party or any of their respective successors or assigns which otherwise might result in a modification, waiver or release of or constitute an equitable or legal defense to, or discharge of, any party under this Section 19.10, including, without limitation, any waiver, extension, amendment, restructuring and/or modification of all or part of the Guaranteed Obligations, any release of or failure to exhaust or pursue rights or remedies against Company or any of the other Guarantors or any other guarantor or surety or obligor with respect to any or all of the Guaranteed Obligations or with respect to collateral or other security for any or all of the Guaranteed Obligations and/or failure to give or receive notices of any type whatsoever; (ii) any invalidity, irregularity, lack of perfection, rank or priority, voidness, voidability or unenforceability of all or part of the Guaranteed Obligations, any security interest granted under any security agreement or other instrument or agreement, any other collateral or other security, or any other guaranty at any time or from time to time owing to, held by or given to any Secured Party; or (iii) the existence, value

or condition of any collateral or other security or any release, exchange, relinquishment, substitution, collection, liquidation or impairment of any of the same.

(e) Each party to this Agreement agrees to indemnify and hold harmless the other parties, and their respective shareholders, directors, officers, managers, members, partners, their respective employees and agents, and all of their respective successors, assigns, estates, and representatives, from and against any and all loss which the indemnified parties may suffer as a result of any breach by any indemnifying party of any of its representations, warranties or obligations under this Section 19.10.

19.11 No Representation of Profitability. The Members hereby acknowledge that LLC Manager has advised each Member that there is no assurance that Company will be profitable.

19.12 Representations and Warranties of the Members. Each Member hereby represents and warrants with respect to himself, herself or itself, that:

(a) Such Member is duly authorized to execute this Agreement, and this Agreement, when executed and delivered by such Member, will constitute a legal, valid and binding obligation enforceable against such Member in accordance with its terms, and the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate or other necessary action on the part of such Member;

(b) The Units being acquired by such Member are being acquired by such Member for investment purposes only, for the account of such Member and not with the view to any resale or distribution thereof;

(c) Such Member has had access to all materials, books, records, documents and information relating to Company requested by the Member, has had the opportunity to verify the accuracy of, and supplement, the information contained therein and has been offered an opportunity to ask questions of, and receive answers from, representatives of Company concerning Company and its business; and

(d) Such Member has (i) such knowledge and experience in financial and business matters that such Member is capable of evaluating the merits and risks of investments in Company and making an informed investment decision with respect thereto, (ii) adequate means with which to invest in Company, (iii) has no need for liquidity with respect to the investment of such Member in Company, (iv) is able to bear the economic risk of investment in Company, and (v) can afford a complete loss of the investment in Company.

19.13 Representations, Warranties and Covenants of Group.

(a) General. All of the equity and voting rights in Group are legally and beneficially owned by the individuals set forth on **Schedule 19.13** hereto in the percentages set forth opposite their respective names on such **Schedule 19.13**, and such equity is owned by each of them free and clear of all liens, claims, security interests, and other encumbrances whatsoever, and neither Group nor any of the holders of equity in Group has issued, granted or transferred any subscription, participation, preemptive or first refusal rights to purchase or otherwise acquire

any equity interest in Group, and there are not any, outstanding warrants, options, or other rights to subscribe for or purchase from Group or any equity holder in Group any equity interests in Group.

(b) Compliance. Group hereby covenants and agrees that it shall comply with (i) all applicable laws, regulations and governmental standards relating to licensing, certification, and operation of the Center(s), including without limitation any federal and state ESRD programs, the Stark Law and any applicable state self-referral laws, and the Anti-Kickback Statute and any applicable state anti-kickback laws; (ii) HIPAA; and (iii) DaVita's corporate compliance program (including its Code of Conduct and Policies and Procedures).

(c) Non-Exclusion. Group hereby represents and warrants that neither Group nor any of its employees, officers, directors, equity owners, or Affiliates (i) are currently excluded from participation in any federal health care program, as defined under 42 U.S.C. Section 1320a-7b, (ii) are currently excluded, debarred, suspended, or otherwise ineligible to participate in federal procurement or nonprocurement programs, or (iii) have been convicted of a criminal offense that falls within the scope of 42 U.S.C. § 1320a-7(a), but have not yet been excluded, debarred, suspended, or otherwise declared ineligible. Group covenants and agrees to notify LLC Manager within two (2) business days of learning of any such exclusion described in this Section 19.13(c).

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, through their duly authorized representative, effective as of the date first written above.

COMPANY:

Machesney Bay Dialysis, LLC

By its LLC Manager,
Total Renal Care, Inc.

By: _____
Print: David R. Finn
Title: Group Vice President, Mergers and Acquisitions

LLC MANAGER:

Total Renal Care, Inc.

By: _____
Print: David R. Finn
Title: Group Vice President, Mergers and Acquisitions

MEMBERS:

Total Renal Care, Inc.

By: _____
Print: David R. Finn
Title: Group Vice President, Mergers and Acquisitions

Rockford Nephrology Partners, Ltd.

By: _____
Print: John C. Maynard, M.D.
Title: President

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, through their duly authorized representative, effective as of the date first written above.

COMPANY:

Machesney Bay Dialysis, LLC

By its LLC Manager,
Total Renal Care, Inc.

By:_____
Print: David R. Finn
Title: Group Vice President, Mergers and Acquisitions

LLC MANAGER:

Total Renal Care, Inc.

By:_____
Print: David R. Finn
Title: Group Vice President, Mergers and Acquisitions

MEMBERS:

Total Renal Care, Inc.

By:_____
Print: David R. Finn
Title: Group Vice President, Mergers and Acquisitions

Rockford Nephrology Partners, Ltd.

By:_____
Print: John C. Maynard, M.D.
Title: President

JOINDER TO OPERATING AGREEMENT

July 15, 2016

Reference is made to the Operating Agreement of Machesney Bay Dialysis, LLC ("Company") dated July 15, 2016 (the "Agreement") by and among Company, Total Renal Care, Inc., a California corporation, as LLC Manager and as a Member, and Rockford Nephrology Partners, Ltd., an Illinois corporation, as a Member, and each other person or entity that hereafter executes the Agreement as a Member.

The undersigned hereby acknowledges that he or she will benefit directly from the Agreement. In consideration thereof, the undersigned agrees with and guarantees to Company that the undersigned shall abide by the terms and conditions of the Agreement, including without limitation the non-competition and non-solicitation covenants contained in Section 9.6 of the Agreement, as if the undersigned was a Member under the Agreement.

This Joinder may be executed in counterparts, each of which when so executed and delivered shall be deemed an original but all of which when taken together shall constitute but one and the same instrument. Counterpart signatures delivered by facsimile or PDF via email transmission shall be deemed to be originals for purposes of this Joinder.

IN WITNESS WHEREOF, the undersigned has executed this Joinder as of the date first set forth above.

By: Mashood Ahmad, M.D., individually

By: Bindu Pavithran, M.D., individually

By: Deane Charba, M.D., individually

By: Michael Robertson, M.D., individually

By: Joanna Niemiec, M.D., individually

By: Charlene Murdakes, M.D., individually

By: John C. Maynard, M.D., individually

By: James Stim, M.D., individually

By: Charles Sweeney, M.D., individually

By: Krishna Sankaran, M.D., individually

Acknowledged:

Machesney Bay Dialysis, LLC

By its LLC Manager,
Total Renal Care, Inc.

By: David R. Finn
Its: Group Vice President, M&A

JOINDER TO OPERATING AGREEMENT

July 15, 2016

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By: Krishna Sankaran, M.D., individually

Acknowledged:

Machesney Bay Dialysis, LLC

By its LLC Manager,
Total Renal Care, Inc.

By: David R. Finn
Its: Group Vice President, M&A

EXHIBIT A

DIALYSIS MANAGEMENT SERVICES AGREEMENT

[See attached.]

EXHIBIT B

LIST OF CENTERS

Name	Address
Machesney Park Dialysis	7101 N. Perryville Road Machesney Park, IL 61115

EXHIBIT C

Members	Capital Contribution*	Number of Units	Percentage Interest
Total Renal Care, Inc.	$1,487,200	1,487,200	80%
Rockford Nephrology Partners, Ltd. 4820 Springbrook Road Rockford, IL 61114	$371,800	371,800	20%
Total	$1,859,000	1,859,000	100%

* This figure includes each such Member's pro rata portion of the Development Management Fee due to Contractual Manager as of the execution of this Agreement pursuant to the terms of the Management Agreement. The actual amount may vary, in which case each Member's pro rata portion will be adjusted upwards or downwards accordingly. This figure does NOT include any loan amounts pursuant to JV financing.

EXHIBIT D

MEDICAL DIRECTOR AGREEMENT

[See attached.]

EXHIBIT E

FORM OF JOINDER TO OPERATING AGREEMENT

_____, 201_

Reference is made to the Operating Agreement of Machesney Bay Dialysis, LLC ("Company") dated July 15, 2016 (the "Agreement") by and among Company, Total Renal Care, Inc., a California corporation, as LLC Manager and as a Member, and Rockford Nephrology Partners, Ltd., an Illinois corporation, as a Member, and each other person or entity that hereafter executes the Agreement as a Member.

The undersigned hereby acknowledges that [he/she/it] will benefit directly from the Agreement. In consideration thereof, the undersigned agrees with and guarantees to Company that the undersigned shall abide by the terms and conditions of the Agreement, including without limitation the non-competition and non-solicitation covenants contained in Section 9.6 of the Agreement, as if the undersigned was a Member under the Agreement.

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IN WITNESS WHEREOF, the undersigned has executed this Joinder as of the date first set forth above.

[SPECIMEN ONLY – DO NOT SIGN]

_____

By:

Acknowledged:

Machesney Bay Dialysis, LLC

By its LLC Manager,
Total Renal Care, Inc.

_____

By: _____

Its: _____

SCHEDULE 6.6

PRE-CLOSING INTEREST

Members	Pre-Closing Interest
Rockford Nephrology Partners, Ltd.	$3,772

CONTRIBUTION SCHEDULE

1. Pre-Closing Interest would accrue on the unpaid amount of construction contributions as follows:
   a. 50% of total beginning 30 days after start of construction;
   b. 25% of total beginning 90 days after start of construction;
   c. 10% of total beginning 30 days after Certificate of Occupancy.

2. Pre-Closing Interest would accrue on the unpaid amount of working capital contributions as follows:
   a. 50% of total beginning 30 days after start of construction;
   b. 35% of total beginning 90 days after start of construction.

3. Pre-Closing Interest would accrue on the unpaid amount of the development fee as follows:
   a. 30% beginning 30 days after start of construction;
   b. 40% beginning 90 days after start of construction;
   c. 30% beginning 30 days after Certificate of Occupancy.

SCHEDULE 19.13

OWNERS OF GROUP

Name	Percentage Interest
James Stim, M.D.	14.88%
John Maynard, M.D.	14.88%
Charles Sweeney, M.D.	14.88%
Krishna Sankaran, M.D.	14.88%
Michael Robertson, M.D.	7.44%
Deane Charba, M.D.	5.77%
Mashood Ahmad, M.D.	7.44%
Joanna Niemiec, M.D.	6.60%
Charlene Murdakes, M.D.	6.60%
Bindu Pavithran, M.D.	6.60%