UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Maureen K. Ohlhausen, Acting Chairman**
Terrell McSweeny

In the Matter of	)	
DAVITA INC. a corporation,	)	
RV MANAGEMENT CORP. a corporation,	)	
RENAL VENTURES PARTNERS, LLC a limited liability company,	)	**Docket C-**
RENAL VENTURES LIMITED, LLC a limited liability company,	)	
and	)	
RENAL VENTURES MANAGEMENT, LLC a limited liability company.	)	

DECISION AND ORDER

The Federal Trade Commission ("Commission"), having initiated an investigation of the proposed acquisition by DaVita Inc. of Renal Ventures Management, LLC from Renal Ventures Limited, LLC, which is owned by RV Management Corp. and Renal Ventures Partners, LLC (collectively "Respondents"), and Respondents having been furnished thereafter with a copy of a draft Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders ("Consent Agreement"), containing an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does

not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having thereupon issued its Complaint, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order ("Order"):

1. DaVita Inc. is a Delaware corporation, with its office and principal place of business located at 2000 16th St., Denver, CO 80202.

2. Respondent Renal Ventures Management, LLC is a limited liability company, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its corporate head office located at 1626 Cole Boulevard, Suite 100, Lakewood, Colorado 80401.

3. Respondent Renal Ventures Limited, LLC is a limited liability company, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its corporate head office located at 1626 Cole Boulevard, Suite 100, Lakewood, Colorado 80401.

4. Respondent Renal Ventures Partners, LLC is a limited liability company, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its corporate head office located at 1626 Cole Boulevard, Suite 100, Lakewood, Colorado 80401.

5. Respondent RV Management Corp. is a Delaware corporation, with its office and principal place of business located 1626 Cole Boulevard, Suite 100, Lakewood, Colorado 80401.

6. The Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

A. "DaVita" means DaVita Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups, and affiliates controlled by DaVita Inc., and the respective directors, officers, employees,

agents, representatives, successors, and assigns of each. After the Acquisition, DaVita will include Renal Ventures Management.

B. "Renal Ventures" means RV Management Corp. and Renal Ventures Partners, LLC, their directors, officers, employees, agents, representatives, successors, and assigns; and their joint ventures, subsidiaries, divisions, groups, and affiliates controlled by RV Management Corp. and Renal Ventures Partners, LLC, including Renal Ventures Limited, LLC and Renal Ventures Management, LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each. After the Acquisition, RV Management Corp., Renal Ventures Partners, LLC, and Renal Ventures Limited, LLC will remain independent of DaVita.

C. "Renal Ventures Limited" means Renal Ventures Limited, LLC, the limited liability company that, before the Acquisition, owned Renal Ventures Management.

D. "Renal Ventures Management" means Renal Ventures Management, LLC, the limited liability company that, before the Acquisition, owned and operated the Renal Ventures Clinics.

E. "Respondents" means DaVita and Renal Ventures.

F. "Commission" means the Federal Trade Commission.

G. "Acquirer(s) means the following:

1. a Person specified by name in this Order to acquire particular assets or rights that Respondents are required to assign, grant, license, divest, transfer, deliver, or otherwise convey pursuant to this Order and that has been approved by the Commission to accomplish the requirements of this Order in connection with the Commission's determination to make this Order final and effective; or

2. a Person approved by the Commission to acquire particular assets or rights that Respondents are required to assign, grant, license, divest, transfer, deliver, or otherwise convey pursuant to this Order.

H. "Acquisition" means DaVita's acquisition of Respondent Renal Ventures Management.

I. "Acquisition Date" means the date on which the Acquisition is consummated.

J. "DaVita Joint Venture Equity Interests" means the joint venture equity interest owned by DaVita in (1) DaVita Denton Dialysis, located at 3305 Unicorn Lake Blvd., Denton, TX 76210-0102; and (2) DaVita Lawrenceville Dialysis, located at 1840 Princeton Avenue, Lawrenceville, NJ 08648.

K. "Brick, NJ Area" means the area in and around Brick, NJ, consisting of the zip codes and areas described in Appendix B to this Order.

L. "Clifton, NJ Area" means the area in and around Clifton, NJ, consisting of zip codes and areas described in Appendix B to this Order.

M. "Clinic" means a facility that provides hemodialysis or peritoneal dialysis services to patients suffering from kidney disease.

N. "Clinic's Physician Contracts" means all agreements to provide the services of a Physician to a Clinic, regardless of whether any of the agreements are with a Physician or with a medical group, including, but not limited to, agreements for the services of a medical director for the Clinic and "joinder" agreements with Physicians in the same medical practice as a medical director of the Clinic.

O. "Confidential Business Information" means competitively sensitive, proprietary, and all other information that is not in the public domain, owned by or pertaining to, a Person or a Person's business, and includes, but is not limited to, all customer lists, price lists, contracts, cost information, marketing methods, patents, technologies, policies and procedures, processes, or other trade secrets.

P. "Contract Services" means services performed pursuant to any Clinic's Physician Contract.

Q. "DaVita Clinics" or "DaVita Clinic" means any one, or all of following:

1. DaVita Frisco Dialysis, located at 6116 Sports Village Road, Frisco, TX 75033;

2. DaVita Hackettstown Dialysis, located at 657 Willow Grove St., 1st Floor West Wing, Suite 202, Hackettstown, NJ 07840; and

3. DaVita Joint Venture Equity Interests.

R. "DaVita Clinic Assets" and "Renal Ventures Clinic Assets" mean the following assets Relating To the Operation Of A DaVita Clinic or the Operation of a Renal Ventures Clinic, respectively:

1. all rights under the Clinic's Physician Contracts;

2. leases for the Real Property of the Clinics;

3. consumable or disposable inventory consistent with the ordinary course of business at the Clinics including, but not limited to, janitorial, office, medical supplies, dialysis supplies, and pharmaceuticals including, but not limited to, erythropoietin;

4. all rights, title, and interest in any tangible property (except for consumable or disposable inventory) that has been on the premises of the Clinic at any time since

June 1, 2016, including, but not limited to, all equipment, furnishings, fixtures, improvements, and appurtenances, other than items that have been discarded or replaced in the Ordinary Course of Business;

5. all books, records, files, correspondence, manuals, computer printouts, databases, and other documents Relating To the Operation Of A DaVita Clinic and the Operation of A Renal Ventures Clinic located on the premises of the DaVita Clinic or the Renal Ventures Clinic or in the possession of a regional manager (or the equivalent) or other executive specifically overseeing or responsible for such Clinic (or copies thereof where Respondents have a legal obligation to maintain the original document) including, but not limited to:

   a. documents containing information Relating To patients (to the extent transferable under applicable law), including, but not limited to, medical records,

   b. financial records,

   c. personnel files and information Relating To Designated Employees,

   d. physician lists and other records of the clinic's dealings with physicians,

   e. maintenance records,

   f. documents Relating To DaVita Policies and Procedures and Renal Ventures Policies and Procedures,

   g. documents Relating To quality control,

   h. documents Relating To Payors,

   i. documents Relating To suppliers,

   j. documents Relating To the Clinics that are also related to the Operation Of Clinics other than the DaVita Clinics or the Renal Ventures Clinics, *PROVIDED, HOWEVER,* if such documents are located other than on the premises of the DaVita Clinics or the Renal Ventures Clinics, Respondents may divest a copy of the document with the portions not Relating To the DaVita Clinics or the Renal Ventures Clinics redacted, and

   k. copies of contracts with Payors and Suppliers, unless such contracts cannot, according to their terms, be disclosed to third parties even with the permission of Respondents to make such disclosure.

6. Respondents' Medicare and Medicaid provider numbers, to the extent transferable;

7. all permits and licenses, to the extent transferable;

8. DaVita Policies and Procedures and Renal Ventures Policies and Procedures, if such Policies and Procedures are used exclusively in the DaVita Clinics or Renal Ventures Clinics, respectively;

9. Intangible Property relating exclusively to the Operation Of A DaVita Clinic or the Operation of a Renal Ventures Clinic; and

10. Any other assets that are used in, or necessary for, the Operation Of A Clinic.

PROVIDED, HOWEVER, that "assets Relating To the Operation Of A DaVita Clinic or the Operation of a Renal Ventures Clinic" does not include Excluded Assets.

S. "DaVita Medical Protocols" means medical protocols promulgated by DaVita, whether in hard copy or electronic copy, that have been in effect at a DaVita Clinic at any time since January 1, 2016*, PROVIDED, HOWEVER*, " DaVita Medical Protocols" does not mean medical protocols adopted or promulgated, at any time, by any Physician or by any Acquirer, even if such medical protocols are identical, in whole or in part, to medical protocols promulgated by DaVita.

T. "DaVita Policies and Procedures" means the dialysis policies and procedures manual promulgated by DaVita, whether in hard copy or electronic copy, that have been in effect at a DaVita Clinic, at any time since January 1, 2016.

U. "Denton, TX Area" means the area in and around Denton, TX, consisting of the zip codes and areas described in Appendix B to this Order.

V. "Designated Employee" means (1) an Employee Of A DaVita Clinic, (2) an Employee Of A Renal Ventures Clinic, and (3) any of the additional DaVita, Renal Ventures Management, or Renal Ventures Limited employees or persons who occupy the job descriptions listed in Non-Public Appendix C to this Order.

W. "Divestiture Trustee" means the person appointed to act as Trustee by the Commission pursuant to Paragraph II.A or Paragraph V of this Order.

X. "Employee Of A DaVita Clinic" and "Employee Of The DaVita Clinic" mean any individual (including, but not limited to, a clinic director, manager, nurse, technician, clerk, dietician, or social worker) who is employed by DaVita, by an Acquirer, or by another manager or owner of such DaVita Clinic, and who has worked part-time or full-time on the premises of such DaVita Clinic at any time since January 1, 2016**,** regardless of whether the individual has also worked on the premises of any other Clinic.

Y. "Employee Of A Renal Ventures Clinic" and "Employee Of The Renal Ventures Clinic" mean any individual (including, but not limited to, a clinic director, manager, nurse, technician, clerk, dietician, or social worker) who is employed by Renal Ventures Management or Renal Ventures Limited, by an Acquirer, or by another manager or owner of such Renal Ventures Clinic, and who has worked part-time or full-time on the premises of such Renal Ventures Clinic at any time since January 1, 2016, regardless of whether the individual has also worked on the premises of any other Clinic.

Z. "Excluded Assets" means:

1. all cash, cash equivalents, and short term investments of cash;

2. accounts receivable;

3. income tax refunds and tax deposits due to Respondents;

4. unbilled costs and fees, and bad debt recovery claims against any Payor including Medicare, arising before a Clinic is divested to an Acquirer;

5. rights to the names "DaVita" and "Renal Ventures" and any variation of those names (unless otherwise licensed to an Acquirer pursuant to the Order) and other copyrights, trademarks, trade names, service marks, and logos Relating To the "DaVita" and "Renal Ventures" names;

6. insurance policies and all claims thereunder;

7. prepaid expenses;

8. minute books (other than governing body minute books of a Clinic), tax returns, and other corporate books and records;

9. any inter-company balances due to or from Respondents or their affiliates;

10. all benefits plans;

11. all writings and other items that are protected by the attorney-client privilege, the attorney work product doctrine or any other cognizable privilege or protection, except to the extent such information is necessary to the Operation Of A Clinic;

12. telecommunication systems equipment and applications, and information systems equipment including, but not limited to, computer hardware not physically located at a DaVita Clinic or Renal Ventures Clinic but shared with the DaVita Clinic or Renal Ventures Clinic, respectively, through local and/or wide area networking systems;

13. computer hardware used in the Operation Of A DaVita Clinic or the Operation Of A Renal Ventures Clinic that is (a) not located at the Clinic, and (b) not otherwise to be divested pursuant to a Remedial Agreement;

14. all DaVita or Renal Ventures proprietary software;

15. e-mail addresses with the DaVita or Renal Ventures domain names;

16. all Supplier or provider numbers issued to Respondents by a Supplier or Payor with respect to any DaVita Clinic or Renal Ventures Clinic, except for Respondents Medicare and Medicaid provider numbers for each DaVita Clinic or Renal Ventures Clinic;

17. rights under agreements with Payors that do not relate exclusively to the DaVita Clinics or Renal Ventures Clinics, or that are not assignable even if Respondents approve such assignment;

18. rights under agreements with Suppliers that do not relate exclusively to the DaVita Clinics or Renal Ventures Clinics, or that are not assignable even if Respondents approve such assignment;

19. office equipment and furniture that (a) is not, in the Ordinary Course of Business, physically located at the DaVita Clinic or Renal Ventures Clinic, (b) is shared with Clinics other than the DaVita Clinic or Renal Ventures Clinic, and (c) is not necessary to the Operation Of The DaVita Clinic or Operation Of The Renal Ventures Clinic;

20. Licensed Intangible Property;

21. DaVita Medical Protocols and Renal Ventures Medical Protocols, subject to the licensing provisions in this Order;

22. Contracts to which Respondents or their affiliates (other than the DaVita Clinics or Renal Ventures Clinics) are a party and are not otherwise included in the DaVita Clinic Assets or Renal Ventures Clinic Assets; and

23. strategic planning documents that:

    a. relate to the Operation Of A Clinic other than a DaVita Clinic or a Renal Ventures Clinic, and

    b. are not located on the premises of a DaVita Clinic or Renal Ventures Clinic.

AA. "Frisco, TX Area" means the area in and around Frisco, TX, consisting of the zip codes and areas described in Appendix B to this Order.

BB. "Governmental Approvals" means any permissions or sanctions issued by any government or governmental organization, including, but not limited to, licenses, permits, accreditations, authorizations, registrations, certifications, certificates of occupancy, and certificates of need.

CC. "Hackettstown, NJ Area" means the area in and around Hackettstown, NJ, consisting of the zip codes and areas described in Appendix B to this Order.

DD. "Intangible Property" means intangible property Relating To the Operation Of A DaVita Clinic or Renal Ventures Clinic including, but not limited to, software, computer programs, patents, know-how, goodwill, technology, trade secrets, technical information, marketing information, quality control information, trademarks, trade names, service marks, logos, and the modifications or improvements to such intangible property. For purposes of this Order, Intangible Property does not include DaVita Medical Protocols, Renal Ventures Medical Protocols, DaVita Policies and Procedures, and Renal Ventures Policies and Procedures.

EE. "Lawrenceville, NJ Area" means the area in and around Lawrenceville, NJ, consisting of the zip codes and areas described in Appendix B to this Order.

FF. "Licensed Intangible Property" means intangible property licensed to Respondents from a third party Relating To the Operation Of A DaVita Clinic or the Operation Of A Renal Ventures Clinic including, but not limited to, software, computer programs (including, but not limited to, electronic medical record systems), patents, know-how, goodwill, technology, trade secrets, technical information, marketing information, protocols, quality control information, trademarks, trade names, service marks, logos, and the modifications or improvements to such intangible property that are licensed to Respondents. ("Licensed Intangible Property" does not mean modifications and improvements to Intangible Property that are not licensed to Respondents.)

GG. "Operation Of A Clinic," "Operation Of A DaVita Clinic," and "Operation Of A Renal Ventures Clinic" mean all activities Relating To the business of a Clinic, a DaVita Clinic, or a Renal Ventures Clinic, respectively, including, but not limited to:

1. attracting patients to such Clinic for dialysis services, providing dialysis services to patients of such Clinic, and dealing with their Physicians, including, but not limited to, services Relating To hemodialysis and peritoneal dialysis;

2. providing medical products to patients of such Clinic;

3. maintaining the equipment on the premises of such Clinic, including, but not limited to, the equipment used in providing dialysis services to patients;

4. purchasing supplies and equipment for such Clinic;

5. negotiating leases for the premises of such Clinic;

6. providing counseling and support services to patients receiving products or services from such Clinic;

7. contracting for the services of medical directors for such Clinic;

8. dealing with Payors, including but not limited to, negotiating contracts with such Payors and submitting claims to such Payors; and

9. dealing with Governmental Approvals Relating To such Clinic or that otherwise regulate the Clinic.

HH. "Ordinary Course of Business" means actions taken by any Person in the ordinary course of the normal day-to-day Operation Of A Clinic that is consistent with past practices of such Person in the Operation Of A Clinic, including, but not limited to past practice with respect to amount, timing, and frequency.

II. "Payor" means any Person that purchases, reimburses for, or otherwise pays for medical goods or services for themselves or for any other person, including, but not limited to: health insurance companies; preferred provider organizations; point of service organizations; prepaid hospital, medical, or other health service plans; health maintenance organizations; government health benefits programs; employers or other persons providing or administering self-insured health benefits programs; and patients who purchase medical goods or services for themselves.

JJ. "PDA" means PDA-GMF HOLDCO, LLC, a partnership between Physicians Dialysis and GMF Capital LLC. Physicians Dialysis is a Florida-based healthcare provider focused on the dialysis industry. GMF Capital LLC is a real estate and healthcare private equity firm with offices in Zurich and New York City.

KK. "Person" means any natural person, partnership, corporation, association, trust, joint venture, government, government agency, or other business or legal entity.

LL. "Physician" means a doctor of allopathic medicine ("M.D.") or a doctor of osteopathic medicine ("D.O.").

MM. "Real Property" means the real property on which, or in which, the DaVita Clinic or Renal Ventures Clinic is located, including real property used for parking and for other functions Relating To the Operation Of A DaVita Clinic or Relating To the Operation Of A Renal Ventures Clinic.

NN. "Relating To" means pertaining in any way to, and is not limited to that which pertains exclusively or primarily to.

OO. "Remedial Agreement" means the following:

1. The DaVita-PDA Divestiture Agreement, and

2. any agreement between a Respondent and an Acquirer, including all amendments, exhibits, attachments, and schedules thereto, Relating To the DaVita Clinics or DaVita Clinic Assets or the Renal Ventures Clinics or the Renal Ventures Clinic Assets, that has been approved by the Commission to accomplish the requirements of this Order.

PP. "Renal Ventures Clinic" or "Renal Ventures Clinics" means any one, or all of the following:

1. Renal Center of Passaic, LLC, located at 10 Clifton Boulevard, Suite 1, Clifton, NJ 07011;

2. Renal Center of Brick, LLC, located at 150 Brick Boulevard, Brick, NJ 08723; and

3. Renal Center of Somerville, LLC, located at 1 Route 206 North, Somerville, NJ 08876.

QQ. "Renal Ventures Medical Protocols" means medical protocols promulgated by Renal Ventures Management or Renal Ventures Limited, whether in hard copy or electronic copy, that have been in effect at a Renal Ventures Clinic at any time since January 1, 2016, *PROVIDED, HOWEVER*, "Renal Ventures Medical Protocols" does not mean medical protocols adopted or promulgated, at any time, by any Physician or by any Acquirer, even if such medical protocols are identical, in whole or in part, to medical protocols promulgated by Renal Ventures.

RR. "Renal Ventures Policies and Procedures" means the dialysis policies and procedures manual promulgated by Renal Ventures Management or Renal Ventures Limited, whether in hard copy or electronic copy, that have been in effect at a Renal Ventures Clinic, at any time since January 1, 2016.

SS. "DaVita-PDA Divestiture Agreement" means the following agreements, attached as Non-Public Appendix A to this Order including, but not limited to, the Amended and Restated Asset Purchase Agreement dated February 27, 2017, by and among DaVita and PDA, and all attachments and exhibits, thereto, and the Transition Services Agreement, which is an exhibit to the Asset Purchase Agreement, by and between DaVita and PDA, and all attachments and exhibits, thereto.

TT. "Software" means executable computer code and the documentation for such computer code, but does not mean data processed by such computer code.

UU. "Somerville, NJ Area" means the area in and around Somerville, NJ, consisting of the zip codes and areas described in Appendix B to this Order.

VV. "Supplier" means any Person that has sold to Respondents any goods or services, other than Physician services, for use in a DaVita Clinic or Renal Ventures Clinic.

WW. "Time of Divestiture" means the date upon which the DaVita Clinics, the DaVita Clinic Assets, the Renal Ventures Clinics, and Renal Ventures Clinic Assets are divested to an Acquirer pursuant to this Order.

II.

IT IS FURTHER ORDERED that:

A. DaVita shall, within ten (10) days after the Acquisition Date, divest to PDA, absolutely, and in good faith, pursuant to and in accordance with the DaVita-PDA Divestiture Agreements, the DaVita Clinics, all the DaVita Clinic Assets, the Renal Ventures Clinics, and all the Renal Ventures Clinic Assets, as on-going businesses. Any failure by Respondents to comply with a Remedial Agreement shall constitute a failure to comply with this Order. The Remedial Agreements shall not vary or contradict, or be construed to vary or contradict, the terms of this Order. Nothing in this Order shall reduce, or be construed to reduce, any rights or benefits of an Acquirer, or any obligations of Respondents, under the Remedial Agreements.

PROVIDED, HOWEVER, if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that PDA is not an acceptable Acquirer then, after receipt of such written notification: (1) Respondents shall immediately notify PDA of the notice received from the Commission and shall as soon as practicable, but no later than within five (5) business days, effect the rescission of the DaVita-PDA Divestiture Agreement; and (2) Respondents shall, within six (6) months of the date Respondents receive notice of such determination from the Commission, divest the DaVita Clinic Assets and the Renal Ventures Clinic Assets, as applicable, absolutely and in good faith, at no minimum price, as on-going businesses to an Acquirer or Acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

PROVIDED FURTHER, HOWEVER, that if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that the manner in which any of the divestitures accomplished is not acceptable, the Commission may direct Respondents, or appoint a Divestiture Trustee, to effect such modifications to the manner of divestiture including, but not limited to, entering into additional agreements or arrangements, as the Commission may determine are necessary to satisfy the requirements of this Order.

B. DaVita shall not acquire Respondent Renal Ventures Management until it has obtained for all the DaVita Clinics and Renal Ventures Clinics:

1. all approvals for the assignment to the Acquirer of the rights, title, and interest to each lease for Real Property of each DaVita Clinic and each Renal Ventures Clinic;

2. all approvals for the assignment to the Acquirer of the DaVita Clinics' Physician Contracts and the Renal Ventures Clinics' Physician Contracts; and

3. all Governmental Approvals.

C. With respect to DaVita's Medical Protocols, DaVita shall:

1. Grant to Acquirer, absolutely, and in good faith, a worldwide, royalty-free, license (without the right to transfer or sublicense such protocols, exclusively or nonexclusively, to others by any means) for the use of the DaVita Medical Protocols at any dialysis clinic owned by Acquirer, for a period of six (6) months from the Acquisition Date;

2. If any Acquirer requests in writing to DaVita within six (6) months of the Time of Divestiture that DaVita extend the license for the DaVita Medical Protocols to that Acquirer, DaVita shall, within five (5) business days of such request, grant to that Acquirer a perpetual, worldwide, royalty-free, license (without the right to transfer or sublicense such protocols, exclusively or nonexclusively, to others by any means), for the use of DaVita's Medical Protocols *PROVIDED, HOWEVER*, that any time after six (6) months from the Time of Divestiture, if the Acquirer is sold, or if any of the Acquirer's clinics are sold, the Acquirer may transfer or sublicense the DaVita Medical Protocols as part of such transaction or transactions; and

3. DaVita shall create no disincentive for any Acquirer to make such a request for a license extension for DaVita's Medical Protocols, and shall not enter into any agreement or understanding with any Acquirer that the Acquirer not make such a request.

D. With respect to the Renal Ventures Medical Protocols, DaVita shall grant to the Acquirer royalty-free, worldwide non-exclusive licenses for the use, without any limitation, of the Renal Ventures Medical Protocols (including the right to transfer or sublicense, exclusively or nonexclusively, to others by any means).

E. With respect to Renal Ventures Policies and Procedures and the DaVita Policies and Procedures <u>not used exclusively</u> at Renal Ventures Clinics or DaVita Clinics, respectively, DaVita shall grant to the Acquirer a royalty-free, perpetual, worldwide, non-exclusive, non-transferable (unless PDA is sold or any PDA Clinic is sold) and non-sublicensable license to use, without any limitation, such Policies and Procedures.

F. With respect to Intangible Property not exclusively Relating To the Operation Of A DaVita Clinic or the Operation Of A Renal Ventures Clinic, DaVita shall grant to the Acquirer a royalty-free, perpetual, worldwide, non-exclusive, non-transferable (unless PDA is sold or any PDA Clinic is sold) and non-sublicensable, license to use, without any limitation, all Intangible Property.

G. Respondents shall:

1. Place no restrictions on the use by any Acquirer of any of the DaVita Clinic Assets or Renal Ventures Clinic Assets to be divested to such Acquirer, or interfere with or otherwise attempt to interfere with any Acquirer's use of any of the DaVita Clinic Assets or Renal Ventures Clinic Assets to be divested to such Acquirer including, but not limited to, seeking or requesting the imposition of Governmental Approvals or other governmental restrictions on the Acquirer's business operations Relating To such Clinics.

2. Assign to the Acquirer all of the Clinic's Physician Contracts for the DaVita Clinics and Renal Ventures Clinics. *PROVIDED HOWEVER*, that (1) if the Acquirer enters into a Clinic Physician Contract for a DaVita Clinic or a Renal Ventures Clinic before such Clinics are divested pursuant to Paragraph II.A. of this Order, and (2) the Acquirer certifies its receipt of such contract and attaches it as part of the Remedial Agreement, then Respondents shall not be required to make the assignment for such Clinics as required by this Paragraph.

3. With respect to all contracts included in DaVita Clinic Assets and Renal Ventures Clinic Assets other than Clinic's Physician Contracts, at the Acquirer's option and at the Time of Divestiture of each DaVita Clinic and Renal Ventures Clinic:

a. if such contract can be assigned without third party approval, assign Respondent's rights under the contract to the Acquirer; and

b. if such contract can be assigned to the Acquirer only with third party approval, assist and cooperate with the Acquirer in obtaining:

i. such third party approval and in assigning the contract to the Acquirer, or

ii. a new contract.

H. Respondents shall:

1. at the Time of Divestiture of each DaVita Clinic and Renal Ventures Clinic, provide to the Acquirer of such Clinic contact information about Payors and Suppliers for the Clinic, and

2. not object to the sharing of Payor and Supplier contract terms Relating To the DaVita Clinics and the Renal Ventures Clinics: (a) if the Payor or Supplier consents in writing to such disclosure upon a request by the Acquirer, and (b) if the Acquirer enters into a confidentiality agreement with Respondents not to disclose the information to any third party.

I. Respondents shall:

1. If requested by an Acquirer, facilitate interviews between each Designated Employee and the Acquirer, and shall not discourage such employees from participating in such interviews;

2. not interfere in employment negotiations between each Designated Employee and and an Acquirer;

3. not prevent, prohibit or restrict or threaten to prevent, prohibit or restrict the Designated Employee from being employed by an Acquirer, and shall not offer any incentive to the Designated Employee to decline employment with an Acquirer;

4. cooperate with an Acquirer of a DaVita Clinic or a Renal Ventures Clinic in effecting transfer of the Designated Employee to the employ of the Acquirer, if the Designated Employee accepts such offer of employment from an Acquirer;

5. eliminate any contractual provisions or other restrictions that would otherwise prevent the Designated Employee from being employed by an Acquirer;

6. eliminate any confidentiality restrictions that would prevent the Designated Employee who accepts employment with the Acquirer from using or transferring to an Acquirer any information Relating To the Operation Of A DaVita Clinic or the Operation Of A Renal Ventures Clinic; and

7. pay, for the benefit of any Designated Employee who accepts employment with an Acquirer, all accrued bonuses, vested pensions and other accrued benefits.

Respondents shall comply with the terms of this Paragraph II.I. from the time Respondents sign the Agreement Containing Consent Order until sixty (60) days after the Time of Divestiture of each DaVita Clinic and each Renal Ventures Clinic for the employees who are Designated Employees.

PROVIDED, HOWEVER, that if, at any time after the Time of Divestiture, the Acquirer of the DaVita Clinic Assets and the Renal Ventures Clinic Assets gives Respondents an unsolicited list of employees to whom the Acquirer does not intend to offer employment, then such employees may be hired by DaVita as full-time employees without violating this Paragraph II.I.

PROVIDED, FURTHER, HOWEVER, that no earlier than fifteen (15) days after the Time of Divestiture, Respondents may submit a written request to the Acquirer identifying those employees to whom DaVita wishes to offer full-time employment; and if the Acquirer within fifteen (15) days of receipt of such request grants, in writing, such request, then DaVita may offer employment to such employees; but if the Acquirer within fifteen (15) days of receipt of such request either: (i) chooses to hire such employees, or (ii) chooses to defer a hiring decision, then Respondents shall continue to comply with the terms of this Paragraph II.I, with regard to such employees.

J. For a period of two (2) years following the Time of Divestiture of each DaVita Clinic and each Renal Ventures Clinic, DaVita shall not, directly or indirectly, solicit, induce, or attempt to solicit or induce any employees who are employed by any Acquirer to terminate their employment relationship with such Acquirer, unless that employment relationship has already been terminated by the Acquirer; *PROVIDED, HOWEVER*, DaVita may make general advertisements for employees including, but not limited to, in newspapers, trade publications, websites, or other media not targeted specifically at any of an Acquirer's employees; *PROVIDED, FURTHER, HOWEVER,* DaVita may hire employees who apply for employment with DaVita, as long as such employees were not solicited by DaVita in violation of this Paragraph.

K. With respect to each Physician who has provided services to a DaVita Clinic or Renal Ventures Clinic pursuant to any of the Clinic's Physician Contracts in effect at any time during the four (4) months preceding the Time of Divestiture of the Clinic ("Contract Physician"):

1. Respondents shall not offer any incentive to the Contract Physician, the Contract Physician's practice group, or other members of the Contract Physician's practice group to decline to provide services to the DaVita Clinics and Renal Ventures Clinics acquired by the Acquirer, and shall eliminate any confidentiality restrictions that would prevent the Contract Physician, the Contract Physician's practice group, or other members of the Contract Physician's practice group from using or transferring to the Acquirer of the DaVita Clinics and the Renal Ventures Clinics any information Relating To the Operation Of A DaVita Clinic or Relating To the Operation Of A Renal Ventures Clinic; and

2. For a period of three (3) years following the Time of Divestiture of each DaVita Clinic and Renal Ventures Clinic, DaVita shall not contract for the services of the Contract Physician, the Contract Physician's practice group, or other members of the Contract Physician's practice group for the provision of Contract Services to be performed in the area listed in Appendix B of this Order that corresponds to such DaVita Clinic or Renal Ventures Clinic at which the Contract Physician provided Contract Services. *PROVIDED, HOWEVER*, if the Contract Physician, or the Contract Physician's practice group, or other members of the Contract Physician's practice group were providing services to a Clinic, other than at any of the DaVita Clinics or the Renal Ventures Clinics, pursuant to a contract with

Respondents in effect as of June 1, 2016, then DaVita may contract with such Contract Physicians, or the Contract Physician's practice group, or other members of the Contract Physician's practice group for services to be provided to that particular Clinic.

L. Respondents shall:

1. not disclose Confidential Business Information relating exclusively to any of the DaVita Clinics or Renal Ventures Clinics to any Person other than the Acquirer of such Clinic; and

2. after the Time of Divestiture of such Clinic:

a. shall not use Confidential Business Information relating exclusively to any of the DaVita Clinics or the Renal Ventures Clinics for any purpose other than complying with the terms of this Order, with any law, or purposes of billing and collections, quality incentive program performance management, patient outcomes, peer review and physician credentialing activities, or responding to any inquiry or action from a third party required by law; and

b. shall destroy all records of Confidential Business Information relating exclusively to any of the DaVita Clinics and Renal Ventures Clinics, except to the extent that: (i) Respondents are required by law to retain such information, and (ii) DaVita's and Renal Ventures' inside or outside attorneys may keep one copy solely for archival purposes, but may not disclose such copy to the rest of DaVita or Renal Ventures, respectively.

M. At the Time of Divestiture of each DaVita Clinic and Renal Ventures Clinic, Respondents shall provide the Acquirer of the Clinic with manuals, instructions, and specifications (other than Medical Protocols and Policies and Procedures that are otherwise referred to in this Order) sufficient for the Acquirer to access and use any information:

1. divested to the Acquirer pursuant to this Order, or

2. in the possession of the Acquirer, and previously used by Respondents in the Operation Of A DaVita Clinic or the Operation Of A Renal Ventures Clinic.

N. For two (2) years following the Time of Divestiture of each DaVita Clinic and each Renal Ventures Clinic, DaVita shall not solicit the business of any patient who received any goods or services from such Clinic between July 1, 2016, and the date of such divestiture, *PROVIDED, HOWEVER,* DaVita may (1) make general advertisements for the business of such patients including, but not limited to, in newspapers, trade publications, websites, or other media not targeted specifically at such patients, and (2)

provide advertising and promotions directly to any patient that initiates discussions with, or makes a request to, any DaVita employee.

O. Respondents shall convey to the Acquirer of the DaVita Clinics and Renal Ventures Clinics the right to use any Licensed Intangible Property (to the extent permitted by the third-party licensor), if such right is needed for the Operation Of A DaVita Clinic or the Operation Of A Renal Ventures Clinic by the Acquirer, and if the Acquirer is unable, using commercially reasonable efforts, to obtain equivalent rights from other third parties on commercially reasonable terms and conditions.

P. Respondents shall do nothing to prevent or discourage Suppliers that, prior to the Time of Divestiture of any DaVita Clinic or any Renal Ventures Clinic, supplied goods and services for use in any such Clinic from continuing to supply goods and services for use in such Clinic. Additionally, Respondents shall use reasonable best efforts to assist the Acquirer in entering agreements with existing or new Suppliers if agreements cannot be assigned to the Acquirer.

Q. Respondents shall not terminate any transition services agreement that is a part of any Remedial Agreement before the end of the term approved by the Commission without prior approval of the Commission.

R. The purpose of Paragraph II of this Order is to ensure the continuation of the DaVita Clinics and the Renal Ventures Clinics as, or as part of, an ongoing viable enterprises engaged in the same business in which such assets were engaged at the time of the announcement of the Acquisition, to ensure that the DaVita Clinics and the Renal Ventures Clinics are operated independently of, and in competition with, Respondent's clinics, and to remedy the lessening of competition alleged in the Commission's Complaint.

III.

IT IS FURTHER ORDERED that:

A. For a period of ten (10) years from the date this Order is issued, DaVita shall not, without providing advance written notification to the Commission in the manner described in this paragraph, directly or indirectly:

1. acquire any assets of or financial interest in any Clinic located in the Brick, NJ Area, Clifton, NJ Area, Denton, TX Area, Frisco, TX Area, Hackettstown, NJ Area, Lawrenceville, NJ Area, and Somerville, NJ Area; or

2. enter into any contract to participate in the management or Operation Of A Clinic located in the areas listed in Paragraph III.A.1., above, except to the extent that the contract relates exclusively to:

a. off-site lab services or social worker support materials; or

b. billing services, collection services, bookkeeping services, accounting services, supply purchasing and logistics services, or the preparation of financial reports and accounts receivable reports (collectively "Such Services"), where appropriate firewalls and confidentiality agreements are implemented to prevent Confidential Business Information of the Clinic from being disclosed to anyone participating in any way in the operation or management of any Clinic owned by DaVita or any Clinic other than the Clinic to which Such Services are being provided.

Said advance written notification shall contain (i) either a detailed term sheet for the proposed acquisition or the proposed agreement with all attachments, and (ii) documents that would be responsive to Item 4(c) of the Premerger Notification and Report Form under the Hart-Scott-Rodino Premerger Notification Act, Section 7A of the Clayton Act, 15 U.S.C. § 18a, and Rules, 16 C.F.R. § 801-803, Relating To the proposed transaction (hereinafter referred to as "the Notification). *PROVIDED, HOWEVER,* (i) no filing fee will be required for the Notification, (ii) an original and one copy of the Notification shall be filed only with the Secretary of the Commission and need not be submitted to the United States Department of Justice, and (iii) the Notification is required from DaVita and not from any other party to the transaction. DaVita shall provide the Notification to the Commission at least thirty (30) days prior to consummating the transaction (hereinafter referred to as the "first waiting period"). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 C.F.R. § 803.20), DaVita shall not consummate the transaction until thirty days after submitting such additional information or documentary material. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted by letter from the Bureau of Competition.

PROVIDED, HOWEVER, that prior notification shall not be required by this paragraph for a transaction for which Notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

IV.

IT IS FURTHER ORDERED that:

A. Richard Shermer of R. Shermer & Co. shall be appointed Monitor to assure that Respondents expeditiously comply with all of their obligations and perform all of their responsibilities as required by the Order.

B. No later than one (1) day after the Acquisition Date, Respondents shall, pursuant to the Monitor Agreement, attached as Appendix D and Non-Public Appendix E (Compensation) to this Order, transfer to the Monitor all the rights, powers, and authorities necessary to permit the Monitor to perform his duties and responsibilities in a manner consistent with the purposes of this Order.

C. In the event a substitute Monitor is required, the Commission shall select the Monitor, subject to the consent of DaVita, which consent shall not be unreasonably withheld. If DaVita has not opposed, in writing, including the reasons for opposing, the selection of a proposed Monitor within ten (10) days after notice by the staff of the Commission to DaVita of the identity of any proposed Monitor, DaVita shall be deemed to have consented to the selection of the proposed Monitor. Not later than ten (10) days after appointment of a substitute Monitor, DaVita shall execute an agreement that, subject to the prior approval of the Commission, confers on the Monitor all the rights and powers necessary to permit the Monitor to monitor DaVita's compliance with the terms of this Order, and the Remedial Agreements in a manner consistent with the purposes of this Order.

D. Respondents shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of the Monitor:

1. The Monitor shall have the power and authority to monitor Respondents' compliance with the terms of this Order, and the Remedial Agreements, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of this Order and in consultation with the Commission, including, but not limited to:

    a. Assuring that Respondents expeditiously comply with all obligations and perform all responsibilities as required by this Order, and the Remedial Agreements;

    b. Monitoring any transition services agreements;

    c. Assuring that Confidential Business Information is not received or used by Respondents or the Acquirers, except as allowed in this Order.

2. The Monitor shall act in a fiduciary capacity for the benefit of the Commission.

3. The Monitor shall serve for such time as is necessary to monitor Respondents' compliance with the provisions of this Order, and the Remedial Agreements.

4. Subject to any demonstrated legally recognized privilege, the Monitor shall have full and complete access to Respondent's personnel, books, documents, records kept in the Ordinary Course Of Business, facilities and technical information, and such other relevant information as the Monitor may reasonably request, related to Respondent's compliance with its obligations under this Order, and the Remedial Agreements. Respondents shall cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor Respondent's compliance with this Order, and the Remedial Agreements.

5. The Monitor shall serve, without bond or other security, at the expense of DaVita on such reasonable and customary terms and conditions as the Commission may set. The Monitor shall have authority to employ, at the expense of DaVita, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities. The Monitor shall account for all expenses incurred, including fees for services rendered, subject to the approval of the Commission.

6. DaVita shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other reasonable expenses incurred in connection with the preparations for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence, willful or wanton acts, or bad faith by the Monitor.

7. DaVita shall report to the Monitor in accordance with the requirements of this Order and/or as otherwise provided in any agreement approved by the Commission. The Monitor shall evaluate the reports submitted to the Monitor by DaVita, and any reports submitted by the Acquirer with respect to the performance of Respondent's obligations under this Order, and the Remedial Agreements.

8. Within one (1) month from the date the Monitor is appointed pursuant to this paragraph, every sixty (60) days thereafter, and otherwise as requested by the Commission, the Monitor shall report in writing to the Commission concerning performance by Respondents of its obligations under this Order, and the Remedial Agreements.

9. Respondents may require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *PROVIDED, HOWEVER*, such agreement shall not restrict the Monitor from providing any information to the Commission.

E. The Commission may, among other things, require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants, to sign an appropriate confidentiality agreement Relating To Commission materials and information received in connection with the performance of the Monitor's duties.

F. If the Commission determines that the Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor in the same manner as provided in this Paragraph IV.

G. The Commission may on its own initiative, or at the request of the Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order, and the Remedial Agreements.

H. A Monitor appointed pursuant to this Order may be the same Person appointed as a Trustee pursuant to Paragraph V of this Order.

V.

IT IS FURTHER ORDERED that:

A. If DaVita has not divested, absolutely and in good faith and with the Commission's prior approval all of the DaVita Clinic Assets and the Renal Ventures Clinic Assets pursuant to Paragraph II of this Order, the Commission may appoint a Divestiture Trustee ("Trustee") to divest any of the DaVita Clinic Assets and the Renal Ventures Clinic Assets that have not been divested pursuant to Paragraph II of this Order in a manner that satisfies the requirements of Paragraph II of this Order. In the event that the Commission or the Attorney General brings an action pursuant to § 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. § 45(*l*), or any other statute enforced by the Commission, DaVita shall consent to the appointment of a Trustee in such action to divest the relevant assets in accordance with the terms of this Order. Neither the appointment of a Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Trustee, pursuant to § 5(*l*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by DaVita to comply with this Order.

B. The Commission shall select the Trustee, subject to the consent of DaVita, which consent shall not be unreasonably withheld. The Trustee shall be a Person with experience and expertise in acquisitions and divestitures. If DaVita has not opposed, in writing, including the reasons for opposing, the selection of any proposed Trustee within ten (10) days after receipt of notice by the staff of the Commission to DaVita of the identity of any proposed Trustee, DaVita shall be deemed to have consented to the selection of the proposed Trustee.

C. Within ten (10) days after the appointment of a Trustee, DaVita shall execute an agreement that, subject to the prior approval of the Commission, transfers to the Trustee all rights and powers necessary to permit the Trustee to effect the divestitures required by this Order.

D. If a Trustee is appointed by the Commission or a court pursuant to this Order, DaVita shall consent to the following terms and conditions regarding the Trustee's powers, duties, authority, and responsibilities:

1. Subject to the prior approval of the Commission, the Trustee shall have the exclusive power and authority to divest any of the DaVita Clinic Assets and the

Renal Ventures Clinic Assets that have not been divested pursuant to Paragraph II of this Order.

2. The Trustee shall have twelve (12) months from the date the Commission approves the trust agreement described herein to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve (12) month period, the Trustee has submitted a divestiture plan or the Commission believes that the divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission; *PROVIDED, HOWEVER*, the Commission may extend the divestiture period only two (2) times.

3. Subject to any demonstrated legally recognized privilege, the Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be divested by this Order and to any other relevant information, as the Trustee may request. DaVita shall develop such financial or other information as the Trustee may request and shall cooperate with the Trustee. DaVita shall take no action to interfere with or impede the Trustee's accomplishment of the divestiture. Any delays in divestiture caused by DaVita shall extend the time for divestiture under this Paragraph V in an amount equal to the delay, as determined by the Commission or, for a court-appointed Trustee, by the court.

4. The Trustee shall use commercially reasonable best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to DaVita's absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestiture shall be made in the manner that receives the prior approval of the Commission and to an Acquirer or Acquirers that receive the prior approval of the Commission, as required by this Order; *PROVIDED, HOWEVER*, if the Trustee receives bona fide offers for particular assets from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity for such assets, the Trustee shall divest the assets to the acquiring entity selected by DaVita from among those approved by the Commission; *PROVIDED, FURTHER, HOWEVER*, that DaVita shall select such entity within five (5) days of receiving notification of the Commission's approval.

5. The Trustee shall serve, without bond or other security, at the cost and expense of DaVita, on such reasonable and customary terms and conditions as the Commission or a court may set. The Trustee shall have the authority to employ, at the cost and expense of DaVita, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Trustee's duties and responsibilities. The Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed Trustee, by the court, of the account of the Trustee, including fees for

the Trustee's services, all remaining monies shall be paid at the direction of DaVita, and the Trustee's power shall be terminated. The compensation of the Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order.

6. DaVita shall indemnify the Trustee and hold the Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence, willful or wanton acts, or bad faith by the Trustee.

7. The Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.

8. The Trustee shall report in writing to DaVita and to the Commission every sixty (60) days concerning the Trustee's efforts to accomplish the divestiture.

9. DaVita may require the Trustee and each of the Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *PROVIDED, HOWEVER*, such agreement shall not restrict the Trustee from providing any information to the Commission.

E. If the Commission determines that a Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Trustee in the same manner as provided in this Paragraph V.

F. The Commission or, in the case of a court-appointed Trustee, the court, may on its own initiative or at the request of the Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

G. The Trustee appointed pursuant to this Paragraph may be the same Person appointed as the Monitor pursuant to the relevant provisions of this Order.

VI.

IT IS FURTHER ORDERED that:

A. From the date Respondents sign the Consent Agreement until the Time of Divestiture, Respondents shall:

1. Maintain each of the DaVita Clinics, the DaVita Clinic Assets, the Renal Ventures Clinics, and the Renal Ventures Clinic Assets in substantially the same

condition (except for normal wear and tear) as they existed at the time Respondents sign the Consent Agreement;

2. Take such actions that are consistent with the past practices of Respondent Renal Ventures Management and Renal Ventures Limited in connection with each Renal Ventures Clinic and all the Renal Ventures Clinic Assets, and that are taken in the Ordinary Course of Business and in the normal day-to-day operations of the Renal Ventures Clinics;

3. Keep available the services of the current officers, employees, and agents of Respondent Renal Ventures Management and Renal Ventures Limited; and maintain the relations and goodwill with suppliers, Payors, physicians, landlords, patients, employees, agents, and others having business relations with the Renal Ventures Clinics and the Renal Ventures Clinic Assets;

4. Preserve the DaVita Clinics, the DaVita Clinic Assets, the Renal Ventures Clinics, and the Renal Ventures Clinic Assets as ongoing businesses and not take any affirmative action, or fail to take any action within Respondent's control, as a result of which the viability, competitiveness, and marketability of the DaVita Clinics, the DaVita Clinic Assets, the Renal Ventures Clinics, and the Renal Ventures Clinic Assets would be diminished; and

5. Not object to sharing with the Acquirer the Payor and Supplier contract terms Relating To the DaVita Clinics, the DaVita Clinic Assets, the Renal Ventures Clinics, and the Renal Ventures Clinic Assets: (i) if the Payor or Supplier consents in writing to such disclosure upon a request by the Acquirer, and (ii) if the Acquirer enters into a confidentiality agreement with Respondents not to disclose the information to any third party.

B. The purposes of this Paragraph VI are to: (1) preserve the DaVita Clinics and the Renal Ventures Clinics as viable, competitive, and ongoing businesses until the Time of Divestiture, (2) prevent interim harm to competition pending the relevant divestitures and other relief, and (3) help remedy any anticompetitive effects of the Acquisition as alleged in the Commission's Complaint.

VII.

IT IS FURTHER ORDERED that:

A. Beginning thirty (30) days after the date this Order is issued, and every sixty (60) days thereafter until Respondent has fully complied with Paragraphs II.A., II.B., II.C., II.D., II.E., II.F., II.G., II.H., II.I., and II.M. of this Order, DaVita shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with the terms of this Order, and the Remedial Agreement. DaVita shall submit at the same time a copy of these reports to the Monitor.

B. Beginning twelve (12) months after the date this Order is issued, and annually thereafter on the anniversary of the date this Order becomes final, for the next nine (9) years, DaVita shall submit to the Commission verified written reports setting forth in detail the manner and form in which it is complying and has complied with this Order, and the Remedial Agreements including, but not limited to, an explanation of DaVita's use of Confidential Business Information pursuant to Paragraph II.L. of this Order. DaVita shall submit at the same time a copy of these reports to the Monitor, if the Monitor is still monitoring pursuant to this Order.

VIII.

IT IS FURTHER ORDERED that DaVita shall notify the Commission at least thirty (30) days prior to:

A. Any proposed dissolution of DaVita,

B. Any proposed acquisition, merger or consolidation of DaVita**,** or

C. Any other change in DaVita that may affect compliance obligations arising out of this Order, including but not limited to assignment, the creation or dissolution of subsidiaries, or any other change in DaVita.

IX.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents, Respondents shall permit any duly authorized representative of the Commission:

A. Access, during office hours of Respondents and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of Respondents related to compliance with this Order, which copying services shall be provided by Respondents at the request of the authorized representative(s) of the Commission and at the expense of the Respondents; and

B. Upon five (5) days' notice to Respondents and without restraint or interference from Respondents**,** to interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

X.

IT IS FURTHER ORDERED that this Order shall terminate ten (10) years from the date the Order is made final.

By the Commission.

Donald S. Clark
Secretary