

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered into by and between HCR ManorCare, Inc., successor-in-interest to Four Seasons Nursing Center, Inc., hereinafter referred to as “Seller”, and the City of Norman, Oklahoma, hereinafter referred to as referred to as “Buyer.”

CONDITION PRECEDENT

This Agreement shall not be effective or binding on Buyer until such time as this Agreement is duly adopted by the Council of the City of Norman and becomes effective, the “Effective Date”. Upon the Effective Date, this Agreement shall be binding on Buyer and Seller in accordance with its terms.

If the Effective Date does not occur by August 25, 2022, Seller may terminate this Agreement upon written notice to Buyer.

1. **Sale Agreement.** Seller hereby agrees to sell and Buyer hereby agrees to purchase all of the 2.34 acres of property described and/or depicted on Exhibit A hereto (the “**Land**”), which includes a building of approximately 39,665 SF situated at 1210 W. Robinson St, Norman, OK 73069 in Cleveland County, Oklahoma, together with all improvements thereon and all appurtenances thereunto belonging, all beneficial easements and other interests and rights of Seller which are appurtenances to the Land, including, but not limited to, all right, title, and interest, if any, of Seller in and to any land lying in any street, road, or avenue in front of, within, adjacent to, or adjoining the Land (collectively referred to herein as the “**Property**”).
2. **Purchase Price.** Subject to the adjustments and prorations hereinafter described, the purchase price to be paid by Buyer to Seller for the Property is Two Million Four Hundred Fifty Thousand and no/100 Dollars (\$2,450,000.00) (the “**Purchase Price**”) which Purchase Price shall be paid as follows:
 - 2.1 **Earnest Money.** Within three (3) days after the Effective Date Seller and Buyer, Buyer shall deposit Twenty-Five Thousand and no/100 Dollars (\$25,000.00) (the “**Earnest Money Deposit**”) with Chicago Title of Oklahoma, 210 Park Avenue, Oklahoma Tower, Suite 210, Oklahoma City, OK 73102; Attention: Dawn Brooks (the “**Title Agent**”). Buyer shall be given credit toward the purchase price for the Earnest Money Deposit at Closing.
 - 2.2 **Balance at Closing.** The balance of the Purchase Price shall be paid to Seller by cashier’s check or wired funds at Closing.

3. **Inspection Period and Contingency.** This Agreement and the obligation of Buyer to close are expressly made conditional upon Buyer's determination in Buyer's sole discretion that the Property is suitable for Buyer's purposes. In order to permit Buyer to make this determination, Seller agrees to permit Buyer and Buyer's representatives to have access to the Property to perform any and all inspections as Buyer shall require, including, but not limited to, geological soil tests, mechanical studies, environmental assessments, surveys and engineering studies, and property surveys. To the extent permitted by law, Buyer agrees to repair any damage caused by such testing and further agrees to indemnify and hold Seller harmless from any liability, claims or demands of any nature whatsoever arising out of the conduct of such tests; provided, however, Buyer shall not be required to indemnify Seller for any negligence or willful misconduct of Seller or for the mere discovery of existing conditions. An agent of Seller has the right to be present at any inspections. During this period, Buyer shall determine to Buyer's satisfaction:

- (a) Whether sufficient utility service will be available at the Property boundary line;
- (b) Whether the soil conditions of the Property are satisfactory;
- (c) Whether the drainage on the Property is satisfactory;
- (d) Whether there are portions of the Property that are not capable of usage, because of flood plain or wetlands restrictions;
- (e) Whether the applicable municipal ordinances or county requirements will permit the usage of the Property in the manner desired by Buyer;
- (f) Whether there are any Hazardous Materials on the Property;
- (g) Whether access to the Property is satisfactory; and
- (h) Whether there are any other conditions which will render the Property unsuitable for Buyer's purposes.

Buyer shall have Sixty (60) days from the Effective Date to determine if the Property is satisfactory (as the same may be extended, the "***Inspection Period***"). Buyer may extend the Inspection Period for an additional thirty (30) days upon written notice to Seller received by Seller prior to the expiration of the Inspection Period. Prior to the end of the Inspection Period, Buyer may terminate this agreement for any reason by notifying Seller in writing prior to the expiration of the Inspection Period, and this Agreement shall thereby terminate and the Earnest Money Deposit shall be refunded to Buyer. If Buyer does not terminate this Agreement during the Inspection Period, Buyer shall be deemed to have waived all objections to the condition of the Property, the Earnest Money Deposit shall become non-refundable except as expressly provided otherwise in this Agreement, and Buyer shall proceed to complete the Closing in accordance with this Agreement.

Upon termination of this agreement by Buyer (i.e., if the Closing does not occur), Buyer shall furnish to Seller complete copies of all reports and other documentation relating to the Property created for Buyer by third-parties in connection its inspections, investigation and other due diligence with respect to the Property.

4. Title.

4.1. **Title Commitment; Title Policy; Permitted Exceptions.** Within Twenty (20) days after the effective date hereof, Seller shall provide to Buyer a commitment (the "***Commitment***") for an owner's title insurance policy in the face amount of the Purchase Price ("***Title Policy***") covering the Property, issued by a national title insurance company, showing "title of record" to the Property to be in Seller. The Commitment covering the Property shall be in the amount of the Purchase Price and shall be accompanied by copies of all instruments creating exceptions, including easements, restrictions, reservations, rights-of-way or other conditions, if any, affecting the Property ("***Title Documents***") and shall show that Seller can convey good and marketable title to the Property to Buyer free and clear from all liens and encumbrances except for (a) easements, agreements and restrictions of record, (b) real estate taxes and installments of assessments not yet due and payable, (c) zoning ordinances, (d) liens or encumbrances to be cancelled or released by Seller at Closing. Items (b), (c) and (d), those easements, agreements and restrictions of record to which Buyer has not objected or, to which Buyer has objected in its Title Objection Notice but to which objection Buyer has agreed to waiver pursuant to Section 4.2 below, and State and Municipal building laws, ordinances and regulations, zoning laws, ordinances and resolutions, legal highways, and easements which would be identified by a survey are collectively referred to in this Agreement as the "***Permitted Exceptions***" in this Agreement.

4.2. **Objections to Title of Record.** Within fourteen (14) days after Buyer's receipt of the Commitment and Title Documents, Buyer shall furnish to Seller written notification of any objections to or defects in the title of record (the "***Title Objection Notice***"). Seller may elect to not remove any title matters other than liens and other financial encumbrances. If Seller fails to notify Buyer in writing within ten (10) days after Buyer's Title Objection Notice that Seller will cure title matters described in Buyer's Title Objection Notice, Seller will be deemed to have determined that Seller will not cure the matters in Buyer's Title Objection Notice, in which case Buyer may (i) terminate this Agreement and obtain the return of the Earnest Money Deposit; or (ii) waive the defects and proceed to Closing. If Buyer does not terminate this Agreement prior to the expiration of the Inspection Period, Buyer shall be deemed to have waived all objections furnished to Seller in the Title Objection Notice that Seller has not agreed to remove, the Earnest Money Deposit shall become non-refundable except as expressly provided otherwise in this Agreement, and Buyer shall proceed to complete the Closing in accordance with this Agreement.

5. **Warranties of Seller.** Seller represents, covenants, and warrants the following as of the date of this Agreement and as of the Closing Date:
- 5.1 **Ownership.** Seller is the owner of the Property and is authorized to enter into this Agreement.
- 5.2 **Validity of Documents.** This Agreement has been duly executed and delivered by Seller, and is a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.
- 5.3 **Rights in Subject Property.** There are and will, on the date of closing, be no options, purchase contracts, leases or other agreements of any kind or nature, written or oral, whereunder or whereby any person has or could claim or assert any right, title or interest in any of the Property with the exception of the Leases, copies of which have been provided to Buyer. After the date hereof and for so long as this Agreement remains in effect, Seller shall not grant any leases, easements or rights of way in, on, over or across the Property without obtaining the prior written consent of Buyer.
- 5.4 **No pending litigation.** There is no pending litigation or expropriation proceedings in relation to the property.
6. **Disclaimer of Additional Warranties.** WITH THE EXCEPTION OF THE WARRANTIES IN PARAGRAPH 5 AND THE WARRANTY OF TITLE CONTAINED IN THE DEED, BUYER SPECIFICALLY ACKNOWLEDGES THAT SELLER IS SELLING AND BUYER IS PURCHASING THE PROPERTY ON AN “AS IS WITH ALL FAULTS” BASIS, AND THAT BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING, WITHOUT LIMITATION AND TO THE EXTENT OF THE LAW: (i) the quality, nature, adequacy and physical condition of soils, geology and any groundwater; (ii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property; (iii) the Property’s suitability for any particular purpose; (iv) the zoning or other legal status of the Property or any other public or private restriction on use of the Property; (v) the compliance of the Property with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity; and (vi) the presence or removal of Hazardous Materials on, under or about the Property or any neighboring property.
7. **Time and Place of Closing.** Unless extended by written agreement, closing will occur on or before Thirty (30) days after the expiration of the Inspection Period, as the same may be extended (the “*Closing Date*”) at the offices of the Title Agent.
8. **Seller’s Deliveries at Closing.** At Closing Seller shall deliver or cause to be delivered to Buyer the following:

- 8.1 **Deed.** A duly executed and acknowledged Special Warranty Deed conveying to Buyer title of record to the Property subject only to the Permitted Exceptions.
- 8.2 **Affidavit of Nonforeign Status.** An Affidavit of Nonforeign Status, in form which complies with Section 1445 of the Internal Revenue Code of 1986, as amended, and/or all regulations relating thereto.
- 8.3 **Affidavit of Debts, Liens and Parties in Possession.** An affidavit executed by Seller in form acceptable to Buyer and the title insurance company to the effect that Property is free from claims, mechanic's, materialman's or labor liens.
- 8.4 **Possession.** Sole and exclusive possession of the Property, subject only to the Permitted Exceptions.
- 8.5 **Other Submissions.** Such other documents and papers as may be reasonably required by Buyer and the Title Agent in order to close this transaction.
- 8.6 **Title Insurance.** The Title Policy (or a pro forma commitment issued by a title insurer to issue the same dated through the date of the Closing and showing the Buyer as the fee simple owner of the Property) in the face amount of the Purchase Price, issued through the Title Agent, insuring good and marketable fee simple title in the name of the Buyer, subject only to the Permitted Exceptions and such standard exceptions as Seller cannot have deleted by affidavit as provided herein;
- 8.7 **Payment of Closing Costs.** In addition to any other amounts payable by Seller hereunder, Seller shall pay (i) the cost and expenses necessary to release any liens or encumbrances in order to convey the required title, (ii) all conveyance and transfer fees charged by the applicable governmental authorities, (iii) the cost of all search fees, copying costs, and one-half of the premium costs and related charges imposed by the Title Agent to issue an Title Policy, (iv) costs of the Title Agent customarily charged to sellers for commercial property closings in the City of Norman, Oklahoma, and (v) one-half of the charges of the Title Agent to complete the Closing.
9. **Buyer's Deliveries at Closing.** At closing Buyer shall deliver or cause to be delivered to Seller:
- 9.1 **Purchase Money.** Buyer shall cause the Title Agent to issue its check to the Seller in the amount due by Buyer in payment of the portion of the Purchase Price payable at Closing, and adjusted for any credits, pro-rations or other adjustments required under this Agreement or hereafter agreed upon by Buyer and Seller.
- 9.2 **Record Deed.** Cause the Deed to be recorded, duly complete all required real property transfer tax returns and cause all such returns to be delivered to the appropriate offices promptly after Closing.

- 9.3 Other Documents.** Execute and deliver any other documents required by this Agreement to be delivered by Buyer.
- 9.4 Payment of Closing Costs.** In addition to any other amounts payable by Buyer hereunder, Buyer shall pay (i) the costs to record the Deed and other conveyance instruments to be recorded at Closing, and (ii) the costs of the Title Policy in excess of the amount payable by Seller under this Agreement and the incremental cost, if any, for extended coverage, for any endorsements desired by Buyer, (iii) costs of the Title Agent customarily charged to buyers for commercial property closings in the City of Norman, Oklahoma, and (iv) one-half of the charges of the Title Agent to complete the Closing.
- 10. Prorations.** All matured and unmatured special assessments and all Property taxes for years preceding the year of Closing, if any, shall be paid by Seller. All of such assessments and ad valorem taxes on the Property for the year of Closing shall be prorated between the parties to the Closing Date. Notwithstanding anything in this Agreement which may appear to the contrary, Seller shall be obligated to pay all rollback taxes and other assessments relating to any period prior to the Closing date, which obligation shall survive the Closing.
- 11. Eminent Domain.** In the event any eminent domain proceedings shall be commenced with respect to the Property prior to the Closing Date, or in the event Buyer shall be advised by any agency having eminent domain powers that a condemnation of all or any portion of the Property is contemplated, Buyer, at its option, may:
- (i) Terminate this Agreement, in which event the Earnest Money Deposit shall be refunded to Buyer and the parties shall be relieved of all obligations hereunder; or
 - (ii) Continue this Agreement in force, in which event any condemnation proceeds received by Seller prior to the Closing Date shall be paid over to Buyer on the Closing Date, and if Seller has not received any proceeds then Seller shall assign its rights to such proceeds to Buyer.
- 12. Brokerage.** Seller is responsible for the payment of a real estate brokerage commission of 6% of the Purchase Price to be paid to Fleske Holding Company and Jones Lang LaSalle (split equally – 3% each). The parties represent and warrant to the other that except for the brokers referenced neither party has used the services of any real estate broker, agent or finder in connection with this transaction and each agrees to indemnify and hold the other harmless from all claims of any broker, agent or finder arising by reason of the indemnifying parties breach of this representation and warranty.
- 13. Default.** If Buyer fails to close the sale of the Property, unless excused by a condition hereof, Seller may retain the Earnest Money Deposit as liquidated damages as Seller's sole remedy, it being agreed that it would be impracticable or extremely difficult to assess the amount of damages to be sustained by Seller. If Seller fails to close or otherwise defaults under this Agreement, unless excused by a condition hereof, Buyer

shall receive the Earnest Money Deposit, or Buyer may sue for specific performance.

14. Miscellaneous. It is further understood and agreed as follows:

14.1 Time. Time is of the essence of this Agreement.

14.2 Notices. Whenever any notice, demand or request is required or permitted hereunder, such notice, demand or request shall be hand delivered in person or sent by email, or by mail, registered or certified, return receipt requested, postage prepaid, or by Federal Express or other overnight delivery service providing evidence of receipt of delivery to the addresses as set forth below:

As to Buyer: Darrel Pyle, City Manager
201 West Gray
Norman, OK 73070
Phone: 405-366-5402
city_manager@normanok.gov

With a copy to: Kathryn Walker, City Attorney
City of Norman, Oklahoma
201 West Gray
Norman, OK 73070

Phone: 405-217-7700
City_Attorney@normanok.gov

As to Seller: HCR ManorCare, Inc., successor-in-interest to
Four Seasons Nursing Center, Inc.
c/o R. Griffin Julius
Vice President, Corporate Development
ProMedica Health System
100 Madison Avenue, Toledo, Ohio 43604

Phone: 419-252-5910
Griffin.Julius@ProMedica.org

With a copy to: Mark H. Rose, Assist. Gen Counsel
ProMedica Health System
100 Madison Avenue, Toledo, Ohio 43604

Phone: 567-585-7052
mark.rose@promedica.org

Any notice, demand or request that shall be served upon either of the parties in the manner aforesaid shall be deemed sufficiently given for all purposes hereunder (i) at the time such notices, demands or requests are hand delivered in person, or (ii) on the date the Federal Express or other overnight delivery service receipt was signed; or (iii) on the second day after the mailing of such notice, (iv) on the date sent if sent by email before 5:00 PM, otherwise on the next business day.

- 14.3 Severability.** If any provision of this Agreement shall be held to be void or unenforceable for any reason, the remaining terms and provisions hereof shall not be affected thereby.
- 14.4 Binding Effect.** The provisions of this Agreement shall inure to the benefit of and bind the executors, administrators, successors, assigns, heirs and legal representatives of the parties hereto.
- 14.5 Entire Agreement.** This instrument constitutes the entire agreement of the parties. It supersedes any and all other agreements, either oral or in writing, between the parties hereto. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. This Agreement may not be modified or amended by oral agreement, but only by an agreement in writing, signed by the parties hereto.
- 14.6 Captions and Paragraph Headings.** Captions and paragraph headings contained in this Agreement are for reference only and shall not affect, in any way, the meaning or interpretation of this Agreement.
- 14.7 Attorney's Fees.** In the event either party hereto files suit in order to enforce or interpret the terms and provisions of this Agreement, the prevailing party in such litigation shall be entitled to recover from the other its reasonable attorney's fees and expenses incidental to the litigation.
- 14.8 Interpleader of Earnest Money Deposit.** In the event of a dispute between Buyer and Seller as to the proper disbursement of the Earnest Money Deposit or any other funds being held by the Title Agent as related to this Agreement, the parties hereby agree that the Title Agent shall have the unrestricted right to interplead such funds into a court of competent jurisdiction. The Title Agent shall be entitled to file any such interpleader action as necessary to allow for the Title Agent to remove itself from the controversy without charge, harm, expense, or fault to the Title Agent. The Title Agent may file such action pursuant to 12 O.S. § 2022, or other applicable authority. In the event that the Title Agent institutes any interpleader action to resolve a dispute between the parties as to funds held by the Title Agent, the parties agree to hold the Title Agent and its officers, employees, directors and agents harmless and to release the Title Agent and all

such affiliated persons from any causes of action that Buyer or Seller may have against the Title Agent as it pertains to the dispute over the Earnest Money Deposit. In addition, the parties agree that the Title Agent shall be immediately discharged from of the interpleader action without fault or harm, and that the Title Agent shall be allowed to immediately obtain reimbursement for all accrued expenses involved in filing the interpleader action, including but not limited to attorneys fees, court costs and filing fees, with such reimbursement to be made from the funds interplead into court or from Buyer and/or Seller directly.

- 14.9 Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document; however, this Agreement shall not become effective until all parties have signed a counterpart hereof. All counterparts shall be construed together and shall constitute one Agreement.

EXECUTED the day and year hereinafter indicated. The latest date shall be the Effective Date of this Agreement.

“BUYER”

CITY OF NORMAN, OKLAHOMA

By: _____

Name: Larry Heikkila

Title: Mayor

ATTEST:

By: _____

Name: Brenda Hall

Title: City Clerk

Approved as to Legality and Form this ____ day of _____, 2022:

By: _____

Office of the City Attorney

“SELLER”

**HCR ManorCare, Inc., successor-in-interest to
Four Seasons Nursing Center, Inc.**

By: _____

R. Griffin Julius

VP, System Business Development

ProMedica Health System, Inc.

Authorized Signor for Seller

Date of Execution:

July __, 2022

EXHIBIT A

LEGAL DESCRIPTION AND/OR DEPICTION

To be confirmed by title company

Legal Description: Part of Lot "A", in Block Two (2), of WOODSLAWN SECOND ADDITION, to the City of Norman, Cleveland County, Oklahoma, described as follows:

BEGINNING at the Northwest Corner of said Lot "A";

Thence South along the West line of said Lot a distance of 341.79 feet to the Southwest Corner of said Lot; Thence East along the South line of said Lot a distance of 440 feet to the Southeast Corner of said Lot; Thence North along the East line of said Lot 20 feet;

Thence West 150 feet;

Thence North 320.15 feet to the North line of said lot;

Thence West 290 feet along the North line of said Lot to the Place of Beginning.

