



North Carolina Department of Health and Human Services
Division of Health Service Regulation

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Drexdal Pratt
Division Director

October 23, 2013

Douglas J. Abell
Curo Health Services
491 Williamson Road
Suite 204
Morrisville, NC 28117

No Review

Facility or Business: Community Home Care and Hospice
Project Description: Relocate office within the same county
County: Cumberland
FID #: 955570

Dear Mr. Abell,

The Certificate of Need Section (CON Section) received your letter of October 15 regarding the above referenced proposal. Based on the CON law **in effect on the date of this response to your request**, the proposal described in your correspondence is not governed by, and therefore, does not currently require a certificate of need. However, please note that if the CON law is subsequently amended such that the above referenced proposal would require a certificate of need, this determination does not authorize you to proceed to develop the above referenced proposal when the new law becomes effective.

Moreover, you need to contact the Construction and Acute and Home Care Licensure and Certification Sections of the Division of Health Service Regulation to determine if they have any requirements for development of the proposed project.

It should be noted that this determination is binding only for the facts represented by you. Consequently, if changes are made in the project or in the facts provided in your correspondence referenced above, a new determination as to whether a certificate of need is required would need to be made by the Certificate of Need Section. Changes in a project include, but are not limited to: (1) increases in the capital cost; (2) acquisition of medical equipment not included in the original cost estimate; (3) modifications in the design of the project; (4) change in location; and (5) any increase in the number of square feet to be constructed.



Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-733-8139

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704


An Equal Opportunity/ Affirmative Action Employer




Mr. Abell
October 23, 2013
Page 2

Please contact the CON Section if you have any questions. Also, in all future correspondence you should reference the Facility I.D. # (FID) if the facility is licensed.

Sincerely,



Gregory F. Yakaboski, Project Analyst



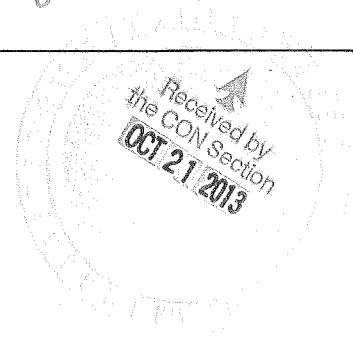
Craig R. Smith, Chief
Certificate of Need Section

cc: Medical Facilities Planning Section, DHSR
Construction Section, DHSR (Not Hospice Home Care/ Home Health)
Acute and Home Care Licensure and Certification Section, DHSR



Beef

October 15, 2013



VIA FEDERAL EXPRESS

Mr. Craig Smith, Chief
Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health and Human Services
2704 Mail Service Center
Raleigh, North Carolina 27699-2704

Re: Site Relocation for Carrolton Home Care, LLC d/b/a Community Home Care and Hospice (License Numbers: HC1331 and NP3441; Facility ID: 955570) (Cumberland County/Health Service Area V)

Dear Mr. Smith:


Pursuant to N.C. Gen. Stat. § 131E-184(a), we are writing to notify you that the above-identified hospice agency, currently located at 5301 Morganton Road, Fayetteville, NC 28314-1446 (the "Current Location"), will be relocating its office to 2800 Breezewood Avenue, Suite 100, Fayetteville, NC 28303-5282 (the "New Location"), effective December 1, 2013. The Current Location is operated under license numbers HC1331 and NP3441. Attached for your review is a redacted copy of the lease for the New Location.

This relocation is being made as a result of the termination of the Current Location's lease. The New Location is located approximately 3.97 miles and approximately six minutes from the Current Location. As such, both the Current Location and the New Location are within the original service area of the hospice agency. This relocation does not involve any activities that would implicate the definition of "new institutional health service" as that term is defined in N.C. Gen. Stat. § 131E-176(16).

The relocation is scheduled to occur on December 1, 2013. In advance of that date, we would appreciate your written confirmation that the proposed relocation does not require a CON.

Thank you for your time, and if you have any questions or need additional information, please do not hesitate to contact me at (704) 662-1771 or via email at dabell@curohs.com. You may also contact either Ross Sallade at (919) 329-3875 or via email at ross.sallade@nelsonmullins.com or Freddie Zufelt at (919) 329-3819 or via email at freddie.zufelt@nelsonmullins.com. We appreciate your consideration of this matter.

Sincerely Yours,


Douglas J. Abell
Chief Compliance Officer

Enclosure

LEASE AGREEMENT

LANDLORD: Roscoe Properties, LLC

TENANT: Carrolton Home Care, LLC

DATE: _____, 2013

SUITE: Suite 100

PROPERTY: 2800 Breezewood Avenue
Fayetteville, NC 28303

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made as of the _____ day of _____, 2013 (the "Effective Date"), by and between ROSCOE PROPERTIES, LLC, a North Carolina limited liability company ("Landlord"), and CARROLTON HOME CARE, LLC, a Delaware limited liability company ("Tenant").

1. PREMISES.

- (a) **Premises.** Landlord leases to Tenant, and Tenant leases from Landlord, upon the terms and conditions contained in this Lease, commercial office space consisting of approximately 4,926 square feet of exclusive space, being all of the first floor of, and known as Suite 100 in (the "Premises"), the building located at 2800 Breezewood Avenue, Fayetteville, North Carolina 28303 (the "Building"). The Building is situated on the land (the "Land") further described on Exhibit "A" attached hereto. The Building and the Land shall be collectively referred to as the "Property." Landlord expressly agrees, and the parties hereto understand, that the Premises as described and diagrammed in Exhibit "B" is to be exclusively used by Tenant throughout the Term of the Lease.
- (b) **Common Areas.** Tenant shall have the non-exclusive right to use all portions of the Property intended for common use, including all areas external to the Building, as common areas (the "Common Areas"). Tenant shall enjoy and use the Common Areas equally with other tenants with rights to the Property.
- (c) **Parking Lot.** Tenant has the non-exclusive right to use the parking lot situated on the Land (the "Lot"). Landlord shall make twenty-three (23) parking spaces in the Lot available to Tenant and its employees, agents, contractors, customers and invitees during the Term on a non-reserved basis. The Premises and the Lot are depicted and labeled on Exhibit "B" attached hereto.

2. TERM OF LEASE; EARLY TERMINATION.

- (a) **Initial Term.** The initial term of this Lease is five (5) years, commencing on November 1, 2013 (the "Commencement Date"), and terminating on October 31, 2018 (the "Initial Term").
- (b) **Extension of Initial Term.** Subject to the terms and conditions of this Paragraph 2(b), Tenant may extend the Initial Term for two additional periods of five years each (each, a "Renewal Term", and collectively with the Initial Term, the "Term"). Basic Rent for the first Lease Year (as defined below) of each Renewal Term shall be equal to ninety-five (95%) percent of the then fair market rental rate for the Premises, based upon comparable rates for similar spaces in the surrounding area. Tenant shall exercise each extension option by providing Landlord notice of its intent to exercise an option at least 180 days prior to the last day of the then-current Term. If Tenant timely notifies Landlord of its intent to renew, each party shall provide the other with its opinion of the fair market rental

rate for the first Lease Year of the applicable Renewal Term at least 150 days prior to the expiration of the then-current Term. In the event the parties cannot agree as to the fair market rental rate at least 120 days prior to the expiration of the then-current Term, Tenant may elect to initiate binding arbitration before JAMS or the American Arbitration Association using a single independent arbitrator in order to determine the fair market rental rate for the applicable Lease Year (the cost of which shall be borne equally by the parties). If Tenant has not filed an arbitration action at least 90 days before the expiration of the then-current Term, Tenant's election to extend the Term shall be deemed withdrawn. If Tenant elects to arbitrate, then, until the arbitration is concluded, Basic Rent for the first Lease Year of the applicable Renewal Term shall be 103% of the Basic Rent in effect at the end of the immediately preceding Lease Year. Upon final determination of the fair market rental rate, the parties shall make an adjustment to the next Rent payment falling due in order to reconcile the difference between the amount of any Rent payments previously made by Tenant with respect to the Renewal Term and the Rent payments actually due during that time period.

- (c) **Early Termination.** Tenant may terminate this Lease without cause effective on or after the third anniversary of the Commencement Date by providing Landlord with not less than six (6) months' prior notice of Tenant's intent to terminate (the "**Termination Option**"). If Tenant exercises the Termination Option, then Tenant shall pay Landlord, on or before the effective date of that termination, the unamortized cost of any Landlord's Work (as defined in Paragraph 6) and real estate commissions paid for by Landlord in connection with the execution of this Lease, which amounts shall be amortized without interest on a straight line basis over the Initial Term.

3. BASIC RENT.

- (a) **Basic Rent During Initial Term.** Tenant shall pay to Landlord basic rent in the following amounts ("**Basic Rent**"), in advance and without demand, on the first day of each month during the Initial Term:

Lease Year	Monthly Basic Rent
One	██████████
Two	██████████
Three	██████████
Four	██████████
Five	██████████

- (b) **Basic Rent During Renewal Terms.** Basic Rent for the first Lease Year of each Renewal Term shall be determined in accordance with Paragraph 2(b). At the

beginning of each other Lease Year during any Renewal Term, Basic Rent shall be increased by the applicable CPI Increase.

(c) **Definitions.**

- (i) The term “**CPI Increase**” shall mean, for a particular Lease Year, the percentage increase (rounded to two decimal places), if any, in (1) the CPI published for the month two months prior to the month of the commencement of such Lease Year, over (2) the CPI published for the month that is 14 months prior to the month of the commencement of such Lease Year.
- (ii) “**CPI**” shall mean the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Wage Earners and Clerical Workers, United States Average, Subgroup “All Items” (1982 – 1984 = 100), or any reasonably comparable successor index if the publishing of the CPI is discontinued.
- (iii) The term “**Lease Year**” shall mean the 12-month period commencing on the Commencement Date and each 12-month period thereafter during the Term.

4. **ADDITIONAL RENT.**

- (a) **Additional Rent.** For each year during the Term, Tenant shall pay monthly as “**Additional Rent**” (Additional Rent together with Basic Rent, is hereinafter referred to as “**Rent**”) its pro rata share of the following charges assessed against the Building, which shall not exceed the charges that would be made to Tenant if Tenant contracted directly for the services for which such charges are made:

Charge or Service:	Pro Rate Share Allocated to Tenant:
Refuse Collection	50%
Common Area Utilities	50%

With respect to the costs set forth above:

- (i) Tenant shall pay Landlord 1/12th of Landlord’s reasonable estimate of Tenant’s Additional Rent obligation for the then-current calendar year on the first day of each calendar month during the Term. Beginning with the 2014 calendar year, Landlord shall provide Tenant with its Additional Rent estimate for the upcoming calendar year at least thirty (30) days before the commencement of such year.
- (ii) Additional Rent shall not include any costs that are directly paid for or reimbursed to Landlord by any other party.

- (b) **Payment.** Tenant shall deliver all payments of Rent to Landlord at the address set forth in Paragraph 17 herein or, upon notice to Tenant, at another location. If the Basic Rent is not paid by Tenant within (10) days after tenant's receipt of notice from Landlord that such installment of Basic Rent was not paid, then Tenant agrees to pay the late charge of Five Dollars [REDACTED] per each additional day thereafter until the past due installment is paid in full. Any late fee assessed against Tenant as set forth herein shall be used to compensate Landlord for additional administrative costs, expenses and as liquidated damages caused by the late payment.
- (c) **Landlord's Statement.** Within ninety (90) days after the end of each calendar year, Landlord shall submit a statement ("**Landlord's Statement**") showing expenses actually incurred during the year and the amount paid by Tenant hereunder as Additional Rent during the preceding calendar year. If such statement indicates that the aggregate amount of such payments exceeds Tenant's actual liability for Additional Rent, Landlord shall pay Tenant such excess amount at the time of the delivery of such Landlord's Statement. If such statement indicates that Tenant's actual liability exceeds the aggregate amount of such payments, then Tenant shall pay the amount of such excess within thirty (30) days after receipt of such Landlord's Statement.
- (d) **Audit.** For a period of six months following receipt by Tenant of any Landlord's Statement, Tenant, or an independent certified public accountant designated by Tenant, shall have the right during regular business hours to inspect and audit Landlord's books and records relating to Additional Rent billed during such year and covered by such Landlord's Statement. If as a result of such audit it becomes clear that an error was made in the calculation of Tenant's share, then an appropriate adjustment to Tenant's share shall be made promptly. If an audit establishes that Landlord's accounting of Tenant's share was overstated, Landlord shall pay Tenant's expense of the audit.
- (e) **Management.** Tenant and Landlord acknowledge that to the extent that Tenant engages a third party to act as a property manager to perform its maintenance obligations under Paragraph 13 of this Lease (the "**Property Manager**"), such Property Manager shall not perform any obligations that are the responsibility of the Landlord hereunder. If applicable, Tenant shall be responsible for paying a management fee earned by the Property Manager and any costs associated with the work performed by the Property Manager on behalf of Tenant, in amounts and in a manner mutually agreed to from time to time by the Tenant and Property Manager.

5. USE AND OCCUPANCY OF THE PREMISES.

- (a) The Premises may be occupied only for commercial (non-residential) purposes and may be used as professional offices and for related purposes. No other use shall be permitted without the prior consent in writing of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Landlord represents

and warrants to Tenant that, pursuant to applicable law (including local rules, regulations and ordinances), the Premises can and is ready to be used as professional offices and for related purposes. Landlord shall not take any action to alter or amend, or voluntarily permit the alteration or amendment of, the certificate of occupancy (or similar certificate) for the Premises in such a way that the Premises will no longer be allowed to be used for the permitted use set forth in this Paragraph 5(a).

- (b) Tenant's use and occupancy of the Premises shall be in conformance with all applicable federal, state and local rules, regulations, laws and ordinances now in force or that may be enacted in the future. Tenant shall not store any flammable, hazardous, or toxic substances or engage in any activity on or about the Premises which activities or substances expose Tenant, Landlord, or others to an unreasonable risk of injury, loss or damage.
- (c) Notwithstanding anything in this Lease to the contrary, but subject to Paragraph 20(k), Landlord shall not require Tenant to undertake any construction or alterations in the Premises or Building in order to comply with laws, rules, regulations, orders, ordinances, directions or requirements of any governmental authority or agency except to the extent that the construction or alteration is required as a result of any particular use (including any alterations) of the Premises by Tenant. If any portion of the Premises is in violation of any such laws, rules, regulations, orders, ordinances, directions or requirements, and that violation is not a result of Tenant's particular use of the Premises, then to the extent that violation materially and adversely interferes with Tenant's ability to conduct its business in the Premises or subjects Tenant to any fine or penalty, Landlord shall, within a reasonable period of time after notice from Tenant, correct the condition at Landlord's expense. Landlord shall deliver a copy of a Phase One Environmental Report for the Property to Tenant prior to the execution and delivery of this Lease.

6. LANDLORD'S WORK.

Landlord shall, on or before the Commencement Date and in a good and workmanlike manner, repaint all walls and replace all carpets within the Premises, and replace the vinyl floor coverings in the break room located within the Premises (the "**Landlord's Work**"). If Landlord has not completed the Landlord's Work on or before the Commencement Date to the reasonable satisfaction of Tenant, then Tenant shall be entitled to a 50% abatement of Basic Rent for the period during which the Landlord's Work remains outstanding.

7. SECURITY DEPOSIT.

Tenant shall deliver to Landlord, on or before the Commencement Date, \$5,800 to be held by Landlord as security for Tenant's performance of the terms and conditions of this Lease (the "**Security Deposit**"). Landlord shall return the unapplied portion of the Security Deposit to Tenant within 30 days after the expiration or earlier termination of this Lease.

8. DESTRUCTION OF PREMISES.

Tenant shall notify Landlord as soon as possible of any casualty loss in or about the Premises and Tenant shall promptly notify Landlord of any circumstance or condition in or about the Premises that Tenant has actual knowledge of and which threatens the Premises, the Property or the safety of Tenant, Landlord or others. If the Premises is partially or completely destroyed by fire or other casualty, Tenant shall have the right and option to (a) continue to occupy the habitable portion, if any, of the Premises, or (b) terminate this Lease and receive an immediate return of all sums prepaid by Tenant through the date of transfer of possession to Landlord. Tenant shall not have the option of terminating this Lease if the loss was the result of the negligence of Tenant, Tenant's employees or business invitees and Landlord restores the Premises within ninety (90) days of the said damage. Rent shall be proportionately abated based on the usable portion of the Premises, Building and/or Lot (in Landlord and Tenant's reasonable opinions) until such time as the Premises, Building and/or Lot are fully restored to the condition existing immediately prior to such casualty.

9. INSURANCE.

Landlord shall insure the Building with a broad form fire and extended coverage insurance policy at full replacement value of the Building. Tenant shall insure Tenant's personal property in or about the Premises.

Landlord and Tenant shall maintain commercial general liability insurance coverage of not less than One Million Dollars (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) in the aggregate, insuring against injury or death to persons occurring in or about the Premises or on the Property. Landlord and Tenant shall name the other on all policies of insurance obtained regarding the Premises, each as their interest may appear. Landlord and Tenant shall each give the other at least ten (10) days' prior notice of the cancellation of any such policies. Landlord and Tenant shall be entitled to a certificate of insurance no later than ten (10) days after the expiration date of the then existing policies, together with evidence that the premiums have been prepaid for the full term of the policies.

Notwithstanding anything in this Lease to the contrary, Landlord and Tenant hereby waive and release each other of and from any and all rights of recovery, claims, actions or causes of action against each other, their agents, officers, representatives, employees, servants, contractors and invitees for any loss or damage that may occur to the Premises, improvements or fixtures therein or thereon, or any personal property within the Premises, from any cause whatsoever, to the extent insured against under the terms of the policies required hereunder, regardless of cause or origin, including the negligence of Landlord or Tenant or their agents, officers, representatives, servants, employees, contractors or invitees.

Landlord and Tenant shall cause each insurance policy required under this Lease to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by such policy.

10. SUBLETTING AND ASSIGNMENTS.

Tenant may assign this Lease (whether by operation of law or otherwise) or enter into any sublease agreement with the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything in the foregoing sentence to the contrary, Tenant may, without Landlord's prior consent, assign its rights and obligations under this Lease (a) to an entity that controls, is controlled by or is under common control with Tenant, (b) to an entity that purchases all or substantially all of Tenant's assets or (c) to an entity into which Tenant merges. Tenant shall receive 100% of any net profit generated by a sublease entered into in accordance with the provisions of this Paragraph 10. A change in the ownership or control of Tenant shall not be deemed an assignment of this Lease.

11. RELIEF OF LANDLORD FROM LIABILITY.

Tenant releases Landlord from liability for any personal injury or damage to property of Tenant, Tenant's employees or business invitees not arising from the negligence or intentional acts of Landlord or Landlord's agents, contractors or employees.

12. INDEMNIFICATION.

Tenant shall indemnify, hold harmless and defend Landlord, at Tenant's expense, from and against any and all actions, claims, demands and expenses (including, without limitation, reasonable attorneys' fees and costs) to the extent relating to or arising from, directly or indirectly: (i) the gross negligence or willful misconduct of Tenant or Tenant's employees, agents or invitees, and (ii) any failure on the part of Tenant to perform any of the agreements, terms, covenants or conditions of this Lease required to be performed by Tenant hereunder.

13. MAINTENANCE OF PREMISES.

Tenant shall use due care in the use of the Premises and all heating, ventilating and air conditioning systems within the Premises.

Landlord shall maintain in good order and repair, including making any necessary repairs and replacements of, the Common Areas, roof, outside walls, the HVAC and mechanical systems (but subject to the allocation of responsibility below with respect to the Heat Pumps), and other structural parts of the Building, the Lot, driveways and sidewalks, trees and shrubs, the sewer, water pipes and other plumbing matters, the electrical wiring, all other items that are capital in nature and all other items not specifically designated to Tenant under this Lease. Landlord shall further be responsible for the cost of all necessary repairs to the dedicated heat pumps serving the Premises (the "**Heat Pumps**") to the extent that the cost of any single repair exceeds \$1,000, and for the full cost of any necessary replacements of the Heat Pumps. Landlord shall also be responsible, at its sole cost, for repairs and replacements due to fire or other casualty.

Tenant's obligations for maintenance shall include: interior lighting, painting and decorating, floor coverings, and maintenance of voice and data communications lines and equipment. Tenant shall further be responsible for (a) maintaining a maintenance service contract with an HVAC contractor that includes inspections of the Heat Pumps not less than once per year and (b) the cost of any necessary repair to the Heat Pumps, up to a cost of \$1,000 for each single

repair. Landlord represents and warrants to Tenant that the Heat Pumps are in good working order and repair as of the Commencement Date.

Tenant, after obtaining Landlord's consent (which consent shall not be unreasonably withheld, conditioned or delayed), shall also have the right to make nonstructural alterations and improvements to the Premises, as long as such alterations and improvements are performed in compliance with all applicable laws and at Tenant's sole cost.

14. RIGHT OF ENTRY.

Landlord, Landlord's agent and persons authorized by Landlord shall have the right, after reasonable prior notice to Tenant, to enter the Premises at all reasonable times to inspect, perform maintenance, do repairs and show the Premises to prospective purchasers or during the last six (6) months of the Term to prospective tenants; provided that in no event shall such access rights unreasonably interfere with Tenant's use of the Premises.

15. REAL ESTATE TAXES; UTILITIES.

(a) **Real Estate Taxes.** Landlord shall pay all real estate taxes assessed against the Property or Landlord.

(b) **Utilities.** The following charges for utilities and services supplied to the Premises shall be paid directly by Tenant, all of which, to the extent applicable, shall be separately metered for the Premises: sewer, water, cable, telephone, electric, natural gas (if applicable), janitorial services and pest control services (if any).

16. REMEDIES.

The parties acknowledge and agree that time is of the essence and if Tenant shall fail to pay the Rent when due, or if Tenant shall breach any other term or condition of this Lease, then Landlord after the applicable notice and cure period shall have the right and option to pursue any remedy available under applicable laws.

Notwithstanding anything herein to the contrary, Landlord cannot exercise any of its remedies contained in this Lease (other than the assessment of a late charge on Basic Rent as set forth in Paragraph 4(b)) unless: (a) any monetary default remains uncured and such failure continues for a period of ten (10) business days after notice from Landlord to Tenant; or (b) any non-monetary default remains uncured for a period of thirty (30) calendar days after notice from Landlord to Tenant (or such longer time period if reasonably required to cure such non-monetary default and Tenant has commenced curing the default within the said thirty (30) calendar day period). To be effective, any default notice provided by Landlord hereunder must conspicuously state that it is a notice of default.

All remedies contained in this Lease shall be cumulative and concurrent. If Landlord shall pursue any remedy, it shall not be deemed to be a waiver of the right to seek any other remedy that may exist. Either party shall have the right to require strict compliance with the terms and conditions of this Lease without having insisted upon strict compliance at any time during the Term of this Lease. Any conduct which is inconsistent with the right to insist upon strict

compliance shall not be a waiver of the right to insist upon strict compliance in the future, shall not create a custom, and shall not modify the terms and conditions of this Lease.

Landlord shall use its commercially reasonable efforts to mitigate its damages in the event that Tenant breaches this Lease.

17. NOTICES.

Any notice, consent, or other communication required or permitted to be given under this Lease must be in writing and shall be effectively given or delivered if hand delivered to the addresses for Landlord and Tenant stated below or if sent by certified, registered or Post Office Express United States Mail, return receipt requested, or FedEx or another nationally recognized overnight courier to said addresses. Any notice mailed shall be deemed to have been given upon the earlier of (a) receipt or refusal thereof, or (b) three days after depositing the same in the U.S. Mail as aforesaid or the next business day after deposit with a nationally recognized overnight courier. Notice effected by hand delivery shall be deemed to have been given at the time of actual delivery. Either party shall have the right to change its address to which notices shall thereafter be sent and the party to whose attention such notice shall be directed by giving the other party notice thereof in accordance with the provisions of this Paragraph 17.

Landlord: Roscoe Properties, LLC
c/o Roscoe & Roscoe PA
1001 Pemberton Hill Rd., Suite 201
Apex, North Carolina 27502
Attn. Jeffrey V. Roscoe

Tenant: Carrolton Home Care, LLC
2800 Breezewood Avenue, Suite 100
Fayetteville, North Carolina 28303
Attn. Director of Operations

With a copy to: Curo Health Services, LLC
491 Williamson Road, Suite 204
Mooresville, NC 28117
Attn. Douglas J. Abell, General Counsel

18. LANDLORD'S COVENANT.

As of the Commencement Date, Landlord represents and warrants to Tenant that all leases, subleases and other occupancy agreements currently existing with respect to the Premises are terminated and of no further force and effect.

19. SURRENDER

Upon termination of this Lease for any cause, Tenant shall peaceably surrender possession of the Premises to Landlord in as good order and repair as upon the Commencement Date, excepting

casualty, reasonable wear and tear, and items required to be maintained or repaired by Landlord pursuant to this Lease. Tenant shall notify Landlord of any repairs or the need for repairs within the Building of which Tenant has actual knowledge. Trade fixtures and equipment that Tenant installs in or on the Premises shall not be deemed a part of the Premises and Tenant may remove those trade fixtures and equipment any time during the Term or upon the termination of this Lease. Tenant shall, at its expense, repair any damages to the Premises caused by its removal of said property.

20. MISCELLANEOUS.

- (a) **Eminent Domain.** If all or any part of the Premises or the Building shall be condemned under the government's power of eminent domain, this Lease shall terminate as to the portion taken and the Rent due hereunder shall be proportionately abated based on the square footage taken pursuant to such power of eminent domain. Notwithstanding anything herein to the contrary, in the event that a material portion of the Premises, Common Area (including, without limitation, the Lot) or Building is taken, Tenant shall have the right to terminate this Lease on notice to Landlord, which termination shall be effective as of the date of the taking. Landlord shall not be liable to Tenant for any claims by Tenant for loss of use of all or any portion of the Premises (or the Building) or because this Lease has been terminated. Landlord shall give Tenant prompt notice of any proposed eminent domain proceeding.
- (b) **Binding Effect, Amendments, Choice of Law.** This Lease shall be binding upon the heirs, executors, personal representatives, successors and assigns of the parties hereto. All rights and remedies of Landlord and Tenant under this Lease shall be cumulative and none shall exclude any other rights or remedies allowed by law. This Lease is declared to be a contract, and all of the terms hereof, and all disputes between the parties arising out of or relating to this Lease, shall be construed according to and governed by the laws of the state where the Property is situated. This Lease may not be altered, changed or amended, except by an instrument in writing executed by all parties hereto, subject to all applicable laws.
- (c) **Consents and Approvals.** Tenant is a Delaware limited liability company. Tenant warrants that all consents or approvals required of third parties for the execution, delivery and performance of this Lease have been obtained and that Tenant has the right and authority to enter into and perform its covenants contained in this Lease. Landlord is a North Carolina limited liability company. Landlord warrants that all consents or approvals required of third parties for the execution, delivery and performance of this Lease have been obtained and that Landlord has the right and authority to enter into and perform its covenants contained in this Lease.
- (d) **Severability.** If any term or provision of this Lease, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not

be affected thereby, and each provision of this Lease shall be valid and shall be enforceable to the extent permitted by law.

- (e) **Exhibits and Schedules.** This Lease includes all of the Exhibits and Schedules attached hereto. The terms and conditions included in the attached Exhibits and Schedules, if any, are part of this Lease.
- (f) **Real Estate Broker.** Each party hereto warrants and represents to the other that other than Mohr Partners, Inc. and Lancaster Helms & Player Real Estate, who Landlord has agreed to pay \$14,780.63 and \$11,085.67, respectively, in connection with the execution of this Lease, no real estate broker or salesman has been involved in the negotiation or execution of this Lease, and each party agrees to indemnify and hold the other harmless from and against any and all claims of any other real estate broker or salesman that arise from the acts of the indemnifying party or its representatives.
- (g) **Compliance.** The parties acknowledge and agree that the remuneration set forth herein has been negotiated in an arm's-length transaction and represents the fair market value and has not been determined in a manner which takes into account the volume or value of referrals or business, if any, that may otherwise be generated between the parties or their employees or contractors. Nothing contained in this Lease shall be construed in any manner as an obligation or inducement to the making of any patient referrals or to generate any other business. Furthermore, the Premises does not exceed that which is reasonably necessary to accomplish the commercially reasonable business purpose of Tenant.
- (h) **Change of Law.** In the event that any governmental or nongovernmental agency, or any court or administrative tribunal passes, issues or promulgates any new, or change to any existing, law, rule, regulation, standard, interpretation, order, decision or judgment (individually or collectively, "**Legal Event**"), which a party (the "**Noticing Party**") reasonably believes (a) materially and adversely effects either party's licensure, accreditation, certification, or ability to refer, to accept any referral, to present a bill or claim, or to receive payment or reimbursement from any governmental or non-governmental payor, or (b) indicates a Legal Event with which the Noticing Party desires further compliance, then, in either event, the Noticing Party may give the other party thirty (30) days prior notice of its intent to propose an amendment or its intent to terminate this Lease. The Noticing Party may propose an amendment to this Lease to take into account the Legal Event, and, if accepted by the other party prior to the end of the thirty (30) day notice period, this Lease shall be amended as of the date of such acceptance and if not amended shall automatically terminate.
- (i) **Quiet Enjoyment.** Landlord covenants and warrants that it has the full right and lawful authority to enter into this Lease for the Term; that Landlord is lawfully seized of the Premises and has good title thereto, free and clear of all tenancies and encumbrances; and that Tenant shall have quiet and peaceable possession of the Premises during the Term.

- (j) **Signage.** Tenant shall have the right, at Tenant's sole cost and expense, to install signage on up to one-half (1/2) of the existing monument sign located in front of the Building, provided such signage is in accordance with all applicable laws and ordinances.
- (k) **ADA Compliance.** Notwithstanding anything to the contrary in this Lease, Landlord shall, at Landlord's own cost and expense, cause the structure of the Premises to comply in all material respects with the Americans with Disabilities Act of 1990, as now or hereafter amended, and the rules and regulations from time to time promulgated thereunder (hereinafter collectively referred to as the "**Act**"). Landlord hereby agrees to defend, indemnify and hold Tenant harmless from and against any and all claims, demands, actions, damages, fines, judgments, penalties, costs (including attorney's and consultant's fees) liabilities and losses resulting from Landlord's failure to comply with the Act in accordance with this Paragraph 20(k). Tenant shall notify Landlord of any failure to comply with the Act as required under this Lease to the extent Tenant has knowledge of the same. The provisions of this paragraph shall survive the expiration or other termination of this Lease.
- (l) **Force Majeure.** Neither party will be responsible for delays resulting from causes beyond the reasonable control of such party, including fire, explosion, flood, war, strike, terrorism acts, or riot, provided that the nonperforming party uses commercially reasonable efforts to avoid or remove such causes of nonperformance and continues performance under this Lease with reasonable dispatch whenever such causes are removed.
- (m) **Waiver.** No party shall be deemed to have waived compliance by another party of any provision of this Lease unless such waiver is contained in a written instrument signed by the waiving party and no waiver that may be given by a party will be applicable except in the specific instance for which it is given
- (n) **Construction and Interpretation.** Both parties acknowledge and agree that each party has had the benefit of competent, independent legal counsel and other advisors, and that each party has had an equal right to negotiate the terms and participate in the drafting of this Lease. If any ambiguity or question of intent or interpretation arises, no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Lease.
- (o) **Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Lease and all of which, when taken together, shall be deemed to constitute one and the same agreement. Executed versions of this Lease may be delivered by the parties via facsimile transmission or email, either or both of which shall constitute delivery of an original.

- (p) **Entire Agreement.** This Lease embodies the entire agreement and understanding of the parties related to its subject matter and supersedes all prior proposals, understandings, agreements, correspondence, arrangements and contemporaneous oral agreements relating to subject matter of this Lease. No representation, promise, inducement or statement of intention has been made by any party that has not been embodied in this Lease.
- (q) **Holding Over.** Should Tenant hold over at the Premises after termination of this Lease, by lapse of time or otherwise, Tenant shall be a tenant from month to month, at the same rental and under the same terms and conditions in force at the expiration of this Lease, except as otherwise notified by Landlord.
- (r) **Landlord Overhead Charges.** Landlord shall not charge any overhead, administrative or similar fee to Tenant in connection with any alterations or other work performed or overseen by Landlord within the Premises.
- (s) **Relocation of Tenant.** Landlord shall not have the right to relocate Tenant to any other premises in the Building at any time during the Term.
- (t) **Landlord W-9.** Landlord shall execute and deliver to Tenant an Internal Revenue Service form W-9 on the Effective Date.
- (u) **Information for Tenant Insurance.** Schedule 1 to this Lease contains certain information about the Premises and Building that Tenant needs in order to obtain the insurance required by this Lease.
- (v) **Memorandum of Lease.** Landlord shall execute, acknowledge and record, within a reasonable period of time after Tenant's request, a Memorandum of Lease summarizing the basic information in this Lease. The Memorandum shall be in a form and substance that is acceptable to Tenant in its reasonable discretion.

[Signature page follows]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first set forth above.

LANDLORD:

ROSCOE PROPERTIES, LLC, a North Carolina limited liability company

By: _____
Name: _____
Title: _____

TENANT:

CARROLTON HOME CARE, LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

Exhibit A
Legal Description
[See Attached]

Exhibit B
Depiction of the Premises
[See Attached]

Exhibit C
Executed Landlord W-9
[See Attached]

Schedule 1
Premises and Building Information for Tenant Insurance

Building Construction:	Frame construction with brick veneer
Building Age:	Constructed in 2004
Number of Stories in Building:	2
Premises Square Footage:	4,926
Description of Fire Protection Systems at Building and Premises (e.g., sprinklers, smoke/fire alarms):	Smoke alarms and construction to meet building codes.