



January 27, 2023

Via Email: shpda.online@shpda.alabama.gov

RE: Comfort Care Home Health, LLC
Drop Site Relocation- Letter of Non-Reviewability
SHPDA ID: 117-P2315
Medicare No.: 01-7153

To whom it may concern:

On behalf of Comfort Care Home Health Services, LLC d/b/a Aveanna Home Health, please accept this request for a Letter of Non-Reviewability to relocate the existing drop site in Tuscaloosa County from the following address below.

Previous Address:
2314 11th Street
Tuscaloosa, AL 35401

New Address:
507 Energy Center Blvd, Suite 303
Northport, AL 35473-2796

As set forth below, the drop site will comply with the following requirements:

- Staff will not be assigned to the drop site location.
- Referrals will not be accepted at this drop site location.
- Comfort Care Home Health Services, LLC d/b/a Aveanna Home Health will not advertise the drop site as part of its operations nor will it operate the drop site in any way as a HHA branch location.
- The drop site will remain in the approved CON county of Tuscaloosa County.

Enclosed is the lease and receipt of non-reviewability payment fee \$1,000.00 made via portal. Should you have any questions or require any additional information, please contact Carolina Green via email at credentialing@aveanna.com.

Regards,

Carolina Green

Carolina Green
Director, Regulatory Licensing
CC: Kate Speer

LEASE AGREEMENT

THIS LEASE is made and entered into this 13th day of December, 2022, by and between Energy Center II, Ltd. (hereinafter "Landlord"), and Comfort Care Home Health Services, LLC (hereinafter "Tenant").

For and in consideration of the rental and of the covenants and agreements hereinafter set forth to be kept and performed by the Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises herein described for the term, at the rental and subject to and upon all of the terms, covenants and agreements hereinafter set forth.

1. PREMISES

Description. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord those certain Premises (hereinafter "Premises") together with appurtenances, situated in the city of Northport, County of Tuscaloosa, State of Alabama, more particularly described as follows:

Suite(s) 303 of the Energy Center Office Park, consisting of about 1100 square feet of office space, located at 507 Energy Center Boulevard, Northport, Alabama, 35473.

2. TERM

2.1 *Term.* The term of this lease shall be for a period of two year commencing on the 1st day of January 2023, and ending on the 31st day of December 2025, unless sooner terminated pursuant to the Lease.

2.2 *Delay in Commencement.* Tenant agrees that in the event of the inability of Landlord for any reason to deliver possession of the Premises to Tenant on the commencement date set forth in Section 2.1, Landlord shall not be liable for any damage thereby caused nor shall such inability affect the validity of this Lease or the obligations of Tenant hereunder, but in such case Tenant shall not be obligated to pay rent or other monetary sums until possession of the Premises is tendered to Tenant.

3. RENT

Tenant shall pay to Landlord as rent for the Premises in advance on the first day of each calendar month of the term of this Lease without deduction, offset, prior notice or demand, in lawful money of the United States, the sum of One Thousand One Hundred and 00/100 Dollars (\$ 1100.00).

If the commencement date is not the first day of a month, or if the Lease termination date is not the last day of a month, a prorated monthly installment shall be paid at the then current rate for the fractional month during which the Lease commences and/or terminates.

Concurrently with Tenant's execution of this lease, Tenant shall pay to Landlord the sum of \$ 1100.00 for first month's prorated rent.

All rental payments due hereunder shall be paid to Sealy Management Co., Inc. at 1200 Greensboro Avenue, Tuscaloosa, AL 35403, or by mail to same at P.O. Box 1370, Tuscaloosa, AL 35403.

4. TAXES

4.1 *Personal Property Taxes.* During the term hereof Tenant shall pay prior to delinquency all taxes assessed against and levied upon fixtures, furnishings, or other personal property, whether billed to Tenant or Landlord.

5. USE

5.1 *Use.* The Premises shall be used and occupied by Tenant for business or professional offices and for no other purpose without the prior written consent of Landlord.

5.2 *Suitability.* Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or express or implied warranty with respect to the Premises or the Building (if any) of which the Premises may be a part or with respect to the suitability of either for the conduct of Tenant's business, nor has Landlord agreed to undertake any modification, alteration or improvement to the Premises except as provided in this Lease. The taking of possession of the Premises by Tenant shall conclusively establish that the Premises and said Building were at such time in satisfactory condition.

5.3 *Uses Prohibited.*

- (a) Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way increase the existing rate of or affect any fire or other insurance upon the Premises or the Building (if any) of which the Premises may be a part or any of its contents (unless Tenant shall pay any increased premium as a result of such use or acts), or cause a cancellation of any insurance policy covering said Premises any articles which may be prohibited by a standard form policy of fire insurance.
- (b) Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Building (if any) or injure or annoy them or use or allow the Premises to be used for any unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer to be committed any waste in or upon the Premises.
- (c) Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or governmental rule or regulation or requirement of duly constituted public authorities now in force or which may hereafter be enacted or promulgated. Tenant shall at its sole cost and expense promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters or other similar body now or hereafter constituted relating to or affecting the condition, use or occupancy of the Premises, excluding structural changes not relating to or affecting the condition, use or occupancy of the Premises, or not related or afforded by Tenant's improvements or acts. The judgment of any court of competent jurisdiction or the

admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of the fact as between Landlord and Tenant.

6. UTILITIES

Tenant shall during the term hereof pay prior to delinquency all charges for water, gas, heat, light, power, telephone and janitorial services and all other materials and services supplied to the Premises and shall hold Landlord harmless from any liability therefrom.

7. MAINTENANCE AND REPAIRS; ALTERATIONS AND ADDITIONS

7.1 Maintenance and Repairs.

- (a) Landlord's Obligations. Landlord at its sole cost and expense shall maintain in a good state of repair the roof and walls including windows, and all structural portions of the roof, walls, floors and foundations except for any repairs caused by the wrongful act of Tenant and its agents. Landlord shall repair when necessary, the HVAC, electrical, and plumbing systems of the building unless caused by Tenant abuse or misuse.
- (b) Tenant's Obligations.
- (i) Landlord at Tenant's sole cost and expense shall maintain the Premises and appurtenances and every part thereof, excepting those items which Landlord is obligated to repair pursuant to Section 7.1 (a), in good order, condition and repair, including but not limited to the interior surfaces of the ceilings, walls and floors, and equipment installed by or at the expense of Tenant. Tenant expressly waives the benefits of any law now or hereafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition and repair.
 - (ii) Upon the expiration or earlier termination of this lease, Tenant shall surrender the Premises in the same condition as received, ordinary wear and tear and damage by fire, earthquake, act of God or the elements alone excepted, and shall promptly remove or cause to be removed at Tenant's expense from the Premises any signs, notices and displays placed by Tenant prior to termination date.
 - (iii) Tenant agrees to repair any damage to the Premises caused by or in connection with the removal of any articles of personal property, business or trade fixtures, machinery, equipment, cabinetwork, furniture, moveable partition or permanent improvements or addition, including without limitation thereto, repairing the floor and patching and painting the walls where required by Landlord to Landlord's reasonable satisfaction, all at Tenant's sole cost and expense. Tenant shall indemnify the Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Premises, including without limitation any claims made by any succeeding tenant founded on such delay.
 - (iv) In the event Tenant fails to maintain the Premises in good order, condition and repair in accordance with Sec. 7.1b(i), Landlord shall give Tenant notice to do such acts as are reasonably required to so maintain the Premises. In the event Tenant fails to promptly commence such work within ten days and diligently prosecute it to completion, then Landlord shall have the right to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant as additional rent promptly after demand with interest at ten percent (10%) per annum from the date of such work. Landlord shall have no liability to Tenant for any damage, inconvenience or interference with the use of the Premises by Tenant as a result of performing any such work.
- (c) Compliance with Law. Landlord and Tenant shall each do all acts required to comply with all applicable laws, ordinances, regulations and rules of any public authority relating to their respective maintenance obligation as set forth herein.

7.2 Alterations and Additions.

- (a) Tenant shall make no alterations, additions or improvements to the Premises or any part thereof without first obtaining the prior written consent of Landlord, such consent not to be unreasonably withheld.
- (b) Landlord may impose as a condition to the aforesaid consent such requirements as Landlord may deem necessary in its sole discretion, including without limitation thereto, the manner in which the work is done, a right of approval of the contractor by whom the work is to be performed, the times during which it is to be accomplished, and the requirement that upon written request of Landlord prior to the expiration or earlier termination of the Lease, Tenant will remove any and all permanent improvements or additions to the Premises installed at Tenant's expense.
- (c) All such alterations, additions, or improvements shall at the expiration or earlier termination of the Lease become the property of Landlord and remain upon and be surrendered with the Premises unless specified pursuant to Section 7.2 (b) above.
- (d) All articles of personal property and all business and trade fixtures, machinery and equipment, cabinetwork, furniture and moveable partitions owned by Tenant or installed by Tenant at its expense in the Premises shall be and remain the property of Tenant and may be removed by Tenant at any time during the Lease term when Tenant is not in default hereunder.

8. ENTRY BY LANDLORD

Landlord reserves and shall at any and all times have the right to enter the Premises to inspect the same, to submit said Premises to prospective purchasers or tenants, to post notices of non-responsibility and "for-lease" signs, and to alter, improve or repair the Premises and any portion of the Building without abatement of rent, and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing the entrance to the Premises shall not be blocked thereby, and further providing that the business of Tenant shall not be interfered with

unreasonably. Tenant hereby waives any claim for damages for any injury of inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults and safes, and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, in order to obtain entry to the Premises and any entry to the Premises obtained by Landlord by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of the Premises or an eviction of Tenant from the Premises of any portion thereof. Notwithstanding anything in this lease to the contrary, Landlord shall provide Tenant with 24-hour prior notice prior to accessing the Premises (except in the event of an emergency, in which case, Landlord shall provide Tenant with notice reasonable for the circumstances), and any access by Landlord to the Premises shall be accompanied by a representative of Tenant in order to ensure compliance with patient information confidentiality laws.

9. LIENS

Tenant shall keep the Premises and any Building of which the Premises are a part free from any liens out of work performed, materials furnished, or obligations incurred by Tenant and shall indemnify, hold harmless and defend Landlord from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of Tenant. In the event that Tenant shall not, within twenty (20) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but no obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith including attorney's fees and costs shall be payable to Landlord by Tenant on demand with interest at the rate of twelve percent (12%) per annum. Landlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law, or which Landlord shall deem proper, for the protection of Landlord and the Premises, and any other party having an interest therein, from mechanics' and materialmen's liens, and Tenant shall give to Landlord at least ten (10) business days prior written notice of the expected date of commencement of any work relating to alterations or additions to the Premises.

10. INDEMNITY

- 10.1 *Indemnity.* Tenant shall indemnify and hold harmless Landlord from and against any and all claims arising from Tenant's use of the Premises or the conduct of its business or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Premises and shall further indemnify and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act of negligence of Tenant, or any of its agents, contractors or employees, and from and against any and all cost, attorney's fees, expenses and liabilities incurred by Landlord in connection with such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord, provided, however that unless covered by insurance Tenant is required to provide. Landlord shall indemnify and hold harmless Tenant from and against any and all claims arising from any activity, work, or thing done, permitted or suffered by Landlord in or about the Building and shall further indemnify and hold Tenant harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Landlord's part to be performed under the terms of this Lease, or arising from any act of negligence of Landlord, or any of its agents, contractors or employees, and from and against any and all cost, attorney's fees, expenses and liabilities incurred by Tenant in connection with such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Tenant by reason of any such claim, Landlord upon notice from Tenant shall defend the same at Landlord's expense by counsel reasonably satisfactory to Tenant, provided, however that unless covered by insurance Landlord is required to provide.
- 10.2 *Exemption of Landlord from Liability.* Landlord shall not be liable for injury or damage which may be sustained by the person, goods, wares, merchandise or property of Tenant, its employees, invitees or customers, or any other person in or about the Premises caused by or resulting from fire, steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures of the same, whether the said damage or injury results from conditions arising upon the Premises or upon other portions of the Building of which the Premises are a part, or from other sources unless caused by Landlord's negligence or willful misconduct. Landlord shall not be liable for any damages arising from any act or neglect of any other Tenant (if any) of such Building.

11. INSURANCE

- 11.1 *Public Liability.* Tenant shall, at Tenant's sole cost and expense, but for the mutual benefit of Landlord and Tenant, maintain commercial general liability insurance against claims for personal injury, death or property damage occurring in, about or upon the Premises, and on, in or about the sidewalks directly adjacent to the Premises and such other areas as Tenant, its officers, agents, employees, contractors and invitees shall have the right to use pursuant to this Lease. Such insurance shall have a combined single limit of not less than \$1,000,000. Such insurance policy or policies shall be written in companies licensed to do business in Alabama, selected by Tenant, subject to the approval of such companies by the Landlord. Tenant shall, prior to opening for business in the Premises, furnish from the insurance companies, certificates of coverage evidencing the existence and amount of such insurance. All such policies of insurance shall be issued in the name of the Tenant and shall name Landlord as an additional insured. All such policies shall be primary, not contributory with and not in excess of the coverage which Landlord may carry. All such policies shall contain a clause or endorsement to the effect that they may not be terminated or materially amended except after fifteen (15) days written notice thereof to Landlord. Tenant shall have the right to provide such coverage pursuant to blanket policies obtained by Tenant provided

such blanket policies expressly afford the coverage required by this Lease.

11.2 *Intentionally Deleted.*

11.3 *Waiver of Subrogation.* Landlord and Tenant each hereby waive any and all rights of recovery against the other or against the officers, employees, agents and representatives of the other, on account of loss or damage occasioned to such waiving party or its property or the property of others under its control to the extent that such loss or damage is insured against under any fire and extended coverage insurance policy which either may have in force at the time of such loss or damage. Tenant agrees that all policies of insurance provided in 11.1 will be so endorsed as to provide that the foregoing waiver of subrogation will not result in any reduction or impairment of coverage thereunder.

11.4 *Landlord.* Landlord shall carry commercial general liability insurance covering the common areas of the building and property insurance for the building.

12. DAMAGE AND DESTRUCTION

In the event of the partial destruction of the Premises or the Building of which the Premises constitutes a part during the term of the Lease, Landlord shall forthwith make such repairs provided such repairs can be made within sixty (60) days under the laws and regulations of the public authorities, but such partial destruction (including any destruction necessary to make such repairs) shall in no event annul or void this Lease, except that Tenant shall be entitled to a proportionate reduction in rent while such repairs are being made, such reduction to be based upon the extent (if any) to which the making of such repairs materially interferes with the business carried on by Tenant in the Premises. If such repairs cannot be made within sixty (60) days, Landlord may at his option make such repairs within a reasonable time, in which event this Lease shall continue in full force and effect, except that the rent shall continue to be abated in accordance with the aforestated procedure and provided that Landlord notifies Tenant of his intention to do so within thirty (30) days after the partial destruction. In the event that the cost of restoring such damage or destruction exceeds \$50,000.00, Landlord may, at his option, elect to terminate this lease upon 30 days written notice to Tenant. In the event Landlord does not so elect to make such repairs which cannot be made within sixty (60) days, or such repairs cannot be made under such laws and regulations, then and in that event, this Lease may be terminated at the option of either party. Notwithstanding anything to the contrary contained in this Section 12, Landlord shall not have any obligation whatsoever to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered under this Section 12 occurs during the last twelve (12) months of the term of this Lease or any extension thereof. Except for abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration, nor shall Tenant have the right to terminate this Lease as the result of an law now or hereafter in effect pertaining to the damage and destruction of the Premises or the Building, except as expressly provided herein.

13. CONDEMNATION

If all or any part of the Premises shall be taken or appropriated for public or quasi-public use by right of eminent domain with or without litigation or transferred by agreement in connection with or in anticipation of such public or quasi-public use, either party hereto shall have the right at its option exercisable within thirty (30) days of receipt of notice of such taking to terminate this Lease as of the date possession is taken by the condemning authority, provided, however, that before Tenant may terminate this Lease by reason of taking or appropriation as provided hereinabove, such taking or appropriation shall be of such an extent and nature as to substantially handicap, impeded or impair Tenant's use of the Premises. If any part of the Building other than the Premises shall be so taken or appropriated, Landlord shall have the right at its option to terminate this Lease. No award for any partial or entire taking shall be apportioned, and Tenant hereby assigns to Landlord any award which may be provided, however, that nothing contained herein shall be deemed to give Landlord any interest in or to require Tenant to assign to Landlord any business and/or for Tenant's unamortized cost of leasehold improvements. In the event of a partial taking which does not result in a termination of this Lease, rent shall be abated in the proportion which the part of the Premises so made unusable bears to the rented area of the Premises or give Tenant any right to any abatement of rent thereunder; any award made to Tenant by any such temporary taking shall belong entirely to Tenant and Landlord shall not be entitled to share therein.

14. ASSIGNMENT AND SUBLETTING

14.1 *Landlord's Consent Required.* Tenant shall not assign, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the Premises or any part thereof, without the prior written consent of Landlord and any attempt to do so without such consent being first had and obtained shall be wholly void and shall constitute a breach of this Lease.

14.2 *Reasonable Consent.* If Tenant complies with the following conditions, Landlord shall not unreasonably withhold its consent to the subletting of the Premises or any portion thereof or the assignment of this Lease. Tenant shall submit in writing to Landlord (a) the name and legal composition of the proposed subtenant or assignee; (b) the nature of the business proposed to be carried on in the Premises; (c) the terms and provisions of the proposed sublease; (d) such reasonable financial information as Landlord may request concerning the proposed subtenant or assignee.

14.3 *No Release of Tenant.* No consent by Landlord to any assignment or subletting by Tenant shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent, assignment or subletting. The consent by Landlord to any assignment or subletting shall not relieve Tenant from the obligation to obtain Landlord's express written consent to any other assignment or to be a consent to any assignment, subletting or other transfer.

14.4 *Attorney's Fees.* In the event Landlord shall consent to a sublease or assignment under this Section 14, Tenant shall pay Landlord's reasonable attorney's fees not to exceed \$500 incurred in connection with giving such consent, only if use of an attorney is deemed necessary by Landlord.

14.5 *Permitted Assignment.* Notwithstanding anything in the lease to the contrary, Tenant may assign or sublet the Premises, or any portion thereof, without Landlord's consent, to any entity which controls, is controlled by or is under common control with Tenant, or to any entity resulting from the merger or consolidation with Tenant, provided that before such assignment shall be effective (a) said assignee shall assume, in full, the obligations of Tenant under this Lease and (b) Landlord shall be given

written notice of such assignment and assumption.

15. SUBORDINATION

- 15.1 *Subordination.* This Lease at Landlord's option shall be subject and subordinate to all ground or underlying leases which now exist or may hereafter be executed affecting the Premises or the land upon which the Premises are situated or both, and to the lien of any mortgages or deeds of trust in any amount or amounts whatsoever now or hereafter placed on or against the land or improvements or either thereof, of which the Premises are a part, or on or against Landlord's interest or estate therein, or on or against any ground or underlying lease without the necessity of the execution and delivery of any further instruments on the part of Tenant to effectuate such subordination. If any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust, or ground lease or the date of the recording thereof.
- 15.2 *Subordination Agreements.* Tenant covenants and agrees to execute and deliver upon demand without charge therefor, such further instruments evidencing such subordination of this Lease to such ground or underlying leases and to the lien of any such mortgages or deeds of trust as may be reasonably required by Landlord. If Tenant fails to return such instrument within 15 days of request, then Tenant hereby appoints Landlord as Tenant's attorney-in-fact, irrevocably, to execute and deliver any such agreements, instruments, release or other documents.
- 15.3 *Quiet Enjoyment.* Landlord covenants and agrees with Tenant that upon Tenant paying rent and other monetary sums due under the Lease, performing its covenants and conditions under the Lease and upon recognizing purchaser as Landlord pursuant hereto, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the term, subject, however, to the terms of the Lease and of any of the aforesaid ground leases, mortgages or deeds of trust described above.
- 15.4 *Attornment.* In the event any proceedings are brought for default under any ground or underlying lease or in the event of foreclosure or the exercise of the power of sale under any mortgage or deed of trust made by the Landlord covering the Premises, the Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease, provided said purchaser expressly agrees in writing to be bound by the terms of the Lease.

16. DEFAULT, REMEDIES

- 16.1 *Default.* The occurrence of any of the following shall constitute a material default and breach of this Lease by Tenant:
- (a) Any failure by Tenant to timely pay the rent or any other monetary sums required to be paid hereunder (where such failure continues for fifteen (15) days after written notice by Landlord to Tenant);
 - (b) The abandonment or vacation of the Premises by Tenant;
 - (c) A failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant, where such failure continues for twenty (20) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of the default is such that the same cannot reasonable be cured within said twenty (20) day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion;
 - (d) The making by Tenant of any general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.
- 16.2 *Remedies.* In the event of any such material default or breach by Tenant, Landlord may, at any time thereafter without limiting Landlord in the exercise of any right or remedy at law or in equity which Landlord may have by reason of such default or breach:
- (a) Maintain the Lease in full force and effect and recover the rent and other monetary charges as they become due, without terminating Tenant's right to possession irrespective of whether Tenant shall have abandoned the Premises. In the event Landlord elects not to terminate the Lease, Landlord shall have the right to attempt to re-let the Premises at such rent and upon such condition and for such a term, and to do all acts necessary to maintain or preserve the Premises as Landlord deems reasonable and necessary without being deemed to have elected to terminate the Lease, including removal of all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant. In the event any such re-letting occurs, this Lease shall terminate automatically upon the new tenant taking possession of the Premises. Notwithstanding that Landlord fails to terminate the Lease initially, Landlord at any time during the term of this Lease may elect to terminate this Lease by virtue of such previous default of Tenant.
 - (b) Terminate Tenant's right to possession by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including without limitation thereto, the following: (i) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that is proved could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to

perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom; plus (v) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable State law. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which Landlord in its sole discretion deems reasonable and necessary. The worth of future payments due shall be the present value based on a discount of 6% per annum.

- 16.3 *Late Charge.* A late charge of 5% of the monthly rental amount shall be made on any installment of rent which becomes more than 15 days past due.
- 16.4 *Default by Landlord.* Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address shall have therefore been furnished to Tenant in writing, specifying wherein Landlord has failed to perform such obligations; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance then Landlord shall not be in default if Landlord commences performance within such thirty-day period and thereafter diligently prosecutes the same to completion.

17. MISCELLANEOUS

- 17.1 *Estoppel Certificate.*
- (a) Tenant shall at any time upon not less than ten (10) day's prior written notice from Landlord execute, acknowledge and deliver to Landlord a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises.
- (b) Tenant's failure to deliver such statement within such time shall be conclusive upon Tenant (i) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) that there are no uncured defaults in Landlord's performance, and (iii) that not more than one month's rent has been paid in advance.
- 17.2 *Transfer of Landlord's Interest.* In the event of a sale or conveyance by Landlord of Landlord's interest in the Premises or in any building of which the Premises may be a part other than a transfer for security purposes only, Landlord shall be relieved from and after the date specified in any such notice of transfer of all obligations and liabilities accruing thereafter on the part of Landlord, provided that any funds in the hands of Landlord at the time of transfer in which Tenant has an interest, shall be delivered to the successor of Landlord. This lease shall not be affected by any such sale and Tenant agrees to attorn to the purchaser or assignee provided all Landlord's obligations hereunder are assumed in writing by the transferee.
- 17.3 *Captions; Attachments; Defined Terms.*
- (a) The captions of the paragraphs of this Lease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Lease.
- (b) Exhibits attached hereto, and addendums and schedules initialed by the parties, are deemed by attachment to constitute part of this Lease and are incorporated herein.
- (c) The words "Landlord" and "Tenant", as used herein, shall include the plural as well as the singular. Words used in neuter gender include the masculine and feminine and words in the masculine or feminine gender include the neuter. If there be more than one Landlord or Tenant, the obligations hereunder imposed upon Landlord or Tenant shall be joint and several; as to a Tenant which consists of husband and wife, the obligations shall extend individually to their sole and separate property as well as community property. The term "Landlord" shall mean only the owner or owners at the time in question of the fee title or a tenant's interest in a ground lease of the Premises. The obligations contained in this Lease to be performed by Landlord shall be binding on Landlord's successors and assigns only during their respective periods of ownership.
- 17.4 *Entire Agreement.* This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Landlord and Tenant relative to the Premises and this Agreement and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. Landlord and Tenant agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents or representatives relative to the leasing of the Premises are merged in or revoked by this Agreement.
- 17.5 *Severability.* If any term or provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.
- 17.6 *Costs of Suit.*
- (a) If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of rent or possession of the Premises, the losing party shall pay the successful party a reasonable sum for attorney's fees which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment.
- (b) Should Landlord, without fault on Landlord's part, be made a party to any litigation instituted by Tenant or by any third party against Tenant, or by or against any person holding under or using the Premises by license of Tenant, or for the foreclosure of any lien for labor or material furnished to or for Tenant or any such other person or otherwise arising out of or resulting from any act or transaction of Tenant or of any such all costs and expenses, including reasonable attorneys' fees, incurred by Landlord in or in connection with such litigation.
- 17.7 *Time; Joint and Several Liability.* Time is of the essence of this Lease and each and every provision hereof, except as to the conditions relating to the delivery of possession of the Premises to Tenant. All the terms, covenants and conditions contained in this Lease to be performed by either party, if such party shall consist of more than one person or organization, shall be deemed to be joint and

several, and all rights and remedies of the parties shall be cumulative and nonexclusive of any other remedy at law or in equity.

- 17.8 *Binding Effect; Choice of Law.* The parties hereto agree that all provisions hereto are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate paragraph hereof. Subject to any provisions hereof restricting assignment or subletting by Tenant and subject to Section 17.2, all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Lease shall be governed by the laws of the State of Alabama.
- 17.9 *Waiver.* No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver or the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Acceptance by Landlord of any performance waiver by Landlord of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Landlord in writing.
- 17.10 *Surrender of Premises.* The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of the Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies.
- 17.11 *Holding Over.* If Tenant remains in possession of all or any part of the Premises after the expiration of the term hereof, with or without the express or implied consent of Landlord, such tenancy shall be from month to month only, and not a renewal hereof or an extension for any further term, and in such case, rent and other monetary sums due hereunder shall be payable in the amount and at the time specified in this Lease and such month to month tenancy shall be subject to every other term, covenant and agreement contained herein.
- 17.12 *Signs.*
- (a) Tenant shall not inscribe, paint, affix, place or permit to be placed any projecting sign, marquee, awning, advertisement, sign, notice or placard on the exterior or roof of the Premises or upon or about the entrance doors, windows, sidewalks or areas adjacent to the Premises without Landlord's prior written consent.
 - (b) Any such signs or other items described about installed by Tenant with Landlord's consent shall be removed at the expiration or earlier termination of the Lease at Tenant's expense and Tenant shall repair any damage caused to the Premises resulting from such removal. If Tenant fails to do so, Landlord may cause such removal and repair on Tenant's behalf at Tenant's expense. If Tenant installs such items without Landlord's consent, Tenant shall remove same promptly upon receipt of a request by Landlord to do so and shall repair to be performed on Tenant's behalf at Tenant's expense. Such signs as are reasonably necessary to the operation of Tenant's business shall not be unreasonably restricted by Landlord.
- 17.13 *Corporate Authority.* If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the By-laws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Tenant is a corporation, Tenant shall, within thirty (30) days after execution of this Lease, deliver to Landlord a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Lease.

18. SPECIAL PROVISIONS

- 18.1 Landlord shall be responsible for putting tenant's desired name on brick signpost in parking lot. The sign is 4" x 34" and has very limited space. In order to maximize readability we suggest you limit wording to 25 letters including spaces. The sign should read:

Aveanna Healthcare.

In Witness Whereof, Landlord and Tenant have executed this Lease the date and year first above written.

Landlord:

Energy Center II, Ltd.

by: Sealy Management Co., Inc. as agent

Luyl Barlow

Title: *Manager*

Tenant:

Comfort Care Home Health Services, LLC

Roxanna Donahue

VP, Real Estate & Facilities

Address:

Address:

~~XXXXXXXXXX~~

Aveanna Healthcare

~~XXXXXXXXXXXXXXXXXXXX~~

Attn: VP, Real Estate & Facilities

400 Interstate North Parkway, SE, Suite 1600

Atlanta, GA 30339

with a copy to the Premises, Attn: Site Director



March 6, 2023

Via Email: shpda.online@shpda.alabama.gov

RE: RV20223-015

**Comfort Care Home Health, LLC
Drop Site Relocation- Letter of Non-Reviewability**

SHPDA ID: 117-P2315

Medicare No.: 01-7153

To whom it may concern:

On behalf of Comfort Care Home Health Services, LLC d/b/a Aveanna Home Health, please accept this updated request for a Letter of Non-Reviewability to relocate the existing drop site in Tuscaloosa County from the following address below.

Previous Address:

2314 11th Street
Tuscaloosa, AL 35401

New Address:

**507 Energy Center Blvd, Suite 303
Northport, AL 35473-2796**

As set forth below, the drop site will comply with the following requirements:

- Staff will not be assigned to the drop site location.
- Referrals will not be accepted at this drop site location.
- Comfort Care Home Health Services, LLC d/b/a Aveanna Home Health will not advertise the drop site as part of its operations nor will it operate the drop site in any way as a HHA branch location.
- The drop site will remain in the approved CON county of Tuscaloosa County.

Ala. Admin. Code 410-1-2-.07 excludes routine expenses of operation and maintenance from the definition of capital expenditures. The lease for this drop site is a routine expense and is not considered a capital expenditure based on accepted accounting principles. As a result, we confirm that the location will not incur capital expenditures in excess of \$500.00 to open and operate the drop site. Should you have any questions or require any additional information, please contact Carolina Green via email at credentialing@aveanna.com.

Regards,

A handwritten signature in cursive script that reads "Carolina Green".

Carolina Green
Director, Regulatory Licensing

LEASE AGREEMENT

THIS LEASE is made and entered into this 13th day of December, 2022, by and between Energy Center II, Ltd. (hereinafter "Landlord"), and Comfort Care Home Health Services, LLC (hereinafter "Tenant").

For and in consideration of the rental and of the covenants and agreements hereinafter set forth to be kept and performed by the Tenant, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises herein described for the term, at the rental and subject to and upon all of the terms, covenants and agreements hereinafter set forth.

1. PREMISES

Description. Landlord hereby leases to Tenant and Tenant hereby hires from Landlord those certain Premises (hereinafter "Premises") together with appurtenances, situated in the city of Northport, County of Tuscaloosa, State of Alabama, more particularly described as follows:

Suite(s) 303 of the Energy Center Office Park, consisting of about 1100 square feet of office space, located at 507 Energy Center Boulevard, Northport, Alabama, 35473.

2. TERM

2.1 Term. The term of this lease shall be for a period of two year commencing on the 1st day of January 2023, and ending on the 31st day of December 2025, unless sooner terminated pursuant to the Lease.

2.2 Delay in Commencement. Tenant agrees that in the event of the inability of Landlord for any reason to deliver possession of the Premises to Tenant on the commencement date set forth in Section 2.1, Landlord shall not be liable for any damage thereby caused nor shall such inability affect the validity of this Lease or the obligations of Tenant hereunder, but in such case Tenant shall not be obligated to pay rent or other monetary sums until possession of the Premises is tendered to Tenant.

3. RENT

Tenant shall pay to Landlord as rent for the Premises in advance on the first day of each calendar month of the term of this Lease without deduction, offset, prior notice or demand, in lawful money of the United States, the sum of One Thousand One Hundred and 00/100 Dollars (\$ 1100.00.)

If the commencement date is not the first day of a month, or if the Lease termination date is not the last day of a month, a prorated monthly installment shall be paid at the then current rate for the fractional month during which the Lease commences and/or terminates.

Concurrently with Tenant's execution of this lease, Tenant shall pay to Landlord the sum of \$ 1100.00 for first month's prorated rent.

All rental payments due hereunder shall be paid to Sealy Management Co., Inc. at 1200 Greensboro Avenue, Tuscaloosa, AL 35403, or by mail to same at P.O. Box 1370, Tuscaloosa, AL 35403.

4. TAXES

4.1 Personal Property Taxes. During the term hereof Tenant shall pay prior to delinquency all taxes assessed against and levied upon fixtures, furnishings, or other personal property, whether billed to Tenant or Landlord.

5. USE

5.1 Use. The Premises shall be used and occupied by Tenant for business or professional offices and for no other purpose without the prior written consent of Landlord.

5.2 Suitability. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or express or implied warranty with respect to the Premises or the Building (if any) of which the Premises may be a part or with respect to the suitability of either for the conduct of Tenant's business, nor has Landlord agreed to undertake any modification, alteration or improvement to the Premises except as provided in this Lease. The taking of possession of the Premises by Tenant shall conclusively establish that the Premises and said Building were at such time in satisfactory condition.

5.3 Uses Prohibited.

- (a) Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way increase the existing rate of or affect any fire or other insurance upon the Premises or the Building (if any) of which the Premises may be a part or any of its contents (unless Tenant shall pay any increased premium as a result of such use or acts), or cause a cancellation of any insurance policy covering said Premises any articles which may be prohibited by a standard form policy of fire insurance.
(b) Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Building (if any) or injure or annoy them or use or allow the Premises to be used for any unlawful or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer to be committed any waste in or upon the Premises.
(c) Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or governmental rule or regulation or requirement of duly constituted public authorities now in force or which may hereafter be enacted or promulgated. Tenant shall at its sole cost and expense promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters or other similar body now or hereafter constituted relating to or affecting the condition, use or occupancy of the Premises, excluding structural changes not relating to or affecting the condition, use or occupancy of the Premises, or not related or afforded by Tenant's improvements or acts. The judgment of any court of competent jurisdiction or the

admission of Tenant in any action against Tenant, whether Landlord be a party thereto or not, that Tenant has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of the fact as between Landlord and Tenant.

6. UTILITIES

Tenant shall during the term hereof pay prior to delinquency all charges for water, gas, heat, light, power, telephone and janitorial services and all other materials and services supplied to the Premises and shall hold Landlord harmless from any liability therefrom.

7. MAINTENANCE AND REPAIRS; ALTERATIONS AND ADDITIONS

7.1 Maintenance and Repairs.

- (a) Landlord's Obligations. Landlord at its sole cost and expense shall maintain in a good state of repair the roof and walls including windows, and all structural portions of the roof, walls, floors and foundations except for any repairs caused by the wrongful act of Tenant and its agents. Landlord shall repair when necessary, the HVAC, electrical, and plumbing systems of the building unless caused by Tenant abuse or misuse.
- (b) Tenant's Obligations.
 - (i) Landlord at Tenant's sole cost and expense shall maintain the Premises and appurtenances and every part thereof, excepting those items which Landlord is obligated to repair pursuant to Section 7.1 (a), in good order, condition and repair, including but not limited to the interior surfaces of the ceilings, walls and floors, and equipment installed by or at the expense of Tenant. Tenant expressly waives the benefits of any law now or hereafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition and repair.
 - (ii) Upon the expiration or earlier termination of this lease, Tenant shall surrender the Premises in the same condition as received, ordinary wear and tear and damage by fire, earthquake, act of God or the elements alone excepted, and shall promptly remove or cause to be removed at Tenant's expense from the Premises any signs, notices and displays placed by Tenant prior to termination date.
 - (iii) Tenant agrees to repair any damage to the Premises caused by or in connection with the removal of any articles of personal property, business or trade fixtures, machinery, equipment, cabinetwork, furniture, moveable partition or permanent improvements or addition, including without limitation thereto, repairing the floor and patching and painting the walls where required by Landlord to Landlord's reasonable satisfaction, all at Tenant's sole cost and expense. Tenant shall indemnify the Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Premises, including without limitation any claims made by any succeeding tenant founded on such delay.
 - (iv) In the event Tenant fails to maintain the Premises in good order, condition and repair in accordance with Sec. 7.1b(i), Landlord shall give Tenant notice to do such acts as are reasonably required to so maintain the Premises. In the event Tenant fails to promptly commence such work within ten days and diligently prosecute it to completion, then Landlord shall have the right to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant as additional rent promptly after demand with interest at ten percent (10%) per annum from the date of such work. Landlord shall have no liability to Tenant for any damage, inconvenience or interference with the use of the Premises by Tenant as a result of performing any such work.
- (c) Compliance with Law. Landlord and Tenant shall each do all acts required to comply with all applicable laws, ordinances, regulations and rules of any public authority relating to their respective maintenance obligation as set forth herein.

7.2 Alterations and Additions.

- (a) Tenant shall make no alterations, additions or improvements to the Premises or any part thereof without first obtaining the prior written consent of Landlord, such consent not to be unreasonably withheld.
- (b) Landlord may impose as a condition to the aforesaid consent such requirements as Landlord may deem necessary in its sole discretion, including without limitation thereto, the manner in which the work is done, a right of approval of the contractor by whom the work is to be performed, the times during which it is to be accomplished, and the requirement that upon written request of Landlord prior to the expiration or earlier termination of the Lease, Tenant will remove any and all permanent improvements or additions to the Premises installed at Tenant's expense.
- (c) All such alterations, additions, or improvements shall at the expiration or earlier termination of the Lease become the property of Landlord and remain upon and be surrendered with the Premises unless specified pursuant to Section 7.2 (b) above.
- (d) All articles of personal property and all business and trade fixtures, machinery and equipment, cabinetwork, furniture and moveable partitions owned by Tenant or installed by Tenant at its expense in the Premises shall be and remain the property of Tenant and may be removed by Tenant at any time during the Lease term when Tenant is not in default hereunder.

8. ENTRY BY LANDLORD

Landlord reserves and shall at any and all times have the right to enter the Premises to inspect the same, to submit said Premises to prospective purchasers or tenants, to post notices of non-responsibility and "for-lease" signs, and to alter, improve or repair the Premises and any portion of the Building without abatement of rent, and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing the entrance to the Premises shall not be blocked thereby, and further providing that the business of Tenant shall not be interfered with

unreasonably. Tenant hereby waives any claim for damages for any injury of inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults and safes, and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, in order to obtain entry to the Premises and any entry to the Premises obtained by Landlord by any of said means, or otherwise, shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of the Premises or an eviction of Tenant from the Premises of any portion thereof. Notwithstanding anything in this lease to the contrary, Landlord shall provide Tenant with 24-hour prior notice prior to accessing the Premises (except in the event of an emergency, in which case, Landlord shall provide Tenant with notice reasonable for the circumstances), and any access by Landlord to the Premises shall be accompanied by a representative of Tenant in order to ensure compliance with patient information confidentiality laws.

9. LIENS

Tenant shall keep the Premises and any Building of which the Premises are a part free from any liens out of work performed, materials furnished, or obligations incurred by Tenant and shall indemnify, hold harmless and defend Landlord from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of Tenant. In the event that Tenant shall not, within twenty (20) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but no obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith including attorney's fees and costs shall be payable to Landlord by Tenant on demand with interest at the rate of twelve percent (12%) per annum. Landlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law, or which Landlord shall deem proper, for the protection of Landlord and the Premises, and any other party having an interest therein, from mechanics' and materialmen's liens, and Tenant shall give to Landlord at least ten (10) business days prior written notice of the expected date of commencement of any work relating to alterations or additions to the Premises.

10. INDEMNITY

- 10.1 *Indemnity.* Tenant shall indemnify and hold harmless Landlord from and against any and all claims arising from Tenant's use of the Premises or the conduct of its business or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Premises and shall further indemnify and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act of negligence of Tenant, or any of its agents, contractors or employees, and from and against any and all cost, attorney's fees, expenses and liabilities incurred by Landlord in connection with such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord, provided, however that unless covered by insurance Tenant is required to provide. Landlord shall indemnify and hold harmless Tenant from and against any and all claims arising from any activity, work, or thing done, permitted or suffered by Landlord in or about the Building and shall further indemnify and hold Tenant harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Landlord's part to be performed under the terms of this Lease, or arising from any act of negligence of Landlord, or any of its agents, contractors or employees, and from and against any and all cost, attorney's fees, expenses and liabilities incurred by Tenant in connection with such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Tenant by reason of any such claim, Landlord upon notice from Tenant shall defend the same at Landlord's expense by counsel reasonably satisfactory to Tenant, provided, however that unless covered by insurance Landlord is required to provide.
- 10.2 *Exemption of Landlord from Liability.* Landlord shall not be liable for injury or damage which may be sustained by the person, goods, wares, merchandise or property of Tenant, its employees, invitees or customers, or any other person in or about the Premises caused by or resulting from fire, steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures of the same, whether the said damage or injury results from conditions arising upon the Premises or upon other portions of the Building of which the Premises are a part, or from other sources unless caused by Landlord's negligence or willful misconduct. Landlord shall not be liable for any damages arising from any act or neglect of any other Tenant (if any) of such Building.

11. INSURANCE

- 11.1 *Public Liability.* Tenant shall, at Tenant's sole cost and expense, but for the mutual benefit of Landlord and Tenant, maintain commercial general liability insurance against claims for personal injury, death or property damage occurring in, about or upon the Premises, and on, in or about the sidewalks directly adjacent to the Premises and such other areas as Tenant, its officers, agents, employees, contractors and invitees shall have the right to use pursuant to this Lease. Such insurance shall have a combined single limit of not less than \$1,000,000. Such insurance policy or policies shall be written in companies licensed to do business in Alabama, selected by Tenant, subject to the approval of such companies by the Landlord. Tenant shall, prior to opening for business in the Premises, furnish from the insurance companies, certificates of coverage evidencing the existence and amount of such insurance. All such policies of insurance shall be issued in the name of the Tenant and shall name Landlord as an additional insured. All such policies shall be primary, not contributory with and not in excess of the coverage which Landlord may carry. All such policies shall contain a clause or endorsement to the effect that they may not be terminated or materially amended except after fifteen (15) days written notice thereof to Landlord. Tenant shall have the right to provide such coverage pursuant to blanket policies obtained by Tenant provided

such blanket policies expressly afford the coverage required by this Lease.

11.2 *Intentionally Deleted.*

11.3 *Waiver of Subrogation.* Landlord and Tenant each hereby waive any and all rights of recovery against the other or against the officers, employees, agents and representatives of the other, on account of loss or damage occasioned to such waiving party or its property or the property of others under its control to the extent that such loss or damage is insured against under any fire and extended coverage insurance policy which either may have in force at the time of such loss or damage. Tenant agrees that all policies of insurance provided in 11.1 will be so endorsed as to provide that the foregoing waiver of subrogation will not result in any reduction or impairment of coverage thereunder.

11.4 *Landlord.* Landlord shall carry commercial general liability insurance covering the common areas of the building and property insurance for the building.

12. DAMAGE AND DESTRUCTION

In the event of the partial destruction of the Premises or the Building of which the Premises constitutes a part during the term of the Lease, Landlord shall forthwith make such repairs provided such repairs can be made within sixty (60) days under the laws and regulations of the public authorities, but such partial destruction (including any destruction necessary to make such repairs) shall in no event annul or void this Lease, except that Tenant shall be entitled to a proportionate reduction in rent while such repairs are being made, such reduction to be based upon the extent (if any) to which the making of such repairs materially interferes with the business carried on by Tenant in the Premises. If such repairs cannot be made within sixty (60) days, Landlord may at his option make such repairs within a reasonable time, in which event this Lease shall continue in full force and effect, except that the rent shall continue to be abated in accordance with the aforesaid procedure and provided that Landlord notifies Tenant of his intention to do so within thirty (30) days after the partial destruction. In the event that the cost of restoring such damage or destruction exceeds \$50,000.00, Landlord may, at his option, elect to terminate this lease upon 30 days written notice to Tenant. In the event Landlord does not so elect to make such repairs which cannot be made within sixty (60) days, or such repairs cannot be made under such laws and regulations, then and in that event, this Lease may be terminated at the option of either party. Notwithstanding anything to the contrary contained in this Section 12, Landlord shall not have any obligation whatsoever to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered under this Section 12 occurs during the last twelve (12) months of the term of this Lease or any extension thereof. Except for abatement of rent, if any, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration, nor shall Tenant have the right to terminate this Lease as the result of an law now or hereafter in effect pertaining to the damage and destruction of the Premises or the Building, except as expressly provided herein.

13. CONDEMNATION

If all or any part of the Premises shall be taken or appropriated for public or quasi-public use by right of eminent domain with or without litigation or transferred by agreement in connection with or in anticipation of such public or quasi-public use, either party hereto shall have the right at its option exercisable within thirty (30) days of receipt of notice of such taking to terminate this Lease as of the date possession is taken by the condemning authority, provided, however, that before Tenant may terminate this Lease by reason of taking or appropriation as provided hereinabove, such taking or appropriation shall be of such an extent and nature as to substantially handicap, impeded or impair Tenant's use of the Premises. If any part of the Building other than the Premises shall be so taken or appropriated, Landlord shall have the right at its option to terminate this Lease. No award for any partial or entire taking shall be apportioned, and Tenant hereby assigns to Landlord any award which may be provided, however, that nothing contained herein shall be deemed to give Landlord any interest in or to require Tenant to assign to Landlord any business and/or for Tenant's unamortized cost of leasehold improvements. In the event of a partial taking which does not result in a termination of this Lease, rent shall be abated in the proportion which the part of the Premises so made unusable bears to the rented area of the Premises or give Tenant any right to any abatement of rent thereunder; any award made to Tenant by any such temporary taking shall belong entirely to Tenant and Landlord shall not be entitled to share therein.

14. ASSIGNMENT AND SUBLETTING

14.1 *Landlord's Consent Required.* Tenant shall not assign, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the Premises or any part thereof, without the prior written consent of Landlord and any attempt to do so without such consent being first had and obtained shall be wholly void and shall constitute a breach of this Lease.

14.2 *Reasonable Consent.* If Tenant complies with the following conditions, Landlord shall not unreasonably withhold its consent to the subletting of the Premises or any portion thereof or the assignment of this Lease. Tenant shall submit in writing to Landlord (a) the name and legal composition of the proposed subtenant or assignee; (b) the nature of the business proposed to be carried on in the Premises; (c) the terms and provisions of the proposed sublease; (d) such reasonable financial information as Landlord may request concerning the proposed subtenant or assignee.

14.3 *No Release of Tenant.* No consent by Landlord to any assignment or subletting by Tenant shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent, assignment or subletting. The consent by Landlord to any assignment or subletting shall not relieve Tenant from the obligation to obtain Landlord's express written consent to any other assignment or to be a consent to any assignment, subletting or other transfer.

14.4 *Attorney's Fees.* In the event Landlord shall consent to a sublease or assignment under this Section 14, Tenant shall pay Landlord's reasonable attorney's fees not to exceed \$500 incurred in connection with giving such consent, only if use of an attorney is deemed necessary by Landlord.

14.5 *Permitted Assignment.* Notwithstanding anything in the lease to the contrary, Tenant may assign or sublet the Premises, or any portion thereof, without Landlord's consent, to any entity which controls, is controlled by or is under common control with Tenant, or to any entity resulting from the merger or consolidation with Tenant, provided that before such assignment shall be effective (a) said assignee shall assume, in full, the obligations of Tenant under this Lease and (b) Landlord shall be given

written notice of such assignment and assumption.

15. SUBORDINATION

- 15.1 *Subordination.* This Lease at Landlord's option shall be subject and subordinate to all ground or underlying leases which now exist or may hereafter be executed affecting the Premises or the land upon which the Premises are situated or both, and to the lien of any mortgages or deeds of trust in any amount or amounts whatsoever now or hereafter placed on or against the land or improvements or either thereof, of which the Premises are a part, or on or against Landlord's interest or estate therein, or on or against any ground or underlying lease without the necessity of the execution and delivery of any further instruments on the part of Tenant to effectuate such subordination. If any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give written notice thereof to Tenant, this Lease shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust, or ground lease or the date of the recording thereof.
- 15.2 *Subordination Agreements.* Tenant covenants and agrees to execute and deliver upon demand without charge therefor, such further instruments evidencing such subordination of this Lease to such ground or underlying leases and to the lien of any such mortgages or deeds of trust as may be reasonably required by Landlord. If Tenant fails to return such instrument within 15 days of request, then Tenant hereby appoints Landlord as Tenant's attorney-in-fact, irrevocably, to execute and deliver any such agreements, instruments, release or other documents.
- 15.3 *Quiet Enjoyment.* Landlord covenants and agrees with Tenant that upon Tenant paying rent and other monetary sums due under the Lease, performing its covenants and conditions under the Lease and upon recognizing purchaser as Landlord pursuant hereto, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the term, subject, however, to the terms of the Lease and of any of the aforesaid ground leases, mortgages or deeds of trust described above.
- 15.4 *Attornment.* In the event any proceedings are brought for default under any ground or underlying lease or in the event of foreclosure or the exercise of the power of sale under any mortgage or deed of trust made by the Landlord covering the Premises, the Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease, provided said purchaser expressly agrees in writing to be bound by the terms of the Lease.

16. DEFAULT, REMEDIES

- 16.1 *Default.* The occurrence of any of the following shall constitute a material default and breach of this Lease by Tenant:
- (a) Any failure by Tenant to timely pay the rent or any other monetary sums required to be paid hereunder (where such failure continues for fifteen (15) days after written notice by Landlord to Tenant);
 - (b) The abandonment or vacation of the Premises by Tenant;
 - (c) A failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant, where such failure continues for twenty (20) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of the default is such that the same cannot reasonable be cured within said twenty (20) day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion;
 - (d) The making by Tenant of any general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.
- 16.2 *Remedies.* In the event of any such material default or breach by Tenant, Landlord may, at any time thereafter without limiting Landlord in the exercise of any right or remedy at law or in equity which Landlord may have by reason of such default or breach:
- (a) Maintain the Lease in full force and effect and recover the rent and other monetary charges as they become due, without terminating Tenant's right to possession irrespective of whether Tenant shall have abandoned the Premises. In the event Landlord elects not to terminate the Lease, Landlord shall have the right to attempt to re-let the Premises at such rent and upon such condition and for such a term, and to do all acts necessary to maintain or preserve the Premises as Landlord deems reasonable and necessary without being deemed to have elected to terminate the Lease, including removal of all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant. In the event any such re-letting occurs, this Lease shall terminate automatically upon the new tenant taking possession of the Premises. Notwithstanding that Landlord fails to terminate the Lease initially, Landlord at any time during the term of this Lease may elect to terminate this Lease by virtue of such previous default of Tenant.
 - (b) Terminate Tenant's right to possession by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including without limitation thereto, the following: (i) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that is proved could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to

perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom; plus (v) at Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable State law. Upon any such re-entry Landlord shall have the right to make any reasonable repairs, alterations or modifications to the Premises, which Landlord in its sole discretion deems reasonable and necessary. The worth of future payments due shall be the present value based on a discount of 6% per annum.

- 16.3 *Late Charge.* A late charge of 5% of the monthly rental amount shall be made on any installment of rent which becomes more than 15 days past due.
- 16.4 *Default by Landlord.* Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address shall have therefore been furnished to Tenant in writing, specifying wherein Landlord has failed to perform such obligations; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance then Landlord shall not be in default if Landlord commences performance within such thirty-day period and thereafter diligently prosecutes the same to completion.

17. MISCELLANEOUS

- 17.1 *Estoppel Certificate.*
- (a) Tenant shall at any time upon not less than ten (10) day's prior written notice from Landlord execute, acknowledge and deliver to Landlord a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises.
 - (b) Tenant's failure to deliver such statement within such time shall be conclusive upon Tenant (i) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) that there are no uncured defaults in Landlord's performance, and (iii) that not more than one month's rent has been paid in advance.
- 17.2 *Transfer of Landlord's Interest.* In the event of a sale or conveyance by Landlord of Landlord's interest in the Premises or in any building of which the Premises may be a part other than a transfer for security purposes only, Landlord shall be relieved from and after the date specified in any such notice of transfer of all obligations and liabilities accruing thereafter on the part of Landlord, provided that any funds in the hands of Landlord at the time of transfer in which Tenant has an interest, shall be delivered to the successor of Landlord. This lease shall not be affected by any such sale and Tenant agrees to attorn to the purchaser or assignee provided all Landlord's obligations hereunder are assumed in writing by the transferee.
- 17.3 *Captions; Attachments; Defined Terms.*
- (a) The captions of the paragraphs of this Lease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Lease.
 - (b) Exhibits attached hereto, and addendums and schedules initialed by the parties, are deemed by attachment to constitute part of this Lease and are incorporated herein.
 - (c) The words "Landlord" and "Tenant", as used herein, shall include the plural as well as the singular. Words used in neuter gender include the masculine and feminine and words in the masculine or feminine gender include the neuter. If there be more than one Landlord or Tenant, the obligations hereunder imposed upon Landlord or Tenant shall be joint and several; as to a Tenant which consists of husband and wife, the obligations shall extend individually to their sole and separate property as well as community property. The term "Landlord" shall mean only the owner or owners at the time in question of the fee title or a tenant's interest in a ground lease of the Premises. The obligations contained in this Lease to be performed by Landlord shall be binding on Landlord's successors and assigns only during their respective periods of ownership.
- 17.4 *Entire Agreement.* This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Landlord and Tenant relative to the Premises and this Agreement and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. Landlord and Tenant agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents or representatives relative to the leasing of the Premises are merged in or revoked by this Agreement.
- 17.5 *Severability.* If any term or provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.
- 17.6 *Costs of Suit.*
- (a) If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of rent or possession of the Premises, the losing party shall pay the successful party a reasonable sum for attorney's fees which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment.
 - (b) Should Landlord, without fault on Landlord's part, be made a party to any litigation instituted by Tenant or by any third party against Tenant, or by or against any person holding under or using the Premises by license of Tenant, or for the foreclosure of any lien for labor or material furnished to or for Tenant or any such other person or otherwise arising out of or resulting from any act or transaction of Tenant or of any such all costs and expenses, including reasonable attorneys' fees, incurred by Landlord in or in connection with such litigation.
- 17.7 *Time; Joint and Several Liability.* Time is of the essence of this Lease and each and every provision hereof, except as to the conditions relating to the delivery of possession of the Premises to Tenant. All the terms, covenants and conditions contained in this Lease to be performed by either party, if such party shall consist of more than one person or organization, shall be deemed to be joint and

several, and all rights and remedies of the parties shall be cumulative and nonexclusive of any other remedy at law or in equity.

- 17.8 *Binding Effect; Choice of Law.* The parties hereto agree that all provisions hereto are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate paragraph hereof. Subject to any provisions hereof restricting assignment or subletting by Tenant and subject to Section 17.2, all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Lease shall be governed by the laws of the State of Alabama.
- 17.9 *Waiver.* No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver or the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Acceptance by Landlord of any performance waiver by Landlord of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by Landlord in writing.
- 17.10 *Surrender of Premises.* The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of the Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies.
- 17.11 *Holding Over.* If Tenant remains in possession of all or any part of the Premises after the expiration of the term hereof, with or without the express or implied consent of Landlord, such tenancy shall be from month to month only, and not a renewal hereof or an extension for any further term, and in such case, rent and other monetary sums due hereunder shall be payable in the amount and at the time specified in this Lease and such month to month tenancy shall be subject to every other term, covenant and agreement contained herein.
- 17.12 *Signs.*
 - (a) Tenant shall not inscribe, paint, affix, place or permit to be placed any projecting sign, marquee, awning, advertisement, sign, notice or placard on the exterior or roof of the Premises or upon or about the entrance doors, windows, sidewalks or areas adjacent to the Premises without Landlord's prior written consent.
 - (b) Any such signs or other items described about installed by Tenant with Landlord's consent shall be removed at the expiration or earlier termination of the Lease at Tenant's expense and Tenant shall repair any damage caused to the Premises resulting from such removal. If Tenant fails to do so, Landlord may cause such removal and repair on Tenant's behalf at Tenant's expense. If Tenant installs such items without Landlord's consent, Tenant shall remove same promptly upon receipt of a request by Landlord to do so and shall repair to be performed on Tenant's behalf at Tenant's expense. Such signs as are reasonably necessary to the operation of Tenant's business shall not be unreasonably restricted by Landlord.
- 17.13 *Corporate Authority.* If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the By-laws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Tenant is a corporation, Tenant shall, within thirty (30) days after execution of this Lease, deliver to Landlord a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Lease.

18. SPECIAL PROVISIONS

- 18.1 Landlord shall be responsible for putting tenant's desired name on brick signpost in parking lot. The sign is 4" x 34" and has very limited space. In order to maximize readability we suggest you limit wording to 25 letters including spaces. The sign should read:

Aveanna Healthcare.

In Witness Whereof, Landlord and Tenant have executed this Lease the date and year first above written.

Landlord:

Energy Center II, Ltd. _____

by: Sealy Management Co., Inc. as agent _____

Luif Bar _____

Title: Manager _____

Tenant:

Comfort Care Home Health Services, LLC _____

Roxanna Donahue _____

VP, Real Estate & Facilities _____

Address:

Address:

~~PO Box 1378~~
Aveanna Healthcare
~~10000 Alabama, 35403~~
Attn: VP, Real Estate & Facilities
400 Interstate North Parkway, SE, Suite 1600
Atlanta, GA 30339
with a copy to the Premises, Attn: Site Director