

**SECOND AMENDMENT TO THE**

**LEASE AGREEMENT**

**By and Between**

**THE MORRIS COUNTY IMPROVEMENT AUTHORITY**

**And**

**MORRIS VIEW MANAGEMENT CO, LLC D/B/A MORRIS VIEW HEALTHCARE  
CENTER**

**Dated as of \_\_\_\_\_, 2020**

## **SECOND AMENDMENT TO LEASE AGREEMENT**

**THIS SECOND AMENDMENT TO THE LEASE AGREEMENT** dated as of \_\_\_\_\_, 2020 (the "Second Amendment to the Lease Agreement" or the "Second Amendment") by and between the MORRIS COUNTY IMPROVEMENT AUTHORITY, a New Jersey public body corporate and politic, having an address of P.O. Box 900, Morristown, New Jersey 07963-0900 (the "Lessor"), and MORRIS VIEW MANAGEMENT CO, LLC, D/B/A MORRIS VIEW HEALTH CENTER, a New Jersey Limited Liability Company, having an address of 115 Dutch Lane Road, Freehold, New Jersey 07728 (the "Lessee") (the Lessor and Lessee each, a "Party" and, together, the "Parties"). Any terms used herein, and not otherwise defined or modified herein, shall have the meanings ascribed to them in the Lease Agreement dated as of July 27, 2017 as amended by a certain First Amendment thereto dated November 1, 2017 (same being the "First Amendment", and together with the said Lease Agreement, the "Lease").

### **WITNESSETH**

**WHEREAS**, pursuant to the Lease, Lessor has acquired possession of the Premises, as depicted on Exhibit "A" to the Lease (of which the Leased Premises is a portion thereof), on or before the date of the Lease, from the County, and possession of certain other assets including furniture, fixtures, equipment and inventory, from the County; and

**WHEREAS**, as noted in the Recitals to the Lease, the Lessor issued the RFP, a copy of which is attached to the Lease as Exhibit "B", and is incorporated into the Lease (and this Second Amendment) by reference, pursuant to which the Lessee provided the Response; and

**WHEREAS**, as noted in the Recitals to the Lease, Lessor accepted the Response from the Lessee, and pursuant to Resolution No. 17-28, dated June 28, 2017, agreed to sublease the Leased Premises and the Equipment to Lessee, and transfer the business (all collectively referred to in the Lease as the "Facility") in accordance with the Lease; and

**WHEREAS**, the Parties in consequence entered into the Lease, inclusive of the First Amendment thereto; and

**WHEREAS**, subsequent thereto, the Parties have determined to enter into this Second Amendment, in order to address the Lessee's undertaking of certain improvements to the Facility, and also, to make provision for Lessee Medicaid screening reimbursement shortfalls, all as set forth herein; and

**WHEREAS**, specifically, the Parties have agreed that Lessee will install a new Nurse Call Bell System in the Facility ("System"), which the County had originally contemplated installing, using County provided specifications for the same (appended to this Second Amendment as Exhibit A and incorporated herein), and in consideration thereof, Lessor will pay Lessee up to \$350,000 towards the cost of the System in the manner provided for below; and

**WHEREAS**, the County and Lessor are required, for fire safety reasons, and the Lessor desires to install a canopy outside the Facility (the “Canopy”); and

**WHEREAS**, the Lessee has agreed to install the Canopy at the Facility, using County provided specifications for the same (appended to this Second Amendment as Exhibit B and incorporated herein), and the County and the Lessor agree to pay up to \$105,000 towards the costs of the Canopy, in the manner provided for below; and

**WHEREAS**, due to an acuity audit of the Facility, it has been learned that the Lessee is collecting \$2.35 per diem *less* in Medicaid screen reimbursements than it thought it would when it submitted its Response to the RFP for the Lease, and, as a result, from November 1, 2017 through to December 31, 2019, that shortfall in Medicaid screen reimbursements for the 283 existing beds within the Facility, will total approximately \$332,687.00 (the “Medicaid Shortfall”), as trued up as discussed below; and

**WHEREAS**, in further consideration of the Lessee’s operation of the Facility under the Lease, the County and Lessor are willing to reimburse Lessee for the Medicaid Shortfall in the manner provided below; and

**WHEREAS**, the Parties have agreed that, in lieu of actual payment, the cost of the System, the Canopy and the Medicaid Shortfall shall be paid to the Lessee from the Lessor in the form of credits against the Rent and/or the Additional Rent due Lessor for the Facility, in the manner set forth below; and

**WHEREAS**, pursuant to Section 23.01 of the Lease, the Lease may be amended in writing and signed by the Parties; and

**WHEREAS**, on the basis of the foregoing Recitals, the Parties are desirous of entering into this Second Amendment, to memorialize the foregoing.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, and in the Lease as amended and supplemented by the First Amendment and this Second Amendment, and the undertakings of each Party to the other and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, mutually covenant, promise and agree as follows:

**Section 1. Amendment to Article 12 to Address Undertaking of the System.** The Lease is amended to read as follows to address the undertaking of the System by the Lessee:

“**Section 12.07.** The Parties, in further consultation with each other and in further consideration of their respective rights and obligations herein, have agreed that the Lessee will install a new Nurse Call Bell System in the Facility (the “System”), which the County had originally contemplated installing prior to the lease of the Facility to the Lessor. In consideration of the Lessee undertaking the development and installation of the System, the Lessor will pay Lessee up to \$350,000 towards the cost of that System, payable as set forth below. The Lessee has agreed to install the System at the Facility, using County provided specifications for the same (which are appended to the Second Amendment to this Lease as Exhibit A thereto, and

incorporated herein by reference as if set forth at length). The Parties shall consult and confer with respect to the System, including without limit the type of nurse call bell system to be utilized, and the specifications of the same. In lieu of actual payment from the Lessor or the County, the cost of the System shall be paid to the Lessee in the form of credits against the Rent and/or the Additional Rent due Lessor by Lessee for the rental of the Facility, in equal credits over the twelve (12) month period following Lessee's demonstration, to the reasonable, commercial satisfaction of the Lessor, of the completion of the System, in whole or in part, by the Lessee. No credits shall be deducted against the Rent and/or the Additional Rent until Lessee so demonstrates."

**Section 2. Amendment to Article 12 to Address the Undertaking of the Canopy.** The Lease is amended to read as follows to address the undertaking of the Canopy by the Lessee:

**"Section 12.08.** The County and Lessor are required, for fire safety and code related reasons, to install a canopy outside of the Facility (the "Canopy"). In addition, the Lessee wants to install the Canopy for aesthetic reasons pertaining to the Facility. In further consideration of the respective rights and obligations of the Parties hereunder, the Lessee has agreed to install the Canopy at the Facility, using County provided specifications for the same (which are appended to the Second Amendment to this Lease as Exhibit B thereto, and incorporated herein by reference as if set forth at length). The Parties agree to confer with respect to the undertaking and installation of the Canopy, including with respect to the County provided specifications, and other logistical aspects of the work. In consideration of the Lessee undertaking the development and installation of the Canopy, the County and the Lessor agree to pay up to \$105,000 towards the costs of the Canopy, payable as set forth below. In lieu of actual payment from the Lessor or the County, the cost of the Canopy shall be paid to the Lessee in the form of credits against the Rent and/or the Additional Rent due Lessor by Lessee for the rental of the Facility, in equal credits over the twelve (12) month period following Lessee's demonstration, to the reasonable, commercial satisfaction of the Lessor, of the completion of the Canopy, in whole or in part, by the Lessee. No credits shall be deducted against the Rent and/or the Additional Rent until Lessee so demonstrates."

**Section 3. Amendment to Address the Medicaid Shortfall.** The Lease is amended to read as follows to address reimbursement to the Lessee with respect to the Medicaid Shortfall:

**"Section 2.04.** Due to the undertaking of an acuity audit of the Facility, it has been learned by the Parties that the Lessee is collecting \$2.35 per diem *less* in Medicaid screen reimbursements than it thought it would when it submitted its Response to the RFP for the Lease, and the maintenance and operation of the Facility. In consequence, from November 1, 2017 through to December 31, 2019, that shortfall in Medicaid screen reimbursements for the existing 283 beds at the Facility, is expected to total approximately \$332,687.00 (such amount the "Medicaid Shortfall"). In further consideration of the Lessee's maintenance and operation of the Facility under the Lease, the County and Lessor are willing to reimburse the Lessee for the actual amount of the Medicaid Shortfall, tried up to and including December 31, 2019. In lieu of actual payment from the Lessor or the County, the cost to reimburse for the Medicaid Shortfall shall be paid to the Lessee in the form of credits against the Rent and/or the Additional

Rent due Lessor by Lessee for the rental of the Facility, in equal credits over the twelve (12) month period following such true up.”

**Section 4. Reaffirmation of the Lease.** Except as amended by the First Amendment and this Second Amendment, the Lease is hereby reaffirmed and ratified in its entirety.

**Section 5. Counterparts.** This Second Amendment may be executed and delivered in any number of counterparts, and such counterparts taken together shall constitute one and the same instrument.

**Section 6. Governing Law.** This Second Amendment shall be construed in accordance with, and governed by, the applicable law of the State of New Jersey, without consideration given to choice of law principles.

*[Remainder of this page intentionally left blank. Signature page follows.]*

**IN WITNESS WHEREOF**, the Parties hereto have caused this Second Amendment to the Lease to be executed as of the day and year first above written.

**LESSOR:**

THE MORRIS COUNTY IMPROVEMENT  
AUTHORITY

By: \_\_\_\_\_

Attest: \_\_\_\_\_

**LESSEE:**

MORRIS VIEW MANAGEMENT CO, LLC, D/B/A  
MORRIS VIEW HEALTHCARE CENTER

By: \_\_\_\_\_

Attest: \_\_\_\_\_

Acknowledged and Approved

COUNTY OF MORRIS (Overlessor)

By: \_\_\_\_\_

## **EXHIBIT A – NURSE CALL BELL SYSTEM SPECIFICATIONS**

## **EXHIBIT B – CANOPY SPECIFICATIONS**