

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
BRIUS, LLC REGARDING MILLBRAE MANOR**

THIS AGREEMENT, entered into this _____ day of _____, 2014,
by and between the COUNTY OF SAN MATEO, hereinafter called "County," and
BRIUS, LLC, a California limited liability company, and its affiliated designee,
hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code Section 31000, County may
contract with independent contractors for the furnishing of such services to or for
County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the
purpose of the placement of certain patients and clients of the County's Health
System at licensed residential board and care facility located at 1001 Hemlock
Avenue, Millbrae, California 94030 ("Millbrae Manor").

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO
AS FOLLOWS:**

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and
incorporated into this Agreement by this reference:

Exhibit A—Services

Exhibit B—Payments and Rates

Attachment E—Fingerprinting Certification

Attachment H—HIPAA Business Associate Requirements

Attachment I—§ 504 Compliance

2. Services to be performed by Contractor

In exchange for valuable consideration as set forth herein and in Exhibit B,
Contractor shall perform services for County in accordance with the terms,
conditions, and specifications set forth herein and in Exhibit A.

3. Consideration

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth herein and in Exhibit A, County and Contractor have agreed to various commitments as outlined in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. Because County has no direct fiscal obligation under this Agreement towards Contractor, in no event shall the County have any fiscal obligation under this Agreement.

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from May 1, 2014, through September 30, 2020.

This Agreement may be terminated by County, the Chief, Health System, or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

7.1 General Hold Harmless. Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following: (A) injuries to or death of any person, including Contractor or its employees/officers/agents; (B) damage to any property of any kind whatsoever and to whomsoever belonging; (C) any sanctions, penalties, or claims of damages

resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

9.1 General Requirements. Contractor shall not commence work under this Agreement unless and until all insurance required under this Section has been obtained, and Contractor shall use diligence to obtain such insurance. County shall be listed as a "Named Insured" or "Additional Insured" under all policies required in this Agreement. In relation to all insurance policies required by this Section 9, each such policy shall have a deductible level not to exceed one-hundred thousand dollars (\$100,000.00) per claim. Contractor shall furnish County with certificates of insurance and endorsements evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the County of any pending change in the limits of liability or of any cancellation or modification of the policy, except in the event of non-payment where a 10 day notice is required.

9.2 Workers' Compensation and Employer's Liability Insurance. Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, (a) that it is aware of the provisions of Section 3700 of the California Labor

Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) that it will comply with such provisions before commencing the performance of work under this Agreement.

9.3 Liability Insurance. Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or by an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amount specified below. Contractor shall obtain the listed insurance coverage with policies which provide full coverage for the Millbrae Manor facility in the listed amounts. Contractor shall also obtain the other insurance listed by this section. Contractor's obligations to carry the insurance provided for herein may be brought within the coverage of a blanket policy or policies of insurance carried and maintained by Contractor provided that the coverage afforded Contractor in relation to the Millbrae Manor facility will not be reduced or diminished or otherwise be different from that which would exist under a separate policy for the Millbrae Manor facility meeting all other requirements of this Agreement by reason of the use of such blanket policy of insurance and accordingly that the listed minimum coverage and aggregate coverage amounts relating to the Millbrae Manor facility shall not be eroded by claims relating to Contractor's other facilities or operations.

Such insurance shall include:

(a)	Comprehensive General Liability	\$2,000,000 per claim, \$5,000,000 aggregate
(b)	Motor Vehicle Liability Insurance	\$2,000,000 per claim, \$2,000,000 aggregate
(c)	Professional Liability.	\$2,000,000 per claim, \$4,000,000 aggregate
(d)	Employment Practices	\$1,000,000 per claim, \$1,000,000 aggregate

9.4 Additional Requirements.

Contractor's insurance shall be procured from an insurance company authorized to do business in the State of California and with an AM Best rating of "A-" or better, with coverage limits deemed sufficient by Contractor to protect against applicable risks and losses relating to the activities of Contractor relating to the Millbrae Manor facility. If coverage is other than on an "occurrence" basis, an extended reporting period coverage (i.e., "tail coverage") of not less than three (3) years after the end of the term of this agreement shall be provided at Contractor's sole expense.

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

10. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *General non-discrimination.* No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.
- B. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.
- C. *Section 504 of the Rehabilitation Act of 1973.* Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.
- D. *Compliance with County's Equal Benefits Ordinance.* With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

☒ Contractor complies with Chapter 2.84 by:

☒ offering the same benefits to its employees with spouses and its employees with domestic partners.

☐ offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.

☐ Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.

- ☐ Contractor does not comply with Chapter 2.84, and a waiver must be sought.

E. *Discrimination Against Individuals with Disabilities.* The Contractor shall comply fully with the nondiscrimination requirements of 41 C.F.R. 60-741.5(a), which is incorporated herein as if fully set forth.

F. *History of Discrimination.* Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

- ☒ No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
- ☐ Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.

G. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall subject the Manager to penalties, to be determined by the County Manager, including but not limited to: (1) liquidated damages of \$2,500.00 per violation; and (2) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager. Manager shall report to the County Manager the filing by any person in relation to Manager's work at Facility in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded.

12. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that a contractor shall have and adhere to a written policy providing that its employees, to the extent they live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an

employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code."

13. Retention of Records, Right to Monitor and Audit

(a) Contractor shall maintain all required records for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit of County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: Contractor shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State, and local agencies, and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representatives, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

14. Merger Clause & Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated herein by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

15. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

16. Notices

All notices to be given by either party to this Agreement to the other party hereto shall be in writing, and shall be (a) given in person, (b) deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, or (c) sent by national overnight courier service with confirmed receipt, each addressed as follows:

If to Contractor:	Brius, LLC 5967 W. 3 rd Street, Suite 200 Los Angeles, CA 90036
With copies to:	Alain Kuppermann, Esq. 110 S. Fairfax Avenue, Suite 250 Los Angeles, CA 90036
If to County:	Chief Executive Officer San Mateo Medical Center 222 West 39 th Avenue San Mateo, CA 94403
With copies to:	John Beiers, Esq. San Mateo County Counsel 400 County Center, 6th Floor Redwood City, CA 94063

Any such notice shall be deemed delivered when actually received or when delivery is first refused regardless of the method of delivery used. Any party to whom notices are to be sent pursuant to this Agreement may from time to time change its address for further communications thereunder by giving notice in the manner prescribed herein to all other parties hereto. Although either party shall have the right to change its address for notice purposes from time to time, any notice delivered pursuant to this Section to the address set forth in this Section, or to such other address as may be hereafter specified in writing in accordance with this Section shall be effective even if actual delivery cannot be made as a result of a change in the address of the recipient of such notice if the party delivering the notice has not received actual written notice in accordance with the provisions of this Section of the current address to which notices are to be sent.

17. Electronic Signature

If both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: ☐ If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Contractor: ☒ If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo
County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

BRIUS, LLC



Contractor's Signature

Date: April 4, 2014

(Revised 7/1/13)

Exhibit A

In exchange for the consideration set forth in Exhibit B, Contractor shall provide the following services:

I. LIST OF SERVICES

A. Introduction

For the term of this Agreement as herein specified, Contractor shall provide to the Behavioral Health and Recovery Services, (BHRS) Aging and Adult Services (AAS), and San Mateo Medical Center (SMMC) divisions bed space at the Millbrae Manor facility for San Mateo County residents who are seriously mentally ill and in need of mental health rehabilitation, treatment and long term care.

B. Services

Contractor shall operate the Millbrae Manor facility as a licensed residential care home in compliance with the State of California Community Care Licensing standards for County clients referred by BHRS and AAS for augmented services. County shall assess and pre-approve clients for admission. Contractor shall maintain a close collaboration and communication with BHRS staff providing oversight to Board and Care Homes including participating in scheduled meetings to address programming and client care issues on both an individual client level and a facility wide level. Contractor shall provide augmented services as outlined below.

Contractor shall provide County use of all of the beds (48 beds) at the Millbrae Manor facility, and Contractor shall not reject or evict clients without County concurrence.

The Millbrae Manor facility shall accept any patient being discharged from San Mateo Medical Center (SMMC) or referred by the County Health System's Aging & Adult Services or Behavioral Health and Recovery Services divisions (these patients are referred to as "Health System clients") as outlined by this section. Health System clients will not be excluded due to behavioral issues or registered sex offender (RSO) status.

The following guidelines shall apply to the population of Health System clients which County seeks to place at the facility:

- At least seventy-five percent (75%) of the Health System clients shall be individuals age 60 and over. No more than twenty-five percent (25%) of the Health System clients shall be adults

under age 60.

- The Health System clients will have one or more of the following conditions and require more care than is traditionally provided by Board and Care level services, but they will not require skilled-nursing facility level care:
 - Complex medical conditions
 - Psychiatric diagnoses
 - Substance Abuse issues
 - Cognitive impairment – Dementia, Traumatic Brain Injury (TBI)
 - Functional limitations
 - Behavioral Challenges (i.e., history of intermittent violent episodes)
 - Safety Concerns (i.e., history of falls)
 - Registered Sex Offenders with limited mobility and/or who are medically fragile
- Transitional Beds – 8 of the 48 beds shall be designated for transitional care to address discharges from SMMC and to avoid acute hospitalizations and shall be subject to the following limitations:
 - Referred by the Health System either from SMMC acute or long term care units, as well as Health System clients referred from community settings (i.e., Adult Protective Services cases) to avoid acute hospitalization
 - 30 day maximum stay
 - County and Contractor shall develop clear policies/procedures to maintain capacity and avoid permanent residency for individuals no longer needing this level of care.
- Long-Term Beds – 40 of the 48 beds shall be designated for long-term placement based on ongoing assessment that the client continues to meet criteria for augmented level services.

1. AUGMENTED SERVICES

In the past, the Millbrae Manor facility has received waivers of licensing requirements to allow the facility to provide augmented services to clients. Contractor shall continue to seek such waivers and shall provide the following augmented services:

- a. Provide a structured environment and behavioral interventions, such as redirection or group meetings with client and case manager, for clients who consistently exhibit behavior problems such as altercations with peers, non-compliance with house rules and / or disruptive behaviors that impact other clients in the home.
- b. Provide assistance to clients who need additional support around personal hygiene and toileting issues.
- c. Provide the support needed to assist client in managing his/her basic needs and handling of the day to day routine. Assist in teaching clients to use public transportation, understand their medications, and to develop skills such as budgeting and managing money, shopping and doing laundry.
- d. Directly provide or coordinate supervised/escorted transportation for clients to and from medical appointments.
- e. Provide individualized special diets and/or meals to clients.
- f. Provide scheduled therapeutic and recreational groups on a daily basis seven days a week. This shall include outreach to facility residents to encourage participation in the groups. However, all program elements do not need to be offered every day during a week.
- g. Administer oxygen as specified in Title 22 Section 87618.
- h. Provide catheter care as specified in Title 22 Section 87623.
- i. Provide diabetes care as specified in Title 22 Section 87628, including but not limited to checking blood sugar levels and administering insulin.
- j. Give injections as specified in Title 22 Section 87629.

- k. Provide incontinence care as specified in Title 22 Section 87625.
- l. Provide Hospice care as specified in Title 22 Section 87612.
- m. Provide wound care.
- n. Provide dementia care as specified in Article 12 of Division 6 of Title 22.

2. OTHER SERVICES

Contractor shall also provide the following general services:

- a. Coordinate Health System client care closely with the appropriate Health System division(s).
- b. Provide an extensive activity program for residents.
- c. Provide management of allowances for conserved clients (requires bonding).
- d. Provide management of allowances for Behavioral Health and Recovery Services clients on rep payee status.

II. ADMINISTRATIVE REQUIREMENTS

A. Record Retention

Paragraph 13 of the Agreement notwithstanding, Contractor shall maintain medical records required by the California Code of Regulations. Notwithstanding the foregoing, Contractor shall maintain beneficiary medical and/or clinical records for a period of seven (7) years, except that the records of persons under age eighteen (18) at the time of treatment shall be maintained: a) until one (1) year beyond the person's eighteenth (18th) birthday or b) for a period of seven (7) years beyond the date of discharge, whichever is later. This rule does not supersede professional standards (Contractor is allowed to maintain records for a longer period of time if required by other regulations or licenses. This rule does not supersede professional standards (Contractor is allowed to maintain records for a longer period of time if required by other regulations or licenses).

B. Administering Satisfaction Surveys

Contractor agrees to administer/utilize any and all survey instruments as directed by BHRS, including outcomes and satisfaction measurement instruments.

C. Cultural Competency

Implementations of these guidelines are based on the National Culturally and Linguistically Accessible Services (CLAS) Standards issued by the Department of Health and Human Services. For more information about these standards, please contact the Health Equity Initiatives Manager (HEIM) at 650-573-2714 or jafrica@smcgov.org.

1. Contractor will develop a cultural competence plan that will identify a first step in creating a more welcoming environment for the culturally diverse population residing in the facility. This plan will be submitted to the BHRS staff overseeing Board and Care facilities by January 30, 2014 for review by Program Manager and the Health Equity Initiatives Manager (HEIM). The annual cultural competence plan will include, but is not limited to the following:
 - a. Culturally focused activity/program designed to enhance the facility's sensitivity to diverse cultural values and needs and create a more welcoming environment for the diverse resident population.
 - b. Format for the collection of cultural demographic information, including race, ethnicity, primary language, gender and sexual orientation for residents of the facility.
2. Contractor will attend 8 hours of culturally focused training per year sponsored by BHRS on how to provide culturally and linguistically appropriate services. Trainings will include culturally specific trainings designed to expand contractor's knowledge of threshold populations residing in San Mateo County.
3. Contractor will be invited to attend the Cultural Competence Council and/or participate in a cultural competence effort within BHRS.
4. Contractor will post any relevant and appropriate behavioral health-related materials (such as forms, signage, etc.) in the facility as agreed upon by contractor and BHRS representative

5. Technical Assistance -- Contractors who are not able to comply with the cultural competence requirements will be asked to meet with the Program Manager and HEIM (jafrica@smcgov.org) to plan for appropriate technical assistance.

D. Licensing Reports

Contractor shall submit a copy of any licensing report issued by a licensing agency to BHRS Deputy Director of Youth Services, Adult and Older Adult Services, or the Manager of AOD Services or their designee, within ten (10) business days of Contractor's receipt of any such licensing report.

- E. Facility Administrator must arrange for, and provide documentation of, ten (10) hours of continuing education or training per employee, per year, above and beyond what is required by Community Care Licensing. Trainings provided by BHRS throughout the year may be used for this purpose, as well as outside trainings.
- F. Maintain individual client records in accordance with County and state requirements. Allow County and staff access to the facility, to the extent authorized by law, for client assessment, monitoring, record review, and consultation.
- G. Participate in County's Management Information System. Supply needed documentation and information to the BHRS Program Office in a timely manner.
- H. Participate in required monthly educational meetings and trainings as set up by BHRS. Additional continuing education or other training may not be substituted for the monthly meetings.
- I. Retain and show proof of a bond issued by a surety company in accordance with Community Care Licensing's regulations for a licensee who may be entrusted with care and/or control of client's cash resources.
- J. Ineligible Employees

BHRS requires that contractors identify the eligibility status of employees, interns or volunteers prior to hiring and on an annual basis thereafter. Results of the eligibility screenings are to be maintained in the employee files. This process is meant to ensure that any person delivering services to clients of BHRS are not currently excluded, suspended, debarred or have been convicted of a criminal offense as described below. The Contractor must notify BHRS Quality Management (by completing the BHRS Critical Incident Reporting form, Policy #93-11) should a current employee, intern or volunteer be identified as ineligible. Contractors are required to screen for ineligible employees, interns and volunteers by using the following websites:

1. Office or Inspector General

Contractor may not employ any persons deemed an Ineligible Person by the Office of the Inspector General in the provision of services for the County through this agreement. Any employee(s) of contractor determined to be an Ineligible Person will be removed from responsibility for, or involvement with County clients or operations. An "Ineligible Person" is an individual who (1) is currently excluded, suspended, debarred or otherwise ineligible to participate in Federal health care programs, or (2) has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the Federal health care programs after a period of exclusion, suspension, debarment or ineligibility. Ineligibility may be verified by checking: www.Exclusions.OIG.HHS.Gov.

K. Advance Directives

Contractor will comply with County policies and procedures relating to advance directives.

L. Beneficiary/Patient's Rights

Contractor will comply with County policies and procedures relating to beneficiary/patient's rights and responsibilities as referenced in the agreement Section 10. Compliance with laws; payment of Permits/Licenses.

M. Compliance Plan and code of Conduct

Contractor shall read and be knowledgeable of the compliance principles contained in the BHRS Compliance Plan and Code of Conduct. In addition, Contractor shall assure that Contractor's workforce is aware of compliance mandates, and are informed of the existence and how to use the Compliance Improvement Hotline Telephone Number (650) 573-2695.

N. Fingerprint Compliance

At County's sole discretion, Contractor certifies that its employees and/or its subcontractors, assignees, and volunteers who, during the course of performing services under this Agreement, have contact with children or any person under his or her care will be fingerprinted in order to determine whether they have a criminal history which would compromise the safety of children or individuals with whom Contractor's employees and/or its subcontractors, assignees, or volunteers have contact. If said employees and/or subcontractors, assignees, and volunteers have such a criminal history, they shall not have contact with children or others who receive services through this agreement. Fingerprint information received from the Department of Justice (DOJ) shall be retained or disposed of pursuant to DOJ directive. A certificate of fingerprinting certification is attached hereto and incorporated by reference herein as Attachment E.

O. Minimum Staff requirements

Contractor shall have on file job descriptions (including minimum qualifications for employment and duties performed) for all personnel whose salaries, wages, and benefits are reimbursable in whole or in part under this Agreement. Contractor agrees to submit any material changes in such duties or minimum qualifications to County prior to implementing such changes or employing persons who do not meet the minimum qualifications currently on file. Contractor service personnel shall be direct employees, contractors, volunteers, or training status persons.

P. Communication with County

Contractor shall maintain close collaboration and strong communication between the administrator at Millbrae Manor and (1) the designee of each Health System division (as appropriate) and (2) case managers of the clients residing at the facility.

III. GOALS AND OBJECTIVES

GOAL 1: Clients shall be satisfied with services provided

OBJECTIVE 1: At least ninety percent (90%) of clients shall rate services as satisfactory.

GOAL 2: Contractor will develop an enhanced activity plan, which may include, but not be limited to activities in the following categories: Health, nutrition, hygiene, smoking cessation, socialization.

OBJECTIVE 2: Contractor will submit the enhanced activity plan to the BHRS Program Manager by June 30, 2014.

Exhibit B

In consideration of the services provided by Contractor in Exhibit A and subject to the terms of the Agreement, County and Contractor have executed Amendment No. 5 to the Operations Management Agreement between County and Contractor dated June 19, 2012.

No other consideration or payment will be due to Contractor for the services described by this Agreement other than each resident client's obligation to pay his or her SSI board and care monthly rate.

ATTACHMENT E

FINGERPRINTING CERTIFICATION

Contractor hereby certifies that Contractor's employees, volunteers, consultants, agents, and any other persons who provide services under this Agreement and who has/will have supervisory or disciplinary power over a child (Penal Code Section 11105.3) (the "Applicant") shall be fingerprinted in order to determine whether each such Applicant has a criminal history which would compromise the safety of children with whom each such Applicant has/will have contact.

Contractor's employees, volunteers, consultants, agents, and any other persons who provide services under this Agreement: (check a or b)

- ☒ a. do NOT exercise supervisory or disciplinary power over children (Penal 11105.3).
- ☐ b. do exercise supervisory or disciplinary power over children (Penal 11105.3).

Hillbrae Assisted Living Center, LLC
Name of Contractor

[Signature]
Signature of Authorized Official

Shlomo Rechner
Name (please print)

Managing Member
Title (please print)

11/8/14
Date

Attachment H
Health Insurance Portability and Accountability Act (HIPAA)
Business Associate Requirements

This BUSINESS ASSOCIATE AGREEMENT ("BAA") is made as of this 22nd day of April, 2014 (the "Effective Date") by and between COUNTY OF SAN MATEO, a political subdivision of the State of California ("Covered Entity" or "CE") and Millbrae Assisted Living Center, LLC, a California limited liability company, and its affiliated designee ("Business Associate" or "BA") (each a "party" and, collectively, the "parties").

RECITALS

A. CE is a "covered entity" under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder (collectively, "HIPAA") and must enter into "business associate" contracts with contractors that may have access to PHI.

B. Pursuant to one or more agreements between the parties, whether oral or written (collectively, the "Agreement"), BA shall provide certain services to CE, and CE wishes to disclose certain information to BA, some of which may constitute PHI.

C. CE and BA intend to protect PHI disclosed to BA pursuant to the Agreement in compliance with HIPAA, the Health Information Technology for Economic and Clinical Health Act, Public Law of 2009 and the regulations promulgated thereunder (collectively, "HITECH Act"), and other applicable laws governing confidentiality of patient information.

D. HIPAA requires CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, 45 C.F.R. §§ 164.314(a), 164.502(e) and 164.504(e) and contained in this BAA.

NOW, THEREFORE, CE and BA agree as follows:

AGREEMENT

1. Definitions. Capitalized terms not otherwise defined herein shall have the meaning assigned to them under HIPAA or the HITECH Act, as applicable.

1.1 Electronic Protected Health Information or EPHI means Protected Health Information that is maintained in or transmitted by electronic media.

1.2 Privacy Rule means the HIPAA Regulation codified at 45 C.F.R. Parts 160 & 164, Subparts A & E.

1.3 Protected Health Information or PHI means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under 45 C.F.R. § 160.103. Protected Health Information includes Electronic Protected Health Information.

1.4 Protected Information means PHI provided by CE to BA or created or received by BA on CE's behalf.

1.5 Security Rule means the HIPAA Regulation codified at 45 C.F.R. Parts 160 & 164, Subparts A & C.

1.6 Unsecured PHI has the meaning given to such term under 42 U.S.C. § 17932(h), 45 C.F.R. § 164.402 and guidance issued pursuant to the HITECH Act including, but not limited to

that issued on April 17, 2009 and published in 74 Federal Register 19006 (April 27, 2009), by the Secretary of the U.S. Department of Health and Human Services ("Secretary").

2. Obligations of Business Associate.

2.1 Permitted Access, Use or Disclosure.

BA shall neither permit the unauthorized or unlawful access to, nor use or disclose, Protected Information other than as permitted or required by the Agreement, this BAA, or as permitted or Required By Law. Except as otherwise limited in the Agreement or this BAA, BA may access, use, or disclose Protected Information (i) to perform its services as specified in the Agreement; and (ii) for the proper administration of BA, provided that such access, use, or disclosure would not violate HIPAA or the HITECH Act if done or maintained by CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable assurances from such third party that such Protected Information will be held confidential as provided pursuant to this BAA and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) agreement from such third party to promptly notify BA of any Breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such Breach.

2.2 Appropriate Safeguards. BA shall implement appropriate safeguards designed to prevent the access, use or disclosure of Protected Information other than as permitted by the Agreement or this BAA. BA shall use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of EPHI. BA shall comply with each of its obligations under the applicable requirements of 45 C.F.R. §§ 164.308, 164.310, and 164.312 and the policies and procedures and documentation requirements of the HIPAA Security Rule set forth in 45 C.F.R. § 164.316.

2.3 Reporting Improper Access, Use, Disclosure.

(a) **Generally.** BA shall promptly notify CE of any Breach of security, intrusion, or unauthorized access, use, or disclosure of PHI of which BA becomes aware and/or any access, use, or disclosure of data in violation of the Agreement, this BAA, or any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any deficiencies in its policies and procedures that may have led to the incident, and (ii) any action pertaining to such unauthorized access, use, or disclosure required of BA by applicable federal and state laws and regulations.

(b) **Breaches of Unsecured PHI.** Without limiting the generality of the requirements set forth in Section 2.3(a), BA also shall, following the discovery of any Breach of Unsecured PHI, notify CE in writing of such Breach without unreasonable delay and in no case later than sixty (60) days after discovery. The notice shall include the information specified in 42 U.S.C. § 17932(f)(1)-(4) if known (or can be reasonably obtained) by BA.

(c) **Mitigation.** BA shall establish and maintain safeguards to mitigate, to the extent practicable, any deleterious effects known to BA of any unauthorized or unlawful access or use or disclosure of PHI not authorized by the Agreement, this BAA, or applicable federal or state laws or regulations; provided, however, that unless otherwise agreed in writing by the parties or required by applicable federal or state laws or regulations, such mitigation efforts by BA shall not require BA to bear the costs of notifying individuals impacted by such unauthorized or unlawful access, use, or disclosure of PHI; provided, further, however, that BA shall remain fully responsible for all aspects of its reporting duties to CE under Section 2.3(a) and Section 2.3(b).

2.4 Business Associate's Subcontractors and Agents. BA shall ensure that any agents or

subcontractors to whom it provides Protected Information agree to the same restrictions and conditions that apply to BA with respect to such PHI. To the extent that BA creates, maintains, receives or transmits EPHI on behalf of the CE, BA shall ensure that any of BA's agents or subcontractors to whom it provides Protected Information agree to implement the safeguards required by Section 2.2 above with respect to such EPHI.

2.5 Access to Protected Information. To the extent BA maintains a Designated Record Set on behalf of the CE, BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act.

2.6 Amendment of PHI. To the extent BA maintains a Designated Record Set on behalf of CE, within ten (10) days of receipt of a request from the CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make PHI available to CE so that CE may make any amendments that CE directs or agrees to in accordance with the Privacy Rule.

2.7 Accounting Rights. Within ten (10) days of notice by CE of a request for an accounting of disclosures of Protected Information, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule and the HITECH Act. BA shall implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of

disclosures from an Electronic Health Record ("EHR") for treatment, payment, or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent BA maintains an EHR and is subject to this requirement. At a minimum, the information collected and maintained shall include, to the extent known to BA, the information set forth at 45 C.F.R. § 164.528(b)(2). The accounting must be provided without cost to the individual or the requesting party if it is the first accounting requested by such individual within any twelve (12) month period. For subsequent accountings within a twelve (12) month period, BA may charge the individual or party requesting the accounting a reasonable fee based upon BA's labor costs in responding to the request and a cost-based fee for the production of non-electronic media copies, so long as BA informs the individual or requesting party in advance of the fee and the individual or requesting party is afforded an opportunity to withdraw or modify the request. BA shall notify CE within five (5) business days of receipt of any request by an individual or other requesting party for an accounting of disclosures. The provisions of this Section 2.7 shall survive the termination of this BAA.

2.8 Governmental Access to Records. BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary for purposes of determining CE's compliance with the Privacy Rule.

2.9 Minimum Necessary. To the extent feasible in the performance of services under the Agreement, BA (and its agents or subcontractors) shall request, use, and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use, or disclosure.

2.10 Permissible Requests by Covered Entity. CE shall not request BA to use or

disclose PHI or otherwise act in a manner that would not be permissible under HIPAA or the HITECH Act if done by CE.

2.11 Breach Pattern or Practice If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of such other party's obligations under this BAA or other arrangement, the first party must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the first party must terminate the applicable Agreement to which the breach and/or violation relates if feasible, or if termination is not feasible, report the problem to the Secretary.

3. Term and Termination.

3.1 Term. The term of this BAA shall be effective as of the Effective Date and shall terminate when all Protected Information is destroyed or returned to CE.

3.2 Termination.

(a) **Material Breach by BA.** Upon any material breach of this BAA by BA, CE shall provide BA with written notice of such breach and such breach shall be cured by BA within thirty (30) business days of such notice, or else CE may immediately terminate this BAA and the applicable Agreement.

(b) **Effect of Termination.** Upon termination of any of the agreements comprising the Agreement for any reason, BA shall, if feasible, return or destroy all Protected Information relating to such agreements that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such PHI. If return or destruction is not feasible, BA shall continue to extend the protections of this BAA to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

4. Compliance with State Law. Nothing in this BAA shall be construed to require BA to use or disclose Protected Information without a written authorization, where such authorization would be required under state law for such use or disclosure.

5. Amendment to Comply with Law. BA and CE shall take such actions necessary to implement the standards and requirements of HIPAA, the HITECH Act, and other applicable laws relating to the security or confidentiality of PHI. Upon the request of either party, the other party shall promptly enter into negotiations concerning the terms of an amendment to this BAA embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, or other applicable laws. If such negotiations are unsuccessful, either party may terminate the applicable Agreement upon thirty (30) days' written notice to the other party.

6. No Third-Party Beneficiaries. Nothing express or implied in the Agreement or this BAA is intended to confer, nor shall anything herein confer upon any person other than CE, BA and their respective successors or permitted assigns, any rights, remedies, obligations or liabilities whatsoever.

7. Notices. All notices hereunder shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, or deposited with the overnight courier addressed as follows:

If to CE: San Mateo Medical Center
222 West 39th Avenue
San Mateo, CA 94403
Attn: Security Officer
Fax: 650/573-2950

With copies to: John Beiers, Esq.
San Mateo County Counsel
400 County Center, 6th Floor
Redwood City, CA 94063
Fax: 650/363-4034

If to BA: Millbrae Assisted Living
5900 Wilshire Blvd., Suite 1600
Los Angeles, CA 90036
Attn: Security Officer
Fax: 323/330-6550

or to such other persons or places as either party may from time to time designate by written notice to the other.

8. Interpretation. The provisions of this BAA shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provision in this BAA. This BAA and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and the HITECH Act. Any ambiguity in this BAA shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HITECH Act. Except as specifically required to implement the purposes of this BAA, or to the extent inconsistent with this BAA, all other terms of the Agreement shall remain in force and effect.

9. Entire Agreement. This BAA supersedes any and all prior and contemporaneous business associate agreements or addenda between the parties and constitutes the final and entire agreement between the parties hereto with respect to the subject matter hereof. Each party to this BAA acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, with respect to the subject matter hereof, have been made by either party, or by anyone acting

on behalf of either party, which are not embodied herein. No other agreement, statement or promise, with respect to the subject matter hereof, not contained in this BAA shall be valid or binding.

10. Regulatory References. A reference in this BAA to a section of regulations means the section as in effect or as amended, and for which compliance is required.

11. Counterparts. This BAA may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this BAA as of the BAA Effective Date.

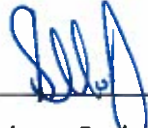
"CE"

**THE COUNTY OF SAN MATEO, a political
subdivision of the State of California**

By: _____
Print Name: _____
Title: President, Board of Supervisors
Attested: _____
Clerk of the Board
Resolution # _____

"BA"

**Millbrae Assisted Living Center, LLC, a
California limited liability company**

By:  _____
Print Name: Shlomo Recknitz
Title: Manager

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

☐

a. Employs fewer than 15 persons.

☒

b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R.

84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person:

Name of Contractor(s):

Street Address or P.O. Box:

City, State, Zip Code:

I certify that the above information is complete and correct to the best of my knowledge

Signature:

Title of Authorized Official:

Date:

*Exception: DHHS regulations state that: "If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility

accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."