

August 16, 2019

TO: Members of the Board of Directors

Victor Rey, Jr. – President
Regina M. Gage – Vice President
Norm Nelson, M.D. – Secretary
Richard Turner – Treasurer
Juan Cabrera – Assistant Treasurer

Legal Counsel
Ottone Leach & Ray LLP

A Meeting of the MEMBER of the Salinas Valley Assisted Living LLC will be held:

**THURSDAY, AUGUST 22, 2019, AT 6:00 P.M., IN THE
CISLINI PLAZA BOARD ROOM IN SALINAS VALLEY MEMORIAL HOSPITAL
450 E. ROMIE LANE, SALINAS, CALIFORNIA**

**IMMEDIATELY FOLLOWING THE REGULAR MEETING OF THE BOARD OF
DIRECTORS OF SALINAS VALLEY MEMORIAL HEALTHCARE SYSTEM.**



Pete Delgado
President/Chief Executive Officer

PD/ks

**Meeting of the Member
Salinas Valley Assisted Living LLC**

**THURSDAY, AUGUST 22, 2019, AT 6:00 P.M., IN THE
CISLINI PLAZA BOARD ROOM IN SALINAS VALLEY MEMORIAL HOSPITAL
450 E. ROMIE LANE, SALINAS, CALIFORNIA**

**IMMEDIATELY FOLLOWING THE REGULAR MEETING OF THE BOARD OF DIRECTORS
OF SALINAS VALLEY MEMORIAL HEALTHCARE SYSTEM**

AGENDA

- | | | |
|----|--|-----------------------------|
| 1. | Call to Order | Victor Rey, SVMHS President |
| 2. | Roll Call | Victor Rey, SVMHS President |
| 3. | Consider Approval of Amended and Restated Operating Agreement for Salinas Valley Assisted Living LLC | Pete Delgado, President/CEO |
| 4. | Consider Approval of Commercial Lease Agreement between Salinas Valley Memorial Healthcare System and Salinas Valley Assisted Living LLC for 209 Regency Circle, Salinas, CA | Pete Delgado, President/CEO |
| 5. | Public Input | Victor Rey, SVMHS President |
| 6. | Adjournment | Victor Rey, SVMHS President |

Note: Requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Executive Assistant during regular business hours at 831-755-0741. Notification received 48 hours before the meeting will enable the District to make reasonable accommodations.

CALL TO ORDER

(VICTOR REY)

ROLL CALL

(VICTOR REY)

AMENDED AND RESTATED OPERATING AGREEMENT

SALINAS VALLEY ASSISTED LIVING LLC A CALIFORNIA LIMITED LIABILITY COMPANY (Amended & Restated July 1, 2019)

This Amended and Restated Operating Agreement (“Agreement”), effective as of July 1, 2019 (“Effective Date”), constitutes the Operating Agreement for **SALINAS VALLEY ASSISTED LIVING LLC** (“Company”). This Agreement and the Amended Articles of Organization of the Company (“Articles”) shall be binding on the sole member of the Company and any additional members of the Company (“Member” and/or “Members”).

RECITALS

- A. In 1997, Salinas Valley Memorial Healthcare System (formerly Salinas Valley Memorial Hospital District), a California Local Health Care District (“SVMHS”), and Silver Oak Land Company, Inc., a California corporation (“Silver Oak”), formed Salinas Valley Memorial Assisted Living LLC in order to develop an assisted living facility in Salinas, California. At that time, SVMHS and Silver Oak contributed land and capital to support construction and operation of the assisted living facility.
- B. The Company’s Articles of Organization were filed with the California Secretary of State on April 16, 1997. SVMHS subsequently acquired Silver Oak’s interest in Salinas Valley Memorial Assisted Living, LLC, and became sole Member and owner of the Company. On January 13, 2003, a Certificate of Amendment was filed changing the management structure of the LLC to one manager. In June 2019, the Company’s name was changed from Salinas Valley Memorial Assisted Living LLC to Salinas Valley Assisted Living, LLC

ARTICLE 1 DEFINITION OF TERMS

- 1.1 “Act” means California’s Beverly-Killea Limited Liability Company Act, as set forth in Corporations Code Title 2.5, as amended from time to time and any successor statute.
- 1.2 “Adjusted Capital Account Deficit” shall mean, with respect to any Member, the deficit balance, if any, in such Member’s Capital Account as of the end of the relevant fiscal year.
- 1.3 “Affiliate” shall mean any individual, partnership, corporation, trust or other entity or association, directly or indirectly, through intermediaries, controlling, controlled by, or under common control with the Member. The term “control,” as used in the immediately preceding sentence, means, with respect to a corporation or limited liability company, the right to exercise, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the controlled corporation or limited liability company, and, with respect to any individual, partnership, trust, other entity or association, the possession, directly or indirectly, of the power to direct the management or policies of the controlled entity.
- 1.4 “Articles” means the Articles of Organization for the Company filed under California Corporations Code Section 17050, including all amendments or restatements of the Articles of Organization.
- 1.5 “Bankruptcy” means: (a) the filing of an application by a Member for, or its consent to, the appointment of a trustee, receiver, or custodian of its other assets; (b) the entry of an order for relief with respect to a Member in proceedings under the United States Bankruptcy Code, as amended or superseded from time to time; (c) the making by a Member of a general assignment for the benefit of creditors; (d) the entry of an order, judgment, or decree by any court of competent jurisdiction appointing a trustee, receiver, or custodian of the assets of a Member unless the proceedings and the person appointed are dismissed within ninety (90) days; or (e) the failure by a Member generally to pay its debts as the debts become due.
- 1.6 “Capital Account” shall mean with respect to any Member the capital account which the Company establishes and maintains for such Member pursuant to Section 3.3.
- 1.7 “Capital Contributions” shall mean the total value of cash and fair market value of property (including promissory notes) contributed and/or services rendered or to be rendered to the Company by Members.
- 1.8 “Code” means the Internal Revenue Code of 1986, as amended. All references in this Agreement to sections of the Code include any corresponding provision or provisions of succeeding law.

- 1.9 “Company” means SALINAS VALLEY ASSISTED LIVING LLC, a California limited liability company.
- 1.10 “Company Minimum Gain” shall have the meaning ascribed to the term “Partnership Minimum Gain” in the Regulations Section 1.704- 2(d)(1).
- 1.11 “Corporations Code” shall mean the California Corporations Code, as amended from time to time, and the provisions of succeeding law.
- 1.12 “Depreciation” means, for each fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowed under the Code with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period. Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis as required by Section 704(c) of the Code, provided that if the depreciation, amortization or other cost recovery deduction allowed by the Code for such year is zero. Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Manager(s).
- 1.13 “Dissolution Event” shall mean with respect to any Member, one or more of the following; the death, insanity, withdrawal, resignation, expulsion. Bankruptcy, dissolution or occurrence of any other event which terminates the continued membership of any Member unless the Members consent to continue the business of the Company pursuant to Section 8.1.
- 1.14 “Distributable Cash” shall mean the amount of cash which the Manager deem available for distribution to the Members, taking into account all Company debts, liabilities, and obligations of the Company then due and amounts which the Manager deem necessary to place into reserves for customary and usual claims with respect to the Company’s business.
- 1.15 “Distribution” refers to money or other property transferred without consideration to Members with respect to their interests in the Company, but shall not include payments to the Manager pursuant to Section 5.7.
- 1.16 “Economic Interest” shall mean a Member’s or Economic Interest Owner’s share of one or more of the Company’s taxable income, taxable losses, and distributions of the Company’s assets pursuant to this Agreement and the Act, but shall not include any other rights of a Member, including, without limitation, the right to vote or participate in the management, or except as provided in Section 17106 of the Corporations Code, any right to information concerning the business and affairs of Company.
- 1.17 “Economic Interest Owner” shall mean the owner of an Economic Interest who is not a Member.
- 1.18 “Fiscal Year” shall mean the Company’s fiscal year, which shall be the calendar year.
- 1.19 “Majority Interest” shall mean one or more Percentage Interests of Members which taken together exceed fifty percent (50%) of the aggregate of all Percentage Interests.
- 1.20 “Member” shall mean each Person who (a) is an initial signatory to this Agreement, has been admitted to the Company as a Member in accordance with the Articles or this Agreement or an assignee who has become a Member, and (b) has not resigned, withdrawn, been expelled or dissolved.
- 1.21 “Member Minimum Gain” shall have the meaning ascribed to the term “Partner Minimum Gain” in Regulations Section 1.704-2(d)(1).
- 1.22 “Membership Interest” shall mean a Member’s entire interest in the Company including the Member’s Economic Interest, the right to vote on or participate in the management, and the right to receive information concerning the business and affairs, of the Company.
- 1.23 “Percentage Interest” shall mean the percentage of a Member set forth opposite the name of such Member under the column “Member’s Percentage Interest” in Exhibit A hereto, as such percentage may be adjusted from time to time pursuant to the terms of this Agreement. Percentage Interests shall be determined, unless otherwise provided herein, in accordance with the relative proportions of the Capital Accounts of the Members, effective as of the first day of the Company’s Fiscal Year but with all distributions under this Agreement to be deemed to have occurred on such day immediately prior to determination of Percentage Interest of a Member.
- 1.24 “Person” shall mean an individual, general partnership, limited partnership, limited liability company, corporation, trust, estate, real estate investment trust, association or any other entity.

- 1.25 “Profits” and “Losses” shall mean, for each fiscal year or other period, an amount equal to the Company’s taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:
- a. Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition of Profits shall be added to such taxable income or loss;
 - b. Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704- 1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition of Profits, shall be subtracted from such taxable income or loss;
 - c. Gain or loss resulting from disposition of Property to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such Property differs from its Gross Asset Value; and
 - d. In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such fiscal year or other period, computed in accordance with this Agreement.
- 1.26 “Property” shall mean all real and personal property tangible or intangible acquired by the Company.
- 1.27 “Regulations” shall, unless the context indicates otherwise, mean the regulations currently in force that have been issued by the U.S. Department of Treasury pursuant to its authority under the Code.

ARTICLE 2 ORGANIZATIONAL MATTERS

- 2.1 Formation. Pursuant to the Act, the original Members formed a California limited liability company under the laws of the State of California by filing the Articles with the California Secretary of State. The rights and liabilities of the Member(s) shall be determined pursuant to the Act and this Agreement. To the extent the rights or obligations of any Member are different by reason of this Agreement than they would be in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control.
- 2.2 Name. The name of the Company shall be **“SALINAS VALLEY ASSISTED LIVING LLC.”** The business of the Company may be conducted under that name or, upon compliance with applicable laws, any other name that the Manager deems appropriate. The Manager shall file any fictitious name certificates and similar filings, and any amendments, that the Manager considers appropriate or advisable.
- 2.3 Term. The term of this Agreement shall be co-terminus with the period of duration of the Company provided in the Articles, unless extended or sooner terminated as provided in this Agreement.
- 2.4 Office and Agent. The Company shall continuously maintain an office and registered agent in the State of California as required by the Act. The principal office of the Company shall be as the Manager may determine. The company may have such offices anywhere within and without the State of California as the Manager from time to time may determine, or the business of the Company may require. The registered agent shall be as stated in the Articles and Statement of Information Filed with the California Secretary of State, or as otherwise determined by the Manager.
- 2.5 Purposes of Company. The purpose of the Company is to engage in any lawful activity for which a limited liability company may be organized under the Act.

ARTICLE 3 CAPITAL CONTRIBUTIONS, LOANS AND SERVICES

- 3.1 Initial Capital Contributions. At the time of the formation of the Company, each original Member contributed cash and the property as its initial Capital Contribution to form the Company pursuant to the terms of the initial Operating Agreement for the Company.
- 3.2 Additional Capital Contributions. The Member shall contribute additional capital to the Company in such amounts and at such times as the Manager and Member shall unanimously agree. Each Member shall contribute such additional capital in proportion to its respective Percentage Interest. Upon a determination that additional capital is required, the Manager shall give written notice to each Member. Each Member shall have fifteen (15) days from the date such notice is given to contribute its share of the additional capital to the Company. Each Member shall receive a credit to its Capital Account in the amount of any additional

capital which it contributes to the Company. If any Member fails to timely make any required additional capital contribution, such failure shall be grounds for an action against such Member to enforce such obligation, upon the vote of a majority in interest of the other Members.

- 3.3 Capital Accounts. The Company shall establish an individual Capital Account for each Member. The Company shall determine and maintain each Capital Account in accordance with Regulations Section 1.704-1(b)(2)(iv). If a Member transfers its Membership Interest in accordance with this Agreement, such Member's Capital Account shall carry over to the new owner of such Membership Interest pursuant to Regulations Section 1.704-1(b)(2)(iv)(1). No Member shall receive any interest on its Capital Contributions.
- 3.4 Member Loans. Without the prior consent of all Members, no Member may make a loan to the Company.

ARTICLE 4 MEMBERS

- 4.1 Limited Liability. Except as required under the Act or as expressly set forth in this Agreement, no Member shall be personally liable for any debt, obligation, or liability of the Company, whether that liability or obligation arises in contract, tort, or otherwise.
- 4.2 Members Are Not Agents. Pursuant to Section 5.1 and the Articles, the management of the Company is vested in the Manager. No Member, acting solely in the capacity of a Member, is an agent of the Company nor can any Member in such capacity bind nor execute any instrument on behalf of the Company.
- 4.3 Admission of Additional Members. The Manager, with the approval of all of the Member, may admit to the Company additional Members. Any additional Members shall obtain Membership Interests and will participate in the management. Taxable income, taxable losses, and distributions of the Company on such terms as are determined by the Manager and approved by a Majority Interest of the Members.
- 4.4 Withdrawals or Resignations. Any Member who is under an obligation to render services to the Company may withdraw or resign as a Member at any time upon ninety (90) days prior written notice to the Company, without prejudice to the rights, if any, of the Company or the other Members under any contract to render services to which the withdrawing Member is a party. Such Member's Membership Interest shall be subject to purchase and sale as provided herein. No other Member may withdraw or resign from the Company.
- 4.5 Termination of Membership Interest. Upon the transfer of a Member's Membership Interest in violation of this Agreement, the occurrence of a Dissolution Event as to such Member which does not result in the dissolution of the Company, or the withdrawal of a Member in accordance with Section 4.4, the Membership Interest of the Member shall be terminated by the Manager or such membership Interest shall be purchased by the Company or remaining Members as provided in this Agreement.
- 4.6 Transactions With the Company. Subject to any limitations set forth in this Agreement and with the prior approval of the Manager after full disclosure of the Member's involvement, a Member may enter into transactions with the Company. Subject to other applicable law, such Member has the same rights and obligations with respect thereto as a Person who is not a Member.
- 4.7 Remuneration To Members. Except as otherwise authorized in, or pursuant to, this Agreement, no Member is entitled to remuneration for acting in the Company business, subject to the entitlement of Manager or Members winding up the affairs of the Company to reasonable compensation pursuant to Section 10.3.
- 4.8 Voting Rights. Except as expressly provided in this Agreement or the Articles, Members shall have no voting, approval or consent rights. Members shall have the right to approve or disapprove matters as specifically stated in this Agreement, including the following:
- A. Unanimous Approval. The following matters shall require the unanimous vote, approval or consent of all Members:
1. Transfer of a Membership Interest and admission of the assignee as a Member of the Company;
 2. Any amendment of the Articles or this Agreement;
 3. A decision to compromise the obligation of a Member to make a Capital Contribution or return money or property paid or distributed in violation of the Act;
 4. Additional Capital Contributions;
 5. Admission of additional Members;
 6. Election and removal of a Manager;
 7. A change in the purpose of the Company or reorganization of the Company;
 8. Any other limitations on the Manager's authority;

9. The admission of substitute Members;
 10. Continuation of the Company's business upon the occurrence of a Dissolution Event;
 11. Dissolving or merging the Company; and
 12. Any indemnification by the Company.
- B. Approval by Members Holding a Majority Interest. Except as set forth in Section 5.3B in all other matters in which a vote, approval or consent of the Members is required, a vote, consent or approval of Members holding a Majority Interest shall be sufficient to authorize or approve such act.

4.9 Meetings of Members.

- A. Date, Time, and Place of Meetings of Members. Meetings of Members may be held at such date, time and place within' or without the State of California as the Manager may fix from time to time, or if there are two or more Managers and they are unable to agree on such time and place, Members holding a Majority Interest shall determine the time and place. No annual or regular meetings of Members or Manager are required. At any Members' meeting, the Manager shall appoint a person to preside at the meeting and a person to act as secretary of the meeting. The secretary shall prepare minutes of the meeting which shall be placed in the minute books of the Company.
- B. Power to Call Meetings. Unless otherwise prescribed by the Act or by the Articles, meetings of the Members may be called by any Manager, or upon written demand of Members holding more than ten percent (10%) of the Percentage Interests, to address any matters on which the Members may vote.
- C. Notice of Meeting. Written notice of a meeting of Members shall be sent or otherwise given to each Member in accordance with Corporations Code Section 17104(c)(2) not less than ten (10) or more than sixty (60) days prior to the date of the meeting. The notice shall specify the place, date and hour of the meeting and the general nature of the business to be transacted. No other business may be transacted at this meeting. Upon written request to a Manager by any person entitled to call a meeting of Members, the Manager shall immediately provide notice to the Members entitled to vote that a meeting will be held at a time requested by the person calling the meeting, not less than ten (10) days or more than sixty (60) days after the receipt of the request. If the notice is not given within twenty (20) days after the receipt of the request, the person entitled to call the meeting may give the notice.
- D. Manner of Giving Notice. Notice of any meeting of Members shall be given either personally or by first-class mail, facsimile with confirmation of receipt, electronic mail with confirmation of receipt, or other written communication, charges prepaid, addressed to the Member at the address of that Member appearing on the books of the Company or given by the Member to the Company for the purpose of notice. If no such address appears on the Company's books or is given, notice shall be deemed to have been given if sent to that Member by first-class mail, facsimile, electronic mail, or other written communication to the Company's principal executive office, or if published at least once in a newspaper of general circulation in the county where that office is located. Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by facsimile or other means of written or electronic communication. If any notice addressed to a Member at the address of that Member appearing on the books the Company is returned to the Company by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice to the Member at that address, all future notices or reports shall be deemed to have been duly given without further mailing if these shall be available to the Member on written demand of the Member at the principal executive office of the Company for a period of one year from the date of the giving of the notice. An affidavit of the mailing or other means of giving any notice of any meeting shall be executed by the Manager or any secretary, assistant secretary, or any transfer agent of the Company giving the notice and shall be filed in the minute book of the Company.
- E. Validity of Action. Any action approved at a meeting other than by unanimous approval of those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.
- F. Quorum. The presence in person or by proxy of the holders of a Majority Interest shall constitute a quorum at a meeting of Members. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the loss of a quorum, if any action taken after loss of a quorum (other than adjournment) is approved by Members holding a Majority Interest.

- G. Adjourned Meeting. Any Members' meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the Membership Interests represented at that meeting, either in person or by proxy, but in the absence of a quorum, no other business may be transacted at that meeting, except as provided in Section 4.9F. When any meeting of Members is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place are announced at a meeting at which the adjournment is taken, unless a new record date for the adjourned meeting is subsequently fixed, or unless the adjournment is for more than forty-five (45) days from the date set for the original meeting, in which case the Manager shall set a new record date. At any adjourned meeting the Company may transact any business which might have been transacted at the original meeting.
- H. Waiver of Notice or Consent. The actions taken at any meeting of Members however called and noticed, and wherever held, have the same validity as if taken at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if either before or after the meeting, each of the Members entitled to vote, who was not present in person or by proxy, signs a written waiver of notice or consents to holding the meeting or approves the minutes of the meeting. All such waivers, consents or approvals shall be filed with Company records and made a part of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of that meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened, and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting if that objection is expressly made at the meeting. The business to be transacted and the purpose of any meeting of Members need not be specified in any waiver of notice except as provided in Section 4.9E.
- I. Action By Written Consent Without a Meeting. Any action that may be taken at a meeting of Members may be taken without a meeting if a consent in writing setting forth the action so taken, is signed and delivered to the Company within sixty (60) days of the record date for that action by Members having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all Members entitled to vote on that such action at a meeting were present and voted. All such consents shall be filed with the Manager or the secretary, if any, of the Company and shall be maintained in the Company records. Any Member giving a written consent, or the Member's proxy holders may revoke the consent by a writing received by the Manager or secretary, if any, of the Company before written consents of the number of shares required to authorize the proposed action have been filed. Unless the consents of all Members entitled to vote have been solicited in writing, (i) notice of any Member approval of an amendment to the Articles or this Agreement, a dissolution of the Company, or a merger of the Company, without a meeting by less than unanimous written consent, shall be given at least ten (10) days before the consummation of the action authorized by such approval, and (ii) prompt notice shall be given of any other action approved by Members without a meeting by less than unanimous written consent, to those Members entitled to vote who have not consented in writing.
- J. Video/Telephonic Participation By Member at Meetings. Members may participate in any Members' meeting through the use of any means of video, conference telephones or similar communications equipment so long as all Members participating can hear one another. A Member so participating is deemed to be present in person at the meeting.
- K. Record Date. In order that the Company may determine the Members of record entitled to notices of any meeting or to vote, or entitled to receive any distribution or to exercise any rights in respect of any other lawful action, a Manager may fix, in advance, a record date, that is not more than sixty (60) days nor less than ten (10) days prior to the date of the meeting and not more than sixty (60) days prior to any other action. If no record date is fixed, the record date shall be as set forth in Section 17104(k), as follows:
- (i) The record date for determining Members entitled to notice of or to vote at a meeting of Members shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.
 - (ii) The record date for determining Members entitled to give consent to Company action in writing without a meeting shall be the day on which the first written consent is given.

- (iii) The record date for determining Members for any other purpose shall be at the close of business on the day on which the Manager adopt the resolution relating thereto, or the 60th day prior to the date of the other action, whichever is later.
 - (iv) The determination of Members of record entitled to notice of or to vote at a meeting of Members shall apply to any adjournment of the meeting unless a Manager or the Members who called the meeting fix a new record date for the adjourned meeting, but the Manager or the Members who called the meeting shall fix a new record date if the meeting is adjourned for more than 45 days from the date set for the original meeting.
- L. Proxies. Every Member entitled to vote for Manager or on any other matter shall have the right to do so either in person or by one or more agents authorized by a written proxy signed by the person and filed with the Manager or secretary, if any, of the Company. A proxy shall be deemed signed if the Member's name is placed on the proxy (whether by manual signature, typewriting, facsimile transmission, or otherwise) by the Member or the Member's attorney in fact, A validity executed proxy which does not state that it is irrevocable shall continue in full force and effect unless (i) revoked by the person executing it, before the vote pursuant to that proxy, by a writing delivered to the Company stating that the proxy is revoked, or by a subsequent proxy executed by, or attendance at the meeting and voting in person by, the person executing the proxy; or (ii) written notice of the death or incapacity of the maker of that proxy is received by the Company before the vote pursuant to that proxy is counted; provided, however, that no proxy shall be valid after the expiration of eleven (11) months from the date of the proxy, unless otherwise provided in the proxy. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Corporations Code Sections 705(e) and 705(f).

4.10 Certificate of Membership Interest.

- A. Certificate. Membership Interests may be represented by certificates of membership in the Manager's discretion. The exact contents of a certificate of membership may be determined by action of the Manager but shall be issued substantially in conformity with the following requirements. The certificates of membership shall be respectively numbered serially, as they are issued, shall be impressed with the Company seal or a facsimile thereof, if any, and shall be signed by the Manager or officers of the Company. Each certificate of membership shall state the name of the Company, the fact that the Company is organized under the laws of the State of California as a limited liability company, the name of the person to whom issued, the date of issue, and the Percentage Interests represented thereby. A statement of the designations, preferences, qualifications, limitations, restrictions, and special or relative rights of the Membership Interest, if any, shall be set forth in full or summarized on the face or back of the certificates which the Company shall issue, or in lieu thereof the certificate may set forth that such a statement or summary will be furnished to any holder of the Membership Interests upon request without charge. Each certificate of membership shall be otherwise in such form as may be determined by the Manager.
- B. Cancellation of Certificate. All certificates of membership surrendered to the Company for transfer shall be cancelled and no new certificates of membership shall be issued in lieu thereof until the former certificates for a like number of Membership Interests shall have been surrendered and cancelled, except as herein provided with respect to lost, stolen, or destroyed certificates.
- C. Replacement of Lost, Stolen or Destroyed Certificate. Any Member claiming its certificate of membership is lost, stolen or destroyed may make an affidavit or affirmation of that fact and request a new certificate. Upon the giving of a satisfactory indemnity to the Company as reasonably required by the Manager, a new certificate may be issued representing the same Percentage Interest of membership as was represented by the certificate alleged to be lost, stolen or destroyed.

ARTICLE 5 MANAGEMENT AND CONTROL OF THE COMPANY

5.1 Management of the Company by Manager.

- A. Exclusive Management by Manager. Subject to the provisions of the Articles and this Agreement relating to actions required to be approved by the Members, the business, property and affairs of the Company shall be managed, and all powers of the Company shall be exercised by or under the direction of the Manager.

- B. Agency Authority of Manager. Any Manager, acting alone, is authorized to endorse checks, drafts and other evidences of indebtedness made payable to the order of the Company, but only for the purpose of deposit into the Company's accounts. All checks, drafts and other instruments obligating the Company to pay money in any amount may be signed by any one Manager, acting alone. Any Manager, acting alone, is authorized to sign contracts and obligations on behalf of the Company.
- C. Meetings of Managers. In the event there are more than one (1) Manager of the Company, meetings of the Managers may be called by any Manager upon four (4) days' notice by mail or forty-eight (48) hours' notice delivered personally or by telephone or facsimile. A notice need not specify the purpose of any meeting. Notice of a meeting need not be given to any Manager who signs a waiver of notice or consents to holding the meeting upon approval of the minutes thereafter, whether before or after the meeting, or who attends the meeting without protesting, prior to its commencement, the lack of notice to such Manager. All such waivers, consents and approvals shall be filed with the Company records or made a part of the minutes of the meeting. A majority of the Managers present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of any adjournment shall be given prior to the time of the adjourned meeting to the Managers who are not present at the time of the adjournment. Meetings of the Managers may be held at any place within or without the State of California which has been designated in the notice of the meeting or at such place as may be approved by the Managers. Managers may participate in a meeting through use of conference phone or similar communications equipment, so long as all Managers participating in such meeting can hear one another. Participation in a meeting in such manner constitutes a presence in person at such meeting. A majority of the authorized number of Managers constitutes a quorum of the Managers for the transaction of business. Except to the extent that this Agreement expressly requires the approval of all Managers, every act or decision done or made by a majority of the Managers present at a meeting duly held at which a quorum is present is the act of the Managers. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Managers, if any action taken is approved by at least a majority of the required quorum for such meeting. The provisions of this Section 5.1 C. apply also to committees of the Managers and actions taken by such committees.

5.2 Election of Managers.

- A. Number, Term, and Qualifications. The Company shall one (1) Manager. The number of Managers of the Company shall be fixed from time to time by the affirmative vote or written consent of the Members, provided that in no instance shall there be less than one (1) Manager and provided further that if the number of Managers is reduced to one (1), the Articles shall be amended to so state. Unless the Manager resigns or is removed, the Manager shall hold office until a successor shall have been elected and qualified. Managers shall be elected by the affirmative vote or written consent of the Members. A Manager need not be a Member, an individual, a resident of the State of California, or a citizen of the United States.
- B. Resignation. Any Manager may resign at any time by giving written notice to the Members and remaining Managers without prejudice to the rights, if any, of the Company under any contract to which the Manager is a party. The resignation of any Manager shall take effect upon receipt of that notice or at such later time as shall be specified in the notice; and, unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.
- C. Removal. All or any lesser number of Managers may be removed at any time, with or without cause, by the affirmative vote of all of the Members at a meeting called expressly for that purpose, or by the written consent of all of the Members. Any removal shall be without prejudice to the rights, if any, of the Manager under any employment contract and, if the Manager is also a Member, shall not affect the Manager's rights as a Member or constitute a withdrawal of a Member. A Manager also may be removed by the affirmative vote or written consent of a majority of the remaining Managers if such Manager becomes incapable of fulfilling his or her obligations under this Agreement because of injury or physical or mental illness and such incapacity shall exist for thirty (30) business days in the aggregate during any consecutive six (6) month period.
- D. Vacancies. Any vacancy occurring for any reason in the number of Managers may be filled by the affirmative vote or written consent of Members holding a Majority Interest.

5.3 Powers of Managers.

- A. Powers of Manager. Without limiting the generality of Section 5.1, but subject to Section 5.3B and to the express limitations set forth elsewhere in this Agreement, the Manager shall have all necessary powers to manage and carry out the purposes, business, property, and affairs of the Company, including without limitation, the power to exercise on behalf and in the name of the Company all of the powers described in Corporations Code Section 17003. Without limiting the generality of the powers described in Corporations Code Section 17003, the Members acknowledge that such powers include, without limitation, the power to:
- (i) Acquire, purchase, renovate, improve, alter, rebuild, demolish, replace, and own real property and any other property or assets that the Managers determine is necessary or appropriate or in the interest of the business of the Company, and to acquire options for the purchase of any such property;
 - (ii) Sell, exchange, lease, or otherwise dispose of the real property and other property and assets owned by the Company, or any part thereof or any interest therein;
 - (iii) Borrow money from any party, including the Managers and their Affiliates, issue evidences of indebtedness in connection therewith, refinance, increase the amount of, modify, amend, or change the terms of or extend the time for the payment of any indebtedness or obligation of the Company, and secure such indebtedness by mortgage, deed of trust, pledge, security interest, or other lien on Company assets;
 - (iv) Guarantee the payment of money or performance of any contract or obligation of any Person;
 - (v) Sue on, defend, or compromise any and all claims or liabilities in favor of or against the Company; submit any or all such claims or liabilities to arbitration; and
 - (vi) Retain legal counsel, auditors, and other professionals in connection with the Company business and to pay therefor such remuneration as the Managers may determine.
- B. Limitations on Power of Manager. The Manager shall not have authority to cause the Company to engage in the following transactions without first obtaining the affirmative vote or written consent of all of the Members:
- (i) The sale, exchange or other disposition of all, or substantially all, of the Company's assets occurring as part of a single transaction or plan, or in multiple transactions over a twelve (12) month period, except in the orderly liquidation and winding up of the business of the Company upon its duly authorized dissolution.
 - (ii) The merger of Company with another limited liability company or limited partnership, provided in no event shall a Member be required to become a general partner in a merger with a limited partnership without his express written consent or unless the agreement of merger provides each Member with the dissenter's rights described in the Act.
 - (iii) The establishment of different classes of Members.
 - (v) An alteration of the primary purpose of the Company as set forth in Section 2.3.
 - (vi) Any act which would make it impossible to carry on the ordinary business of the Company.
 - (vii) The confession of a judgment against the Company;
 - (viii) The acquisition of any real or personal property by the Company which is to be held in the name of any Person other than the Company.
 - (ix) Any other transaction described in this Agreement as requiring the vote, consent, or approval of the Members.

- 5.4 Performance of Duties; Liability of Manager. The Manager shall perform his managerial duties in good faith, in a manner they reasonably believe to be in the best interests of the Company and its Members, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. In performing his duties, the Manager shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, of the following persons or groups unless they have knowledge concerning the matter in question that would cause such

reliance to be unwarranted and provided that the Manager act in good faith and after reasonable inquiry when the need therefor is indicated by the circumstances:

- (a) one or more officers, employees or other agents of the Company whom the Manager reasonably believe to be reliable and competent in the matters presented;
- (b) any attorney, independent accountant, or other person as to matters which the Manager reasonably believe to be within such person's professional or expert competence; or
- (c) a committee upon which he does not serve, duly designated in accordance with a provision of the Articles or this Agreement, as to matters within its designated authority, which committee the Manager reasonably believe to merit competence.

A Manager who so performs the duties of Manager shall not have any liability by reason of being or having been a Manager of the Company. A Manager shall not be liable to the Company or to any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage results from fraud, deceit, gross negligence, reckless or intentional misconduct, or a knowing violation of law by the Manager.

- 5.5 Devotion of Time. The Manager are not obligated to devote all of their time or business efforts to the affairs of the Company. The Manager shall devote whatever time, effort, and skill as they deem appropriate for the operation of the Company.
- 5.6 Competing Activities. The Manager may engage or invest in, independently or with others, any business activity of any type or description, including without limitation those that might be the same as or similar to the Company's business and that might be in direct or indirect competition with the Company. Neither the Company nor any Member shall have any right in or to such other ventures or activities or to the income or proceeds derived therefrom. The Manager shall not be obligated to present any investment opportunity or prospective economic advantage to the Company, even if the opportunity is of the character that, if presented to the Company, could be taken by the Company. The Manager shall have the right to hold any investment opportunity or prospective economic advantage for their own account or to recommend such opportunity to Persons other than the Company. The Members acknowledge that any Managers and their Affiliates own and/or manage other businesses, including businesses that may compete with the Company and for the Managers' time. The Members hereby waive any and all rights and claims which they may otherwise have against the Managers and their officers, directors, shareholders, partners, members, managers, agents, employees, and Affiliates as a result of any of such activities.
- 5.7 Transactions between the Company and the Managers. Notwithstanding that it may constitute a conflict of interest, the Managers may, and may cause their Affiliates to, engage in any transaction (including, without limitation, the purchase, sale, lease, or exchange of any property or the rendering of any service, or the establishment of any salary, other compensation, or other terms of employment) with the Company so long as such transaction is not expressly prohibited by this Agreement and so long as the terms and conditions of such transaction are fully disclosed to all of the Members, and, on an overall basis, are fair and reasonable to the Company and are at least as favorable to the Company as those that are generally available from Persons capable of similarly performing them and in similar transactions between parties operating at arm's length. The Managers and their Affiliates shall also be entitled to receive the following payments:
- A. Affiliates. The Company shall pay Affiliates of the Managers for services rendered or goods provided to the Company to the extent that the Managers are not required to render such services or goods themselves without charge to the Company and that the fees paid to such Affiliates do not exceed the fees that would be payable to an independent responsible third party that is willing to perform such services or provide such goods.
 - B. Expenses. The Company shall reimburse the Managers and their Affiliates for the actual cost of goods and materials used for or by the Company. The Company shall also pay or reimburse the Managers or their Affiliates for organizational expenses (including without limitation, legal and accounting fees and costs) incurred to form the Company and prepare the Articles and this Agreement.
- 5.8 Acts of Managers as Conclusive Evidence of Authority. Any note, mortgage, evidence of indebtedness, contract, certificate, statement, conveyance, or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between the Company and any other person, when signed by at least one Manager, is not invalidated as to the Company by any lack of authority of the signing Manager in the absence of actual knowledge on the part of the other person that the signing Manager had no authority to execute the same.

- 5.9 Officers. The Manager may appoint officers at any time. The officers of Company, if deemed necessary by the Manager, may include a chairperson, president, vice president, secretary, and chief financial officer. The officers shall exercise such powers and perform such duties as determined from time to time by the Manager.
- 5.10 Limited Liability. No person who is a Manager or officer or both a Manager and officer of the Company shall be personally liable under any judgment of a court, or in any other manner, for any debt, obligation, or liability of the Company, whether that liability or obligation arises in contract, tort, or otherwise, solely by reason of being a Manager or officer or both a Manager and officer of the Company.

ARTICLE 6 ALLOCATIONS AND DISTRIBUTIONS

6.1 Allocations of Profits and Losses.

- A. Profits. Profits for any fiscal year shall be allocated to the Members, in proportion to their respective Percentage Interests.
- B. Losses. Losses for any fiscal year shall be allocated to the Members in proportion to their respective Percentage Interests.

6.2 Other Allocation Rules.

- A. For purposes of determining the Profits, Losses, or any other items allocable to any period. Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Manager(s) using any permissible method under Code Section 706 and the Regulations.
- B. Except as otherwise provided in this Agreement, all items of Company income, gain, loss, deduction, and any other allocations not otherwise provided for shall be divided between the Members in the same proportions as they share Profits for the year.
- C. The Members are aware of the income tax consequences of the allocations made by this Article 6 and hereby agree to be bound by the provisions of this Article 6 in reporting their shares of Company income and loss for income tax purposes.
- D. Notwithstanding any other provision of this Agreement, taxable loss (or items of deduction) shall not be allocated to a Member to the extent that the member has or would have, as a result of such allocations, an Adjusted Capital Account Deficit (taking into account any adjustments, allocations or distributions described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6) in excess of the Member's share of Company Minimum Gain and Member Minimum Gain, plus any other amount the Member is deemed to be obligated to restore to the Company under the Section 704(b) Regulations. Any taxable loss (or items of deduction) which otherwise would be allocated to a Member, but which cannot be allocated to such Member because of the application of the immediately preceding sentence, shall instead be allocated to the other Members.
- E. In order to comply with the "minimum gain chargeback" requirements of Regulations Sections 1.704-2(f)(1) and 1.704-2(i)(4), and notwithstanding any other provision of this Agreement to the contrary, in the event there is a net decrease in a Member's share of Company Minimum Gain and/or Member Minimum Gain during a Company taxable year, such Member shall be allocated items of income and gain for that year (and if necessary, other years) as required by and in accordance with Regulations Sections 1.704-2(f)(1) and 1.704-2(i)(4) before any other allocation is made.
- F. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 6.2F shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 6 have been tentatively made as if this Section 6.2F were not in this Agreement.
- 6.3 Tax Allocations. In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated to the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Gross Asset Value. In the event the Gross Asset Value of any Company asset is adjusted as provided herein, subsequent allocations

of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Manager(s) in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 6.3 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement,

- 6.4 Excess Nonrecourse Liability Safe Harbor. Pursuant to Regulations Section 1.752-3(a)(3), solely for purposes of determining each Member's proportionate share of the "excess nonrecourse liabilities" of the Company (as defined in Regulations Section 1.752-3(a)-(3)), the Members' respective interests in Company profits shall be their respective Percentage Interests.
- 6.5 Distribution of Distributable Cash. Subject to applicable law and any limitations contained elsewhere in this Agreement, the Managers may elect from time to time to distribute Distributable Cash to the Members in such amounts as the Managers shall determine, which distributions shall be to the Members, in proportion to their respective Percentage Interests. All such distributions shall be made only to the Persons who, according to the books and records of the Company, are the holders of record of the Economic Interests in respect of which such distributions are made on the actual date of distribution. Neither the Company nor any Manager shall incur any liability for making distributions in accordance with this Section 6.5.
- 6.6 Form of Distribution. A Member, regardless of the nature of the Member's Capital Contribution, has no right to demand and receive any distribution from the Company in any form other than money. No Member may be compelled to accept from the Company a distribution of any asset in kind in lieu of a proportionate distribution of money being made to other Members. Except upon a dissolution and the winding up of the Company, no Member may be compelled to accept a distribution of any asset in kind.6.7 Restriction on Distributions.
- A. No distribution shall be made if, after giving effect to the distribution:
- (i) The Company would not be able to pay its debts as they become due in the usual course of business; or
 - (ii) The Company's total assets would be less than the sum of its total liabilities plus, unless this Agreement provides otherwise, the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other Members, if any, upon dissolution that are superior to the rights of the Member receiving the distribution.
- B. The Managers may base a determination that a distribution is not prohibited on any of the following:
- (i) Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances.
 - (ii) A fair valuation.
 - (iii) Any other method that is reasonable in the circumstances.
- Except as provided in Corporations Code Section 17254(e), the effect of a distribution is measured as of the date distribution is authorized if payment occurs within 120 days after the date of authorization, or the date payment is made if it occurs more than 120 days after the date of authorization.
- C. A Member or Manager who votes for a distribution in violation of this Agreement or the Act is personally liable to the Company for the amount of the distribution that exceeds what could have been distributed without violating this Agreement or the act if it is established that the Member or Manager did not act in compliance with Section 6.7.B or Section 10.5. Any Member or Manager who is so liable shall be entitled to compel contribution from (i) each other Member or Manager who also is so liable and (ii) each Member for the amount the Member received with knowledge of facts indicating that the distribution was made in violation of the Agreement or Act.

- 6.8 Return of Distributions. Except for distributions made in violation of the Act or this Agreement, no Member or Economic Interest Owner shall be obligated to return any distribution to the Company or pay the amount of any distribution for the account of the Company or to any creditor of the Company. The amount of any distribution returned to the Company by a Member or Economic Interest Owner or paid by a Member or

Economic Interest Owner for the account of the Company or to a creditor of the Company shall be added to the account or accounts from which it was subtracted when it was distributed to the Member or Economic Interest Owner.

- 6.9 Guaranteed Payments. In the event that the Company establishes any salary, other compensation, or other terms of employment with a Manager as permitted under Section 5.7, and such Manager is also a Member, the payments so made shall be treated as payments to the recipient other than in his or her capacity as a Member under Code Section 707(a), and shall not be treated as distributions for purposes of computing the recipient's Capital Account.

ARTICLE 7 TRANSFER AND ASSIGNMENT OF INTERESTS

- 7.1 Transfer and Assignment of Interests. No Member shall be entitled to transfer, assign, convey, or sell all or any part of his or her Membership Interest except with the prior written consent of all of the other Members, which consent may be given or withheld, conditioned or delayed (as allowed by this Agreement or the Act), as the other Members may determine in their sole discretion. Transfers in violation of this Article 7 shall only be effective to the extent set forth in Section 7.7. After the consummation of any transfer of any part of a Membership Interest, the Membership Interest so transferred shall continue to be subject to the terms and provisions of this Agreement and any further transfers shall be required to comply with all the terms and provisions of this Agreement.
- 7.2 Further Restrictions on Transfer of Interests. In addition to other restrictions found in this Agreement, no Member shall transfer, assign, convey, sell, encumber or in any way alienate all or any part of his or her Membership Interest; (i) without registration under applicable federal and state securities laws, or if requested by the Managers, unless the Member delivers an opinion of counsel, satisfactory to the Managers that registration under such laws is not required; and (ii) if the Membership Interest to be transferred, assigned, sold or exchanged, when added to the total of all other Membership Interests sold or exchanged in the preceding twelve (12) consecutive months prior thereto, would cause the termination of the Company under the Code, as determined by the Managers.
- 7.3 Substitution of Members. A transferee of a Membership Interest shall have the right to become a substitute Member only if (i) the requirements of Sections 7.1 and 7.2 relating to unanimous consent of Members, securities and tax requirements hereof are met, (ii) such Person executes an instrument satisfactory to the Managers accepting and adopting the terms and provisions of this Agreement, and (iii) such person pays any reasonable expenses in connection with his or her admission as a new Member. The admission of a substitute Member shall not result in the release of the Member who assigned the Membership Interest from any liability that such Member may have to the Company.
- 7.4 Family and Affiliate Transfers. The Membership Interest of any Member may be transferred subject to compliance with Section 7.2, and without the prior written consent of all Members as required by Section 7.1, upon consent of the Managers, which shall not be unreasonably withheld, by the Member (i) by *inter vivos* gift or by testamentary transfer to any spouse, parent, sibling, in-law, child or grandchild of the Member, or to a trust for the benefit of the Member or such spouse, parent, sibling, in-law, child, or grandchild of the Member, or (ii) to any Affiliate of the Member; it being agreed that in executing this Agreement, each Member has consented to such transfers.
- 7.5 Effective Date of Permitted Transfers. Any permitted transfer of all or any portion of a Membership Interest shall be effective on the first day of the month following the date upon which the requirements of Sections 7.1, 7.2 and 7.3 have been met. The Managers shall provide the Members with written notice of such transfer as promptly as possible after the requirements of Sections 7.1, 7.2 and 7.3 have been met. Any transferee of a Membership Interest shall take subject to the restrictions on transfer imposed by this Agreement.
- 7.6 Rights of Legal Representatives. If a Member who is an individual dies or is adjudged by a court of competent jurisdiction to be incompetent to manage the Member's person or property, the Member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the Member's rights for the purpose of settling the Member's estate or administering the Member's property, including any power the Member has under the Articles or this Agreement to give an assignee the right to become a Member. If a Member is a corporation, trust or other entity and is dissolved or terminated, the powers of that Member may be exercised by his or her legal representative or successor.

- 7.7 No Effect to Transfers in Violation of Agreement. Upon any transfer of a Membership Interest in violation of this Article 7, the transferee shall have no right to vote or participate in the management of the business, property and affairs of the Company or to exercise any rights of a Member. Such transferee shall only be entitled to become an Economic Interest Owner and thereafter shall only receive the share of the Company's taxable incomes, taxable losses and distributions of the Company's assets to which the transferor of such Economic Interest would otherwise be entitled. Notwithstanding the immediately preceding sentences, if, in the determination of the Managers, a transfer in violation of this Article 7 would cause the termination of the Company under the Code, in the sole discretion of the Managers, the transfer shall be null and void and the purported transferee shall not become either a Member or an Economic Interest Owner.

Upon and contemporaneously with any transfer, assignment, conveyance or sale (whether arising out of an attempted charge upon that Member's Economic Interest by judicial process, a foreclosure by a creditor of the Member or otherwise) of a Member's Economic Interest which does not at the same time transfer the balance of the rights associated with the Membership Interest transferred by the Member (including without limitation, the rights of the Member to vote or participate in the management of the business, property and affairs of the Company), the Company shall purchase from the Member, and the Member shall sell to Company for a purchase price of \$100, all remaining rights and interests retained by the Member that immediately before the transfer, assignment, conveyance or sale were associated with the transferred Economic Interest. Such purchase and sale shall not, however, result in the release of the Member from any liability to the Company as a Member. Each Member agrees that the right of the Company to purchase such remaining rights and interests from a Member who transfers a Membership Interest in violation of this Article 7 is not unreasonable under the circumstances existing as of the date of the purchase.

- 7.8 Right of First Refusal. Each time a Member proposes to transfer, assign, convey, sell, encumber or alienate all or any part of its Membership Interest (or as required by operation of law or other involuntary transfer to do so) other than pursuant to Section 7.4, such Member shall first offer such Membership Interest to the Company and the non-transferring Members in accordance with the following provisions:
- (a) Such Members shall deliver a written notice to the Company and the other Members stating (a) such Member's bona fide intention to transfer such Membership Interest, (b) the name and address of the proposed transferee, (c) the Membership Interest to be transferred, and (d) the purchase price and terms of payment for which the Member proposes to transfer such Membership Interest.
 - (b) Within thirty (30) days after receipt of the notice described in Section 7.8(i), each non-transferring Member shall notify the Managers in writing of its desire to purchase a portion of the Membership Interest being so transferred. The failure of any Member to submit a notice within the applicable period shall constitute an election on the part of that Member not to purchase any of the Membership Interest which may be so transferred. Each Member electing to purchase shall be entitled to purchase a portion of such Membership Interest in the same proportion that the Percentage Interest of such Member bears to the aggregate Percentage Interests of all of Members electing to so purchase the Membership Interest being transferred. In the event any Member elects to purchase none or less than all of its pro rata share of such Membership Interest, then the other Members can elect to purchase more than their pro rata share. If such Members fail to purchase the entire Membership Interest being transferred, the Company may purchase any remaining share of such Membership Interest.
 - (c) Within ninety (90) days after receipt of the notice described in Section 7.8(i) the Company and the Members electing to purchase such Membership Interest shall have the first right to purchase or obtain such Membership Interest upon the price and terms of payment designated in such notice. If such notice provides for the payment of non-cash consideration, the Company and such purchasing Members each may elect to pay the consideration in cash equal to the good faith estimate of the present fair market value of the non-cash consideration offered.
 - (d) If the Company or the other Members elect not to purchase or obtain all of the Membership Interest designated in such notice, then the transferring Member may transfer the Membership Interest described in the notice to the proposed transferee, providing such transfer (a) is completed within thirty (30) days after the expiration of the Company's and the other Members' right to purchase such Membership Interest, (b) is made at the price and terms designated in such notice, and (c) the requirements of Sections 7.1 and 7.2 relating to unanimous consent of Members, securities and tax requirements hereof are met. If such Membership Interest is not so transferred, the transferring Member must give notice in accordance with this Section prior to any other subsequent transfer of such Membership Interest.

ARTICLE 8 DEATH, DISSOLUTION, RETIREMENT OR BANKRUPTCY OF MEMBER

- 8.1 Dissolution Event. Upon the occurrence of any Dissolution Event, the Company shall dissolve unless the remaining Members (“Remaining Members”) consent within ninety (90) days of the Dissolution Event to the continuation of the business of the Company. If the Remaining Members consent to the continuation of the business of the Company, the Company and/or the Remaining Members shall purchase, and the Member whose actions or conduct resulted in the Dissolution Event (“Former Member”) or such Former Member’s legal representative shall sell, the Former Member’s Membership Interest (“Former Member’s Interest”) as provided in this Article and the Remaining Members shall continue the business of Company.
- 8.2 Purchase Price. The purchase price for the Former Member’s Interest shall be the Capital Account balance of the Former Member as adjusted pursuant to Section 3.3; provided, however, that if the Former Member, such Former Member’s legal representative or the Company, deems the Capital Account balance to vary from the fair market value of the Former Member’s Interest by more than ten percent (10%), such party shall be entitled to require an appraisal. In such event, the purchase price to be paid for the Former Member’s Interest shall be determined by three (3) independent appraisers, one selected by the Former Member or such Former Member’s legal representative, one selected by the Company, and one selected by the two appraisers so named. The purchase price to be paid for the Former Member’s Interest shall be the average of the two appraisals closest in amount to each other. In the event the purchase price determined by the appraisals is within ninety-five percent (95%) of the Capital Account balance, the party requesting such appraisal process shall pay all expense of all the appraisals incurred by the party offering to enter into the transaction at the Capital Account valuation. In all other events, the party requesting the appraisal process shall pay one-half of such expense and the other party shall pay one-half of such expense. Notwithstanding the foregoing, if the Dissolution Event results from a breach of this Agreement by the Former Member, the purchase price shall be reduced by an amount equal to the damages suffered by the Company or the Remaining Members as a result of such breach.
- 8.3 Notice of Intent to Purchase. Within thirty (30) days after the purchase price of the Former Member’s Interest has been determined in accordance with Section 8.2, each Remaining Member shall notify the Managers in writing of his or her desire to purchase a portion of the Former Member’s Interest. The failure of any Remaining Member to submit a notice within the applicable period shall constitute an election on the part of the Member not to purchase any of the Former Member’s Interest. Each Remaining Member so electing to purchase shall be entitled to purchase a portion of the Former Member’s Interest in the same proportion that the Percentage Interest of the Remaining Member bears to the aggregate of the Percentage Interests of all of the Remaining Members electing to purchase the Former Member’s Interest.
- 8.4 Election to Purchase Less Than All of the Former Member’s Interest. If any Remaining Member elects to purchase none or less than all of his or her pro rata share of the Former Member’s Interest, then the other Remaining Members can elect to purchase more than their pro rata share. If the Remaining Members fail to purchase the entire interest of the Former Member, the Company shall purchase any remaining share of the Former Member’s Interest.
- 8.5 Payment of Purchase Price. The purchase price shall be paid by the Company or the Remaining Members, as the case may be, by either of the following methods, each of which may be selected separately by the Company or the Remaining Members:
- (a) the Company or the Remaining Members shall at the closing pay in cash the total purchase price for the Former Member’s Interest; or
 - (b) the Company or the Remaining Members shall pay at the closing fourth (1/4) of the purchase price in which case the balance of the purchase price shall then be paid in three equal annual principal installments, plus accrued interest, and be payable each year on the anniversary date of the closing. The unpaid principal balance shall accrue interest at the current Reference Rate charged by the Bank of America for the month in which the initial payment is made plus three percentage points, but the Company and the Remaining Members shall have the right to prepay the note’s balance in full or in part at any time without penalty. The obligation to pay the balance due shall be evidenced by a promissory note, and if purchased by a Remaining Member, secured by a pledge of the Membership Interest being purchased.
- 8.6 Closing of Purchase of Former Member’s Interest. The closing for the sale of a Former Member’s Interest pursuant to this Article 8 shall occur no later than sixty (60) days after the determination of the purchase price. At the closing, the former Member or such Former Member’s legal representative shall deliver to the

Company or the Remaining Members an instrument of transfer (containing warranties of title and no encumbrances) conveying the Former Member's Interest. The Former Member or such Former Member's legal representative, the Company and the Remaining Members shall do all things and execute and deliver all papers as may be necessary fully to consummate such sale and purchase in accordance with the terms and provisions of this Agreement.

- 8.7 Purchase Terms Varied by Agreement. Nothing contained in this Agreement is intended to prohibit Members from agreeing upon other terms and conditions for the purchase by the Company or any Member of the Membership Interest of any Member in the Company desiring to retire, withdraw or resign, in whole or in part, as a Member.

ARTICLE 9 ACCOUNTING, RECORDS, REPORTING BY MEMBERS

- 9.1 Books and Records. Books and records of Company shall be kept, and the financial position and the results of its operations recorded, in accordance with the accounting methods followed for federal income tax purposes. Books and records of the Company shall reflect all the Company transactions, shall be appropriate and adequate for Company's business, and shall be maintained at its principal office in California.
- 9.2 Members' Inspection.
- A. Each Member, Manager and Economic Interest Owner has the right, upon reasonable request for purposes reasonably- related to the interest of the Person as Member, Manager or Economic Interest Owner; to;
- (i) inspect and copy during normal business hours any of the Company records described in Sections 9.1 above; and
- (ii) obtain from the Managers, promptly after their becoming available, a copy of the Company's federal, state, and local income tax or information returns for each Fiscal Year.
- B. Any request, inspection or copying by a Member or Economic Interest Owner under this Section 9.2 may be made by that Person or that Person's agent or attorney.
- 9.3 Annual Statements. The Manager shall cause to be filed at least annually with the California Secretary of State the statement required under California Corporations Code §17060.
- 9.4 Financial and Other Information. The Manager shall provide such financial and other information relating to the Company or any other Person in which the Company owns, directly or indirectly, an equity interest, as a Member may reasonably request. The Manager shall distribute to the Members, promptly after the preparation or receipt thereof by the Manager, any financial or other information relating to any Person in which the Company owns, directly or indirectly, an equity interest, including any filings by such Person under the Securities Exchange Act of 1934, as amended, that is received by the Company with respect to any equity interest of the Company in such Person.
- 9.5 Filings. The Manager, at Company expense, shall cause the income tax returns for the Company to be prepared and timely filed with the appropriate authorities. The Manager, at Company expense, shall also cause to be prepared and timely filed, with appropriate federal and state regulatory and administrative bodies, amendments to, or restatements of, the Articles and all reports required to be filed by the Company with those entities under the Act or other current applicable laws, rules, and regulations. If a Manager required by the Act to execute or file any document fails, after demand, to do so within a reasonable period of time or refuses to do so, any other Manager or Member may prepare, execute and file that document with the California Secretary of State.
- 9.6 Bank Accounts. The Manager shall maintain the funds of the Company in one or more separate bank accounts in the name of the Company and shall not permit the funds of the Company to be commingled in any fashion with the funds of any other Person.
- 9.7 Accounting Decisions and Reliance on Others. All decisions as to accounting matters, except as otherwise specifically set forth in this Agreement, shall be made by the Manager. The Manager may rely upon the advice of their accountants as to whether such decisions are in accordance with accounting methods followed for federal income tax purposes.
- 9.8 Tax Matters for the Company. From time to time, the Company shall make such tax elections as it deems to be in the best interests of the Company and the Members. One of the Managers who is also a Member, or in the event no Manager is a Member, a Member or an officer of a corporate Member, shall be designated

as “Tax Matters Member” (as defined in Code Section 6231), to represent the Company (at the Company’s expense) in connection with all examinations of the Company’s affairs by tax authorities, including resulting judicial and administrative proceedings, and to expend the Company funds for professional services and costs associated therewith. In its capacity as “Tax Matters Member,” the designated Manager (or Member or officer of a corporate Member, as the case may be) shall oversee the Company tax affairs in the overall best interests of the Company. The “Tax Matters Member” of the Company shall be Salinas Valley Memorial Healthcare System.

9.9 Tax Status and Returns.

- A. Accountants. The Company’s accountant shall be C.P.A., or such other accountant as is selected by the Manager(s)
- B. Status as Company for Tax Purposes. Any provision hereof to the contrary notwithstanding, solely for United States federal income tax purposes, each of the Members hereby confirms that the Company will be subject to all provisions of Subchapter K of Chapter 1 of Subtitle A of the Code; provided, however, the filing of U.S. Partnership Returns of Income shall not be construed to extend the purposes of the Company or expand the obligations or liabilities of the Members.

9.10 Mandatory Section 754 Election. Upon a transfer by a Member of an interest in the Company, which transfer is permitted by the terms hereof, or upon the death of a Member or the distribution of any Company Property to one or more Members, the Tax Matters Member, upon the request of one or more of the transferees or distributees, shall cause the Company’s accountants to file an election on behalf of the Company, pursuant to Section 754 of the Code, to cause the basis of the Company’s Property to be adjusted for federal income tax purposes in the manner prescribed in Sections 734 or 743 of the Code, as the case may be. The cost of preparing said election, and any additional accounting expenses of the Company occasioned by said election, shall be borne by said transferees or distributees.

9.11 Tax Withholding.

- A. The Tax Matters Member is authorized and directed to cause the Company to withhold from or pay on behalf of any Member the amount of federal, state, local or foreign taxes that the Tax Matters Member, after consultation with such Member, reasonably believes the Company is required to withhold or pay with respect to any amount distributable or allocable to such Member pursuant to this Agreement, including without limitation, any taxes required to be paid by the Company pursuant to Code Sections 1441, 1442, 1445 or 1446 and any taxes imposed by any state or other taxing jurisdiction on the Company as an entity. Without limiting the foregoing, the Tax Matters Member shall cause the Company to withhold (and remit to appropriate governmental authority), from amounts otherwise distributable to a Member, any taxes that such Member notifies the Tax Matters Member in writing should be withheld, which notice shall be given by any Member who becomes aware of any withholding obligation to which it is subject and shall specifically set forth the rate at which tax should be withheld and the name and address to which any amounts withheld should be remitted.
- B. If the Company is required to withhold and pay over to taxing authorities amounts on behalf of a Member exceeding available amounts then remaining to be distributed to such Member, such payment by the Company shall constitute a loan to such Member that is repayable by the Member on demand, together with interest at the applicable federal rate determined from time to time under Code Section 7872(f)(2) or the maximum rate permitted under applicable law, whichever is less, calculated upon the outstanding principal balance of such loan as of the first day of each month. Any such loan shall be repaid to the Company, in whole or in part, as determined by the Tax Matters Member in its sole discretion, either (i) out of any distributions from the Company which the Member is (or becomes) entitled to receive, or (ii) by the Member in cash upon demand by the Company (said Member bearing all of the Company’s costs of collection, including reasonable attorneys’ fees, if payment is not remitted promptly by the Member after such a demand for payment).
- C. Each Member agrees to cooperate fully with all efforts of the Company to comply with its tax withholding and information reporting obligations and agrees to provide the Company with such information as the Tax Matters Member may reasonably request from time to time in connection with such obligations.

ARTICLE 10 DISSOLUTION AND WINDING UP

- 10.1 Dissolution. The Company shall be dissolved, its assets shall be disposed of, and its affairs wound up on the first to occur of the following:
- (a) the happening of any event of dissolution specified in the Articles;
 - (b) the entry of a decree of judicial dissolution pursuant to Section 17351 of the Corporations Code;
 - (c) the vote of Members holding a Majority in Interest; or
 - (d) the occurrence of a Dissolution Event and the failure' of the Remaining Members to consent in accordance with Section 8.1 to continue the business of the Company within ninety (90) days after the occurrence of such event or the failure of the Company or the Remaining Members to purchase the Former Member's Interest as provided in Section 8.1,
- 10.2 Certificate of Dissolution. As soon as possible following the occurrence of any of the events specified in Section 10.1, the Managers who have not wrongfully dissolved the Company or, if none, the Members, shall execute a Certificate of Dissolution in such form as shall be prescribed by the California Secretary of State and file the Certificate as required by the Act.
- 10.3 Winding Up. Upon the occurrence of any event specified in Section 10.1, the Company shall continue solely for the purpose of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors. The Managers who have not wrongfully dissolved the Company or, if none, the Members, shall be responsible for overseeing the winding up and liquidation of the Company, shall take full account of the liabilities and assets of the Company, shall, in their sole discretion, either cause its assets to be sold or distributed, and if sold, shall cause the proceeds therefrom, to the extent sufficient therefor, to be applied and distributed as provided in Section 10.6. The Persons winding up the affairs of the Company shall give written notice of the commencement of winding up by mail to all known creditors and claimants whose addresses appear on the records of the Company. The Managers or Members winding up the affairs of the Company shall be entitled to reasonable compensation for such services.
- 10.4 Distributions in Kind. Any non-cash asset distributed to one or more Members shall first be valued at its fair market value to determine the taxable income or taxable loss that would have resulted if such asset were sold for such value, such taxable income or taxable loss shall then be allocated pursuant to Article 6, and the Members' Capital Accounts shall be adjusted to reflect such allocations. The amount distributed and charged to the Capital Account of each Member receiving an interest in such distributed asset shall be the fair market value of such interest (net of any liability secured by such asset that such Member assumes or takes subject to). The fair market value of such asset shall be determined by the Manager or by the Members if any Member objects by an independent appraiser (appraiser must be recognized as an expert in valuing the type of asset involved) selected by the Manager or liquidating trustee and approved by the Members.
- 10.5 Order of Payment of Liabilities Upon Dissolution.
- A. After determining that all known debts and liabilities of the Company in the process of winding-up, including, without limitation, debts and liabilities to Members who are creditors of the Company, have been paid or adequately provided for, the remaining assets shall be distributed to the Members in accordance with their positive Capital Account balances, after taking into account income and loss allocations for the Company taxable year during which liquidation occurs. Such liquidating distributions shall be made by the end of the Company taxable year in which the Company is liquidated, or, if later, within ninety (90) days after the date of such liquidation.
 - B. The payment of a debt or liability, whether the whereabouts of the creditor is known or unknown, has been adequately provided for if the payment has been provided for by either of the following means:
 - (i) Payment thereof has been assumed or guaranteed in good faith by one or more financially responsible persons or by the United States government or any agency thereof, and the provision, including the financial responsibility of the Person, was determined in good faith and with reasonable care by the Members or Manager to be adequate at the time of any distribution of the assets pursuant to this Section.
 - (ii) The amount of the debt or liability has been deposited as provided in Section 2008 of the California Corporations Code.

This Section 10.5B shall not prescribe the exclusive means of making adequate provision for debts and liabilities.

- 10.6 Compliance with Regulations. All payments to the Members upon the winding up and dissolution of the Company shall be strictly in accordance with the positive capital account balance limitation and other requirements of Regulations Section 1.704-1(b)(2)(ii)(d).
- 10.7 Limitations on Payments Made in Dissolution. Except as otherwise specifically provided in this Agreement, each member shall only be entitled to look solely at the assets of the Company for the return of his or her positive Capital Account balance and shall have no recourse for his or her Capital Contribution and/or share of taxable incomes (upon dissolution or otherwise) against the Manager or any other Member except as provided in Article 11.
- 10.8 Certificate of Cancellation. The Manager or Members who filed the Certificate of Dissolution shall cause to be filed in the office of, and on a form prescribed by, the California Secretary of State, a certificate of cancellation of the Articles upon the completion of the winding up of the affairs of the Company.

ARTICLE 11 INDEMNIFICATION AND INSURANCE

- 11.1 Indemnification of Agents. The Company shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he or she is or was a Member, Manager, officer, employee or other agent of the Company or that, being or having been such a Member, Manager, officer, employee or agent, he or she is or was serving at the request of the Company as a manager, director, officer, employee or other agent of another limited liability company, corporation, partnership, joint venture, trust or other enterprise (all such persons being referred to herein after as an “agent”), to the fullest extent permitted by applicable law in effect on the date hereof and to such greater extent as applicable law may hereafter from time to time permit.
- 11.2 Insurance. The Company shall have the power to purchase and maintain insurance on behalf of any Person who is or was an agent of the Company against any liability asserted against such Person and incurred by such Person in any such capacity, or arising out of such Person’s status as an agent, whether or not the Company would have the power to indemnify such Person against such liability under the provisions of Section 11.1 or under applicable law.

ARTICLE 12 MISCELLANEOUS

- 12.1 Parties in Interest. Except as expressly provided in the Act, nothing in this Agreement shall confer any rights or remedies under or by reason of this Agreement on any persons other than the Members and Manager and their respective successors and assigns. Nothing in this Agreement shall relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action over or against any party to this Agreement.
- 12.2 Disputed Matters. Except as otherwise provided in this Agreement, any controversy or dispute arising out of this Agreement, the interpretation of any of the provisions, or the action or inaction of any Member or Manager hereunder shall be submitted to arbitration in Monterey County, California before the American Arbitration Association under the commercial arbitration rules then obtaining of said Association. Any award or decision obtained from any such arbitration proceeding shall be final and binding on the parties, and judgment upon any award thus obtained may be entered in any court having jurisdiction thereof. No action at law or in equity based upon any claim arising out of or related to this Agreement shall be instituted in any court by any Member except (i) an action to compel arbitration pursuant to this Section 12.2 or (ii) an action to enforce an award obtained in an arbitration proceeding in accordance with this Section 12.2.
- 12.3 Binding Effect. Subject to the provisions of this Agreement relating to the transferability of Membership Interests, this Agreement will be binding upon and inure to the benefit of the Members, and their respective successors and assigns.
- 12.4 Severability. If any provision of this Agreement or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.
- 12.5 Additional Documents and Acts. Each Member agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated hereby.

- 12.6 Notices. Any notice to be given or to be served upon the Company or any party hereto in connection with this Agreement must be in writing (which may include facsimile) and will be deemed to have been given and received when delivered to the address specified by the party to receive the notice. Such notices will be given to a Member or Manager at the address specified in Exhibit A hereto. Any party may, at any time by giving five (5) days prior written notice to the other parties, designate any other address in substitution of the foregoing address to which such notice will be given.
- 12.7 No Interest in Company Property. No Member or Economic Interest Owner has any interest in specific property of the Company.
- 12.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- 12.9 Attorneys Fees. In the event that any dispute between the Company and the Members or among the Members should result in litigation or arbitration, the prevailing party in such dispute shall be entitled to recover from the other party all reasonable fees, costs and expenses of enforcing any right of the prevailing party, including without limitation, reasonable attorneys' fees and expenses.
- 12.10 Remedies Cumulative. The remedies under this Agreement are cumulative and shall not exclude any other remedies to which any person may be lawfully entitled.
- 12.11 Complete Agreement. This Agreement and the Articles constitute the complete and exclusive statement of the Agreement among the Members and Manager with respect to the subject matter of the documents and replace and supersede all prior written and oral agreements or statements by and among the Members and Managers or any of them. No representation, statement, condition or warranty not contained in this Agreement or the Articles will be binding on the Members or Manager or have any force or effect whatsoever. To the extent that any provision of the Articles conflict with any provision of this Agreement, the Articles shall control. All Exhibits attached to this Agreement are incorporated into this Agreement. All amendments to this Agreement will be in writing and signed by all of the Members.

The sole Member of **SALINAS VALLEY ASSISTED LIVING LLC**, a California Limited Liability Company, has executed this Agreement, effective as of the date written above.

SALINAS VALLEY MEMORIAL HEALTHCARE SYSTEM
A California Local Health Care District

By: _____
Pete Delgado, President/CEO

Date: _____

**SALINAS VALLEY MEMORIAL HEALTHCARE SYSTEM
SALINAS VALLEY ASSISTED LIVING LLC**

COMMERCIAL LEASE

This Commercial Lease (“Lease”) is entered into and effective on September 1, 2019 (“Effective Date”) by and between **Salinas Valley Memorial Healthcare System**, a local health care district organized and operating pursuant to Division 23 of the California Health and Safety Code (“Lessor”), and **Salinas Valley Assisted Living LLC**, a California limited liability company (“Lessee”).

Lessor owns certain real property commonly known as **209 Regency Circle, Salinas, California 93906** (“Property”), which includes a medical building utilized as an assisted living facility (“Facility”). For the purposes of this Lease, Property and Facility shall be collectively referred to as the “Premises.”

In consideration of the rent to be paid by Lessee and of the covenants and provisions to be kept and performed by Lessee under this Lease, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, together with the existing improvements located on the Premises. This Lease supersedes and replaces any and all prior leases, agreements, and arrangements between the parties to this Lease pertaining to the Premises.

ARTICLE 1. TERM OF LEASE

- 1.1 Term. This Lease shall be for a term of ten (10) years, commencing at 12:01 a.m. on August 1, 2019 (“Commencement Date”), and ending at 12:01 a.m. on August 1, 2029 (“Term”), unless terminated earlier pursuant to the provisions of this lease. If the Lessee goes out of business, Lessee may terminate this lease upon six (6) months written notice to Lessor.
- 1.2 Holding Over. In the event Lessee holds over and continues in possession of the Premises after expiration of the Term, Lessee’s continued occupancy of the Premises shall be considered a month-to-month tenancy subject to all the terms and conditions of this Lease except that after sixty (60) days of Lessee holding over, Lessor shall have the option to increase the monthly rent by ten percent (10%).

ARTICLE 2. RENT

- 2.1 Rent. For the Term of the Lease, Lessee shall pay to Lessor rent pursuant to the terms and conditions set forth in Exhibit A RENT attached to this Agreement and incorporated by this reference.
- 2.2 Payment of Rent. Lessee shall pay Rent to Lessor at 450 East Romie Lane, Salinas, California 93901 on or before the first (1st) day of each month in the Term.
- 2.3 Late Charge. Lessee acknowledges that the late payment of rent causes Lessor to incur additional administrative expense which is difficult to quantify. Consequently, Lessee shall pay a late fee, which shall be considered additional rent, for any late rent payment in the following amount: a flat fee of fifty dollars (\$50.00) for any payment after the fifteenth (15th) day of the month.
- 2.4 No Security Deposit Required. Lessee is not required to provide to Lessor a security deposit under the terms of this Lease.

ARTICLE 3. USE OF PREMISES

- 3.1 Permitted Use. During the term of this Lease, the Premises shall be used for the purpose of an assisted living facility and for uses normally incident to that purpose. Lessee shall not use or permit the Premises to be used for any other purpose without prior written consent of Lessor.
- 3.2 Operation of Business. During the Lease Term, Lessee shall, unless prevented by conditions beyond Lessee’s control, conduct business of the type and nature specified in Section 3.1 of this Lease on the Premises in a diligent and business-like manner. Lessee shall maintain the Premises in good, clean and tenantable condition at all times.

- 3.3 Insurance Hazards. Lessee shall not commit or permit the commission of any acts on the Premises or use or permit the use of the Premises in any manner that will increase the existing rates for or cause the cancellation of any fire, liability, or other insurance policy insuring the Premises. Lessee shall, at its own cost and expense, comply with any and all requirements of Lessor's insurance carriers necessary for the continued maintenance at reasonable rates of fire and liability insurance policies on the Premises, provided said requirements do not require Lessee to alter the structure of the building, make capital improvements or conduct repairs or other work that are the responsibility of the Lessor as described in this Lease. If Lessee's activities cause an increase in the insurance cost, Lessor shall have the option to declare a default or increase the rent by the increased insurance cost.
- 3.4 Waste or Nuisance. Lessee shall not commit or permit the commission by others of any waste on the Premises; Lessee shall not maintain, commit, or permit the maintenance or commission of any nuisance as defined in the California Civil Code on the Premises; and Lessee shall not use or permit the use of the Premises for any unlawful purpose.
- 3.5 Compliance With Laws. Lessee shall at Lessee's own cost and expense comply with all current or subsequently enacted statutes, ordinances, regulations, and requirements of all governmental entities, both federal and state and county or municipal relating to Lessee's use and occupancy of the Premises, except for those requiring capital improvements to the Premises which shall be the responsibility of the Lessor.
- 3.6 Hazardous Materials. Lessee shall at all times comply with all federal, state, and local laws, ordinances and regulations relating to industrial hygiene, environmental protection and the use, analysis, generation, application, storage, and disposal of any hazardous, toxic, contaminated or polluting materials. Lessee shall at its own expense procure, maintain and comply with all permits, licenses and other governmental and regulatory approvals required for Lessee's use, storage, handling, transportation or disposal on the Premises of any hazardous, toxic, contaminated or polluting materials.

ARTICLE 4. TAXES AND UTILITIES

- 4.1 Utilities. Lessee shall pay and hold Lessor and the property of Lessor free and harmless from, all charges for the furnishing of any utilities to the Premises that are separately metered or billed. These items include, but are not limited to, gas, water, sewer, electricity, garbage pickup and disposal, recycling pickup and disposal, alarm service, telephone and computer lines. All such charges shall be paid by Lessee directly to the provider of the service and shall be paid as they become due and payable but in any event before delinquency. Lessee shall also pay and hold Lessor and the property of Lessor free and harmless from, Lessee's prorated share of all charges for any utilities or services furnished to the Property and then shared by multiple Lessees. All proration shall be based on usage except that if actual usage cannot be determined, the proration shall be based on square footage. The Lessee's share of all shared charges shall be paid by Lessee to Lessor on demand who in turn shall pay the provider of the service.
- 4.2 Personal Property Taxes. Lessee shall pay before they become delinquent all taxes, current installments of assessments, and other charges levied or imposed by any governmental entity for the furniture, trade fixtures, appliances, and other personal property placed by Lessee in, on, or about the Premises.
- 4.3 Real Property Taxes. All real property taxes and current installments of assessments levied or assessed against the Property by any governmental entity, including any special assessments imposed for the construction or improvement of public works in, on, or about the Property, shall be paid by the Lessor.

ARTICLE 5. ALTERATIONS AND REPAIRS

- 5.1 Condition of Premises. Lessee accepts the Premises, as well as the improvements located on the Premises, in their present condition and stipulates with Lessor that the Premises and improvements are in good, clean, safe, and tenantable condition as of the date of this Lease. Lessee further agrees with and represents to Lessor that the Premises have been inspected by Lessee and that the Premises are being leased by Lessee as a result of its own inspection and investigation and not as a result of any representations made by Lessor or any agent of Lessor except those expressly set forth in this Lease.

- 5.2 Maintenance by Lessor. Lessor shall, at its own cost and expense, maintain in good condition, repair and in compliance with the law, the structural elements of the building. For purposes of this section, “structural elements” shall mean the roof, exterior walls (including painting of the entire building and excepting window glass), bearing walls, structural supports, and foundation of the building. Lessor shall also maintain the parking lot. Notwithstanding anything in this section to the contrary, Lessee shall promptly reimburse Lessor for the full cost of any repairs made pursuant to this section required due to the negligence of Lessee or its employees, agents or sublessees, if any. Lessor and its agents shall have the right to enter the Premises at all reasonable times (and at any time during an emergency) for the purpose of inspecting them or to make any repairs required to be made by Lessor under this Lease.
- 5.3 Maintenance by Lessee. Except as otherwise provided in this Lease, Lessee shall perform, at its own cost and expense, all ordinary repair and maintenance of all portions of the Premises and all improvements located on the Premises, so that the Property is in good order and repair and in as safe and clean a condition as when received by Lessee from Lessor, reasonable wear and tear excepted. Lessee’s obligation to repair shall specifically include routine, ordinary repairs to the interior walls, floor coverings, ceilings, the interior and exterior portions of all doors, and glass windows for the Premises, and building systems. “Building systems” shall mean the systems for electricity, plumbing, sewer, water drainage, lighting, heating, air conditioning and ventilation. Lessee’s obligation shall not include major repairs to the structural elements of the building as defined in Section 5.2 above or capital improvements required by any government entity, law, ordinance or regulation.
- 5.4 Alterations and Liens. Lessee shall not make or permit any other person to make any alterations to the Premises or to any improvements on the Premises without the prior written consent of Lessor. Lessor shall not unreasonably withhold this consent. Lessee shall keep the premises free and clear from any and all liens, claims, and demands for work performed, materials furnished, or operations conducted on the Premises at the instance or request of Lessee. Furthermore, any and all alterations, additions, improvements, and fixtures, except furniture and trade fixtures, made or placed in or on the Premises by Lessee or any other person shall on expiration or earlier termination of this Lease, become the property of Lessor and remain on the Premises.
- 5.5 Inspection by Lessor. Lessee shall permit Lessor or Lessor’s agents, representatives, or employees to enter the Premises at all reasonable times for the purpose of inspecting the Premises to determine whether Lessee is complying with this Lease, for the purpose of doing other lawful acts that may be necessary to protect Lessor’s interest in the Premises, or for the purpose of performing Lessor’s duties under this Lease.
- 5.6 Surrender of Premises. On expiration or earlier termination of this Lease, Lessee shall promptly surrender and deliver the Premises to Lessor in as good condition as they are now at the date of this Lease, excluding reasonable wear and tear.
- 5.7 Rent Abatement. In the event the Premises are wholly or partially unavailable to Lessee due to (1) destruction of or damage to the Premises from natural disaster beyond Lessee’s control; (2) repairs, maintenance or construction of improvements by Lessor; or (3) Lessor’s negligence or failure to make required repairs, the rent shall be abated by that percentage of the Premises which are unavailable to Lessee. Said percentage shall be agreed upon by the parties.

ARTICLE 6. INDEMNITY AND INSURANCE

- 6.1 Lessee’s Hold Harmless Clause. Lessee shall protect, indemnify, and hold Lessor harmless from and against any and all liability to third parties resulting from Lessee’s occupation and use of the Premises, specifically including, without limitation, any claim, liability, loss, or damage arising by reason of:
- 6.1.1 The death or injury of any person or persons, including Lessee or any person who is an employee or agent of Lessee, or by reason of the damage to or destruction of any property, including property owned by Lessee or any person who is an employee or agent of Lessee, and caused or allegedly some act or omission of Lessee or of some agent, contractor, employee, servant, sublessee of Lessee on the Premises; unless the death or injury is caused or allegedly caused by a condition of the Premises that is beyond the Lessee’s control or is related to Lessor’s failure to make a repair pursuant to Section 5.2 or Lessor’s alleged negligent repair;

- 6.1.2 Any work performed on the Premises or materials furnished to the Premises at the instance or request of Lessee or its agent or employee; and
- 6.1.3 Lessee's failure to perform any provision of this Lease or to comply with any requirement of law or any requirement imposed on Lessee or the Premises by any duly authorized governmental agency or political subdivision that this Lease requires Lessee to comply with.
- 6.2 Lessor's Hold Harmless Clause. Lessor shall protect, indemnify, and save Lessee harmless from and against any and all liability to third parties resulting from Lessor's failure to perform any provision of this Lease or to comply with any requirement of law or any requirement imposed on Lessor or the Premises by any duly authorized governmental agency or political subdivision that this Lease requires Lessor to comply with and from and against any all liability to third parties resulting from Lessor's negligence.
- 6.3 Public Liability and Property Damage Insurance.
- 6.3.1 Lessee's Insurance. Lessee shall, at its own cost and expense, procure and maintain during the entire term of this Lease public liability insurance issued by an insurance company acceptable to Lessor and insuring Lessee and Lessor against loss or liability caused by or connected with Lessee's occupation and use of the Premises under this Lease in the amount of One Million Dollars (\$1,000,000.00) for injury to or death of one person and, subject to that limitation for the injury or death of one person, of not less than One Million Dollars (\$1,000,000.00) for injury to or death of two or more persons as a result of any one accident or incident. Lessee shall, during the full term of this Lease and any renewals or extensions thereof, maintain at Lessee's own cost and expense an insurance policy issued by a reputable company authorized to conduct insurance business in California insuring for their full insurable value all fixtures and equipment that is, at any time during the term of this Lease, in or on the Premises against damage or destruction by fire, theft, or the elements. All insurance required under this section shall be issued by a responsible insurance company or companies authorized to do business in California and shall be in a form reasonably satisfactory to Lessor. Lessee shall within ten (10) days of the date of this Lease deposit with Lessor a certificate showing that insurance to be in full force and effect. Said certificate shall also show that the insurance shall not be cancelled or changed without ten (10) days written notice to Lessor by the insurance company.
- 6.3.2 Property Damage Insurance. Lessor shall, at its own cost and expense, procure and maintain during the entire term of this Lease public liability insurance, property damage insurance and fire insurance insuring Lessor against loss or liability caused by or connected with Lessee's occupation and use of the Premises under this Lease.
- 6.3.3 Subrogation. The parties release each other, and their respective authorized representatives, from any claims for damage to any person or to the Premises and to the fixtures, personal property, Lessee improvements, and alterations of either Lessor or Lessee in or on the Premises that are caused by or result from risks insured against under any insurance policies carried by the parties and in force at the time of any such damage. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any policy. Neither party shall be liable to the other for any damage caused by fire or any of the risks against under any insurance policy required by this Lease. If an insurance company refuses to issue a policy containing a waiver of subrogation, or said waiver is only obtainable by the payment of an additional premium, the acquiring party shall notify the other party of this fact. The other party shall have a period of ten (10) days after receiving the notice either to place the insurance with a company that is reasonably satisfactory to the other party and that will waive subrogation or to agree to pay the additional premium. If the insurance cannot be obtained or the other party refuses to pay the additional premium, the acquiring party is relieved of the obligation to obtain the waiver of subrogation.

ARTICLE 7. SIGNS AND TRADE FIXTURES

- 7.1 Installation and Removal of Trade Fixtures. Lessee shall have the right at any time and from time to time during the term of this Lease, at Lessee's sole cost and expense, to install and affix in, to, or on the Premises any items ("trade fixtures") for use in Lessee's trade or business that Lessee may, in Lessee's sole discretion deem advisable. Any and all trade fixtures that can be removed without structural damage to the Premises or any building or improvements on the Premises shall, subject to Section 7.2 of this Lease, remain the property of the Lessee and may be removed by Lessee at any time before the expiration or earlier termination of this Lease, provided Lessee repairs any damage caused by the removal.
- 7.2 Unremoved Trade Fixtures. Any trade fixtures described in this Article that are not removed from the Premises by Lessee within thirty (30) days after the expiration or earlier termination regardless of cause, of this Lease shall be deemed abandoned by Lessee and shall automatically become the property of Lessor as owner of the real property to which they are affixed.
- 7.3 Signs. Lessee may erect, maintain, permit, and from time to time remove any signs in or about the Premises that Lessee may deem necessary or desirable and to which the Lessor consents, provided that any signs erected or maintained by Lessee shall comply with all requirements of any governmental authority with jurisdiction. Lessor reserves the right to post standard "for sale" or "for rent" signs.

ARTICLE 8. DESTRUCTION OF PREMISES

- 8.1 Damage to Premises. The parties agree that if the Premises are partially or wholly damaged or destroyed by fire, earthquake or other casualty, or be so damaged as to render the Premises untenable, the Lessee shall give immediate written notice thereof to Lessor. The Lessor shall then have the option to terminate this Lease by giving Lessee ten (10) days written notice of termination following Lessee's notice to Lessor. In the event Lessor does not choose to terminate this Lease, the Lessor shall, at its own cost and expense and with reasonable diligence, restore the Premises and repair the damage caused by the casualty to substantially the same condition as the Building was delivered to Lessee at the commencement of this Lease, exclusive of Lessee fixtures, and shall be entitled for that purpose to any and all insurance proceeds, exclusive of proceeds from Lessee's insurance of its personal property. In the event Lessor does not complete construction within nine (9) months, Lessee shall have the right to terminate this Lease by giving Lessor written notice within ten (10) days after expiration of the nine-month period.
- 8.2 Abatement of Rent. If damage or destruction to the Premises renders the operation of Lessee's business impossible and Lessee in fact ceases to operate its business, the rent required under this Lease shall abate during the period in which Lessor is required to perform repairs or restoration, or to rebuild. In the event Lessee is able to continue partial operation of its business, Lessee's rent shall be reduced during the period of repair, restoration, or rebuilding by the percentage of the Premises that are unavailable to Lessee.

ARTICLE 9. CONDEMNATION

- 9.1 Total Condemnation. If at any time during the term of this Lease title and possession of any portion of the Premises is taken under the power of eminent domain by any public or quasi-public agency or entity, this Lease shall terminate as of 12:01 A.M. of the date actual physical possession of the Premises is taken by the agency or entity exercising the power of eminent domain, and both Lessor and Lessee shall thereafter be released from all obligations under this Lease, except those described in Section 9.2.
- 9.2 Condemnation Award. If at any time during the term of this Lease, title and possession of all or any portion of the Premises is taken under the power of eminent domain by any public or quasi-public agency or entity, the compensation or damages for the taking shall be awarded to and be the sole property of Lessor. Lessee hereby waives any and all rights to share in any damages or award except that Lessee may make claim for compensation for leasehold improvements.

ARTICLE 10. DEFAULT, ASSIGNMENT, AND TERMINATION

- 10.1 Subletting and Assignment. Lessee shall not encumber, assign, sublease or otherwise transfer this Lease, any right or interest in this Lease, or any right or interest in the Premises without first obtaining the consent of Lessor. Consent by Lessor to one assignment, one subletting, or one occupation of the Premises shall not be deemed to be a consent to any subsequent assignment, subletting, or occupation of the Premises. Any encumbrance, assignment, transfer, or subletting without the prior consent of Lessor, whether voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of Lessor, terminate this Lease. The consent of Lessor to any assignment of Lessee's interest in this Lease or the subletting by Lessee of the Premises or parts of the Premises shall not be unreasonably withheld.
- 10.2 Default Defined. The occurrence of any of the following shall constitute a material default and breach of this Lease by Lessee:
- 10.2.1 Any failure by Lessee to pay the rent or to make any other payment required to be made by Lessee under this Lease (when that failure continues for ten (10) days after written notice of the failure is given by Lessor to Lessee).
- 10.2.2 The abandonment or vacation of the Premises by Lessee (the absence of Lessee from or the failure by Lessee to conduct business on the Premises for a period in excess of thirty (30) consecutive days shall constitute an abandonment or vacation for purposes of this Lease).
- 10.2.3 A failure by Lessee to observe and perform any other provision of this Lease to be observed or performed by Lessee, when that failure continues for fifteen (15) days after written notice of Lessee's failure is given by Lessor to Lessee; provided, however, that if the nature of that default is such that it cannot reasonably be cured within the fifteen (15) period, Lessee shall not be deemed to be in default if Lessee commences that cure within the fifteen (15) period and thereafter diligently prosecutes it to completion.
- 10.2.4 The making by Lessee of any general assignment for the benefit of creditors; the filing by or against Lessee of a petition to have Lessee 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 Lessee, it is dismissed within sixty (60) days; the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, when possession is not restored to Lessee within thirty (30) days; or the attachment, execution, or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease. when that seizure is not discharged within thirty (30) days.
- 10.3 Termination of Lease and Recovery of Damages. In the event of any default by Lessee under this Lease, in addition to any other remedies available to Lessor at law or in equity, Lessor shall have the right to terminate this Lease and all rights of Lessee hereunder by giving written notice of the termination. No act of Lessor shall be construed as terminating this Lease except written notice given by Lessor to Lessee advising Lessee that Lessor elects to terminate the Lease. In the event Lessor elects to terminate this Lease, Lessor may recover from Lessee:
- 10.3.1 The worth at the time of award of any unpaid rent that had been earned at the time of termination of the Lease;
- 10.3.2 The worth at the time of award of the amount by which the unpaid rent that would have been earned after termination of the Lease until the time of award exceeds the amount of rental loss that Lessee proves could have been reasonably avoided;
- 10.3.3 The worth at the time of award of the amount by which the unpaid rent for the balance of the term of this Lease after the time of award exceeds the amount of rental loss that Lessee proves could be reasonably avoided; and
- 10.3.4 Any other amount necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform its obligations under this Lease.

The term “rent” as used in this section shall mean the monthly rent and all other sums required to be paid by Lessee pursuant to the terms of this Lease. As used in subsections (a) and (b) above, the “worth at the time of award” is computed by allowing interest at the rate of ten percent (10%) per year. As used in subsection (c), the “worth at the time of award” is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

10.4 Lessor’s Right to Continue Lease in Effect.

10.4.1 If Lessee breaches this Lease and abandons the Premises before the natural expiration of the term of this Lease, Lessor may continue this Lease in effect by not terminating Lessee’s right to possession of the Premises, in which event Lessor shall be entitled to enforce all its rights and remedies under this Lease, including the right to recover the rent specified in this Lease as it becomes due under this Lease. For as long as Lessor does not terminate this Lease, Lessee shall have the right to assign or sublease the Premises with the Lessor’s prior written consent. Lessor shall not unreasonably withhold consent.

10.4.2 No act of Lessor, including but not limited to Lessor’s entry on the Premises, efforts to relet the Premises, or maintenance of the Premises, shall be construed as an election to terminate this Lease unless a written notice of that intention is given to Lessee or unless the termination of this Lease is decreed by a court of competent jurisdiction.

10.5 Lessor’s Right to Relet. In the event Lessee breaches this Lease, Lessor may enter on and relet the Premises or any part of the Premises to a third party or third parties for any term, at any rental, and on any other terms and conditions that Lessor in its sole discretion may deem advisable and shall have the right to make alterations and repairs to the Premises. Lessee shall be liable for all of Lessor’s costs in reletting, including but not limited to remodeling costs required for the reletting. In the event Lessor relets the Premises, Lessee shall pay all rent due under and at the times specified in this Lease, less any amount or amounts actually received by Lessor from the reletting.

10.6 Lessor’s Right to Cure Lessee Defaults. If Lessee breaches or fails to perform any of the covenants or provisions of this Lease, Lessor may but shall not be required to, cure Lessee’s breach. Any sum expended by Lessor, with the then maximum legal rate of interest, shall be reimbursed by Lessee to Lessor with the next due rent payment under this Lease.

10.7 Cumulative Remedies. The remedies granted to Lessor in this Article shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter allowed by law or provided in this Lease.

10.8 Waiver of Breach. The waiver by Lessor of any breach by Lessee of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by Lessee either of the same or another provision of this Lease.

ARTICLE 11. MISCELLANEOUS

11.1 Force Majeure; Unavoidable Delays. If the performance of any act required by this Lease to be performed by either Lessor or Lessee is prevented or delayed by reason of an act of nature, strike, lockout, labor troubles, inability to secure materials, restrictive governmental laws or regulations, or any other cause except financial inability that is not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused. However, nothing contained in this section shall excuse the prompt payment of rent by Lessee as required by this Lease or the performance of any act rendered difficult solely because of the financial condition of the party required to perform the act.

11.2 Attorneys’ Fees. If any litigation or other method of dispute resolution is commenced between the parties to this Lease concerning the Premises, this Lease, or the rights and duties of either in relation to the Premises or to this Lease, the prevailing party shall be entitled to, in addition to any other relief that may be granted, a reasonable sum as and for its attorneys’ fees that are determined by the court or arbitrator or mediator, as the case may be, in that dispute resolution or in a separate action brought for that purpose.

- 11.3 Notices. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to either party to this Lease by the other party to this Lease shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom they are directed, or in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, addressed to Lessee at 209 Regency Circle, Salinas, California 93906 or to Lessor at 450 East Romie Lane, Salinas, California 93901. Either party may change its address for the purpose of this section by giving written notice of that change to the other party in the manner provided in this section.

- 11.4 Binding on Heirs and Successors. This Lease shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of Lessor and Lessee, but nothing in this section shall be construed as consent by Lessor to any assignment of this Lease or any interest therein by Lessee except as provided in Section 10.01 of this Lease.

- 11.5 Partial Invalidity. If any provision of this Lease is held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

- 11.6 Entire Agreement. This instrument constitutes the entire agreement between Lessor and Lessee respecting the Premises the leasing of the Premises to Lessee, or the Lease term created under this Lease, and correctly sets forth the obligations of Lessor and Lessee to each other as of its date. Any agreements or representations respecting the Premises or their leasing by Lessor to Lessee not expressly set forth in this instrument are null and void.

- 11.7 Time of Essence. Time is expressly declared to be of the essence in this Lease.

- 11.8 Governing Law, Venue. This Lease shall be governed under California Law. Venue for any method of dispute resolution shall be Monterey County.

- 11.9 Amendment. This Lease may be amended by a writing signed and dated by all parties hereto or their successors in interest.

Executed at Salinas, California to be effective on the Effective Date first set forth above.

LESSOR
Salinas Valley Memorial Healthcare System

LESSEE
Salinas Valley Assisted Living LLC

By: _____
Victor Rey, Jr., Board President
SVMHS Board

By: _____
Pete Delgado, SVMHS President/CEO
Managing Member

Date: _____

Date: _____

EXHIBIT A
RENT

Rent. During the Lease Term, Lessee shall pay to Lessor the Rent described below as the sole and total rent and consideration due from the Effective Date. Lessee shall pay to Lessor as total rent (“Rent”) no later than the last day of the immediately following month, an amount equal to Fifty-Five Thousand Dollars (\$55,000.00). Notwithstanding the foregoing, Lessee’s obligation to pay Rent for any calendar month in accordance with the preceding sentence shall be satisfied in full upon the transfer by Lessee to Lessor of any excess funds in the Bank Account resulting from Gross Revenues for the Facility in the immediately preceding month (excluding Working Capital and funds used or allocated to pay Capital Expenses and Facility Expenses or other expenses related to the Facility), and such Rent obligation of Lessee will be satisfied in full upon such transfer of excess funds regardless of the amount of such excess funds in the Bank Account, including if such amount is \$0. Lessor’s sole remedy for failure to pay Rent as set forth herein shall be as set forth in Section 3 of this Amendment.

Definitions. The following terms shall have the following meanings when used in the Lease:

“**Bad Debt**” means actual write-offs during the previous month of accrued accounts receivable balances that are deemed to be uncollectible by Lessee based on Lessee’s historical experience for similar communities.

“**Capital Expenses**” mean the month-by-month cost of replacements, renewals and additions to furniture, furnishings, fixtures located in or on or used exclusively in connection with the operation of the Premises and certain routine repairs and maintenance to the Premises which are included in the Operating Budget (defined below), costs associated with repairs or alterations required following any casualty (including any property loss or environmental work resulting from such casualty) or condemnation at the Premises or otherwise approved by Lessor and which are normally capitalized consistent with GAAP such as exterior and interior repainting, resurfacing building walls, floors, roofs and parking areas, but which are not major repairs, alterations, improvements, renewals or replacements to the Premises building’s structure or exterior facade or to its mechanical, electrical, heating, ventilating, air conditioning, plumbing or vertical transportation systems.

“**Facility Expenses**” means those costs and expenses related to the operation, maintenance, repair and staffing of the Premises which are in accordance with the Operating Budget or otherwise approved by Lessor or permitted to be incurred by Lessee pursuant to the express terms hereof, including, without limitation but without duplication: (a) health care supplies; (b) food costs; (c) costs incurred to third parties under service contracts; (d) costs to repair and maintain the Premises including materials/equipment and third party service providers; (e) third party costs for printed materials, forms and supplies for use by the Premises; (f) third party marketing costs including printed materials, event planning, entertainment, and advertisements to promote the Premises, or a pro rata share thereof where such marketing is for the benefit of the Premises and other facilities owned or managed by Lessee or its affiliates; (g) wages, benefits, incentive compensation, payroll taxes, insurance, benefits and other employment costs of those personnel employed at the Premises, including the cost of third party payroll processing fees; (h) cost of utilities, waste removal, property taxes, impositions and other taxes levied by government; (i) cost of phone, internet, cable television, and postage incurred by the Premises; (j) fees and other costs associated with maintaining bank accounts for the Premises; (k) costs to rent or lease necessary equipment, subject to written approval of Lessor; (l) costs incurred to third parties to prevent, cure or correct any violation of applicable law with respect to the leasing, use, repair or maintenance of the Premises and any expense incurred in order to obtain or maintain the licenses for the Premises or any actions required by any governmental authority; (m) costs incurred to third parties for the collection of delinquent rentals collected through an attorney or collection agency and other costs required in connection with the enforcement of any lease or resident agreement (including, without limitation, reasonable legal fees, disbursements and moving and storage expenses for personal property of residents and/or lessees); (n) costs of insurance at the Premises which include insurance premiums, the ultimate costs of self-insured losses and deductibles, claims administration costs, risk management costs, and other program costs including premium taxes, fronting fees, state workers’ compensation self-insurance assessments, collateral fees; fidelity bonds; and surety bonds supporting self-insurance programs, and broker fees; and (o) five percent (5%) of Gross Revenues of the Premises for the immediately preceding calendar month which shall be retained by Lessee as a fee hereunder. To the extent Lessee or its affiliates enter into national vendor contracts, Lessor and Lessee will agree on the allocation of costs under any such national contract prior to the Amendment Date which will be memorialized in the Operating Budget.

“Gross Revenues” means for each calendar month, all revenues and receipts of every kind derived from operating the Premises and all departments and parts thereof, including, but not limited to: income (from both cash and credit transactions, net of any fees charged therefor) from monthly occupancy fees, health care fees and ancillary services fees received pursuant to various agreements with residents of the Premises; rental income from leases of space at the Premises; income from food and beverage, and catering sales; income from telephone charges; income from vending machines; and proceeds, if any, from business interruption or other loss of income insurance (to the extent such insurance either reimburses on the basis of gross revenues or otherwise covers all expenses including the Lessee’s fees), all determined in accordance with GAAP; provided, however, that Gross Revenues shall not include: (i) gifts or gratuities to employees at the Premises; (ii) federal, state or municipal excise, goods and services, sales or use taxes or similar taxes imposed at the point of sale and collected directly from residents or guests of the Premises or included as part of the sales price of any goods or services; (iii) proceeds from the sale or financing of furniture, fixtures or equipment and any other capital asset; (iv) interest received or accrued with respect to the monies in any operating or reserve accounts of the Premises; (v) any cash refunds, rebates or discounts to residents of the Premises, or cash discounts and credits of a similar nature, given, paid or returned in the course of obtaining Gross Revenues or components thereof; (vi) proceeds from any sale of the Premises, or any other capital transaction such as the sale, exchange or disposition of the Premises, or casualty damage to or condemnation of the Premises or any part thereof; (vii) proceeds of any financing transaction affecting the Premises; (viii) security or resident fee deposits until such time as the same are applied to current fees and other charges due and payable; (ix) awards of damages, settlement proceeds and other payments received by the Lessor in respect of any litigation other than litigation to collect fees due for services rendered from the Premises; (x) proceeds of any condemnation; (xi) proceeds of any casualty or other insurance, other than loss of income or business interruption insurance (which is included in Gross Revenues); (xii) payments under any policy of title insurance; (xiii) Working Capital funded by Lessor at levels generally consistent with the Lessee’s other facilities and as reasonably required to satisfy the needs of the Premises and its operation, such as the maintenance of petty cash and funds required to maintain inventories and pay all Facility Expenses as they become due, less accounts payable and accrued current liabilities (and the Lessee will manage the amount of Working Capital prudently and in accordance with the approved budget); and (xiv) fees paid by the residents of the Premises directly to outside contractors and vendors. Any Bad Debt, or any community fees or deposits that are refunded to residents, shall be credited against Gross Revenues during the month in which such Bad Debt is recognized or such refunds are made, as the case may be, if such amounts were previously included in Gross Revenues. Any Bad Debt which is recognized but is later collected shall be added to Gross Revenues.

PUBLIC INPUT

(VICTOR REY)

ADJOURNMENT

(VICTOR REY)