

S.A.K. MANAGEMENT SERVICES, L.L.C.

CONSULTING SERVICES AGREEMENT

THIS CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into effective as of the 2nd day of February, 2018 by and between S.A.K. Management Services, L.L.C. an Illinois limited liability company ("SAK"), and Winnebago County, Illinois ("COUNTY") (SAK and COUNTY each a "party," and collectively the "parties").

WITNESSETH:

WHEREAS, pursuant to Illinois Counties Code, 55 ILCS 5/5-21, COUNTY operates and maintains the River Bluff Nursing Home of Winnebago County, Illinois, a nursing home facility containing 304 skilled nursing beds located (the "Facility");

WHEREAS, COUNTY desires to retain SAK pursuant to the terms of this Agreement to provide certain consulting services as specified by this Agreement (the "Consulting Services") pertaining to the Facility;

WHEREAS, SAK is experienced and qualified to provide such Consulting Services at the Facility and desires to provide such Consulting Services for the benefit of COUNTY, provided however, that COUNTY will retain control over the assets and operations of the Facility in accordance with this Agreement and applicable law; and

NOW, THEREFORE, COUNTY hereby engages SAK to perform the functions and provide the services described hereinafter, and SAK accepts such engagement upon such terms and compensation as provided hereinafter.

**SECTION 1. AUTHORITY OF THE PARTIES**

**1.1 Control Retained in COUNTY.** COUNTY shall at all times exercise ultimate control over the assets and operations of the Facility and shall retain the ultimate authority and responsibility regarding the powers, duties, and responsibilities vested in COUNTY by law and regulations.

**1.2 Grant of Authority to SAK.** Subject to the foregoing, COUNTY hereby grants to SAK the authority to perform the specific services set out herein in accordance with policies adopted and directions given by the COUNTY. COUNTY shall provide a copy of its governing Board's certified resolution approving the Agreement.

**1.3 Relationship of the Parties.** The relationship created hereby is one of principal (COUNTY) and agent (SAK). COUNTY authorizes SAK to disclose by whatever means SAK deems best, the relationship to all persons who do business with the Facility or the COUNTY.

**1.4 Approval by COUNTY.** Wherever the approval of COUNTY is required under this Agreement, it shall be evidenced through a written communication from the County

Administrator or other authorized representative of COUNTY.

## **SECTION 2. SAK'S RESPONSIBILITIES**

**2.1 General Responsibilities.** Provided that COUNTY makes adequate funds available, SAK shall perform the functions and tasks set forth herein, all in accordance with (i) generally accepted advisory techniques for skilled care facilities, (ii) the reasonable exercise of its judgment, and (iii) the policies adopted and directions given from time to time by COUNTY; provided that the policies adopted by COUNTY shall be reasonable and consistent and subject to and in accordance with the statutes, rules, and regulations of the State of Illinois, and with the terms of this Agreement, and shall be delivered in writing to SAK. SAK shall be responsible for providing advice to the Facility with the same degree of diligence and skill as is employed by SAK in advising similar facilities which are advised by it or its Affiliates and any corporation controlling, controlled by or under common control with SAK and, without limiting the foregoing, the degree of diligence and skill as is employed by advisors of facilities such as the Facility. SAK shall use Reasonable Efforts to provide advice to COUNTY on the obligations imposed on COUNTY with respect to the Facility that are known to SAK. For the purposes of this Agreement, "Reasonable Efforts" shall mean such efforts as would be expended by a reasonably prudent person engaged in advising skilled nursing facilities under similar circumstances.

**2.2 Planning.** SAK shall assist COUNTY in reviewing short, medium and long-range objectives for the Facility and in formulating recommendations with respect thereto.

**2.3 Government Regulations.** Provided that COUNTY makes adequate funds available, SAK shall provide COUNTY with input to assist COUNTY in operating the Facility in substantial compliance with the requirements of any applicable statute, ordinance, law, rule, regulation, or order of any governmental or regulatory body having jurisdiction over the Facility; provided, however, that in the event that adequate funds are not made available, such failure shall constitute grounds for termination by SAK and such shall be deemed a termination by COUNTY without cause.

**2.4 Licenses, Permits and Certifications.** SAK shall review all licenses, permits, and certifications required in connection with the operation of the Facility and eligibility for participation in such applicable Medicaid and Medicare programs as said programs are presently structured and administered, and as they may be amended from time to time, and any successor programs thereto, and shall report the same to COUNTY.

**2.5 Accounting and Tax Records.** SAK shall provide COUNTY with input to assist COUNTY with the preparation of all required tax returns, cost reports, and all financial statements with respect to the Facility.

**2.6 Management Information Systems.** SAK shall advise COUNTY on selecting and maintaining, at COUNTY's expense, adequate financial and non-financial management information systems with respect to the Facility.

**2.7 Collection of Accounts.** Pursuant to collection policies established by COUNTY,

SAK shall advise COUNTY on the collection of all accounts due COUNTY with respect to the Facility.

**2.8 Rates.** SAK shall advise COUNTY on establishing rate structures for the Facility that, to the extent practicable, take into account the financial obligations of COUNTY and the importance of providing quality health care at a reasonable cost.

**2.9 Insurance.** SAK shall advise COUNTY on recommended insurance with respect to the Facility with such limits as are usual and customary for facilities similar to the Facility and SAK shall be named as an additional insured on all such policies.

**2.10 Ancillary and Other Agreements.** SAK shall advise COUNTY on negotiating and entering into agreements for the furnishing of utilities, services, concessions and supplies for the maintenance and operation of the Facility.

**2.11 Compliance with Laws.** SAK shall advise COUNTY on the substantial compliance of the Facility with federal, state and local laws, rules, regulations and ordinances applicable to the Facility or the operation thereof. In no event, however, shall SAK be deemed to be providing legal advice.

**2.12 Additional Reports and Returns.** SAK shall advise COUNTY and its accountants on preparing, in the name of COUNTY, reports concerning compliance with the financial covenants set forth in the COUNTY's financing documents at the times required in such financing documents and such other reports as are required to comply with all other reporting requirements under such financing documents.

**2.13 Notice of Default or Event of Default.** Each party shall provide the other with prompt written notice of any Default or Event of Default under any financing documents with respect to the Facility of which the notifying party has actual notice.

**2.14 Employment and Supervision of Employees of the Facility.** All employees of the Facility will be employees of the COUNTY unless agreed in writing and executed by both parties, and shall be hired, fired and supervised by COUNTY, subject to the policies and oversight of COUNTY. COUNTY shall not hire any employees of SAK, including any employees of SAK designated for assignment at the Facility although such employees may be on COUNTY's payroll, without the prior written consent of SAK.

**2.15 Other Services to Be Provided by SAK.** In addition to the foregoing services, SAK shall:

- (a) Advise COUNTY on planning, supervising and conducting a program of regular maintenance and repair;
- (b) Advise on providing all non-medical services of the Facility, including the provision of food, barber/beautician and other ancillary services;
- (c) Advise COUNTY on coordinating ancillary services and rental of equipment, as COUNTY may deem reasonable, necessary or desirable in connection with the

operation of the Facility.

### SECTION 3. FEES

**3.1 Consultant Fees.** Upon execution of this Agreement, COUNTY shall pay SAK the amount of \$34,580.00 ("Initial Payment"). Thereafter, COUNTY shall pay SAK a monthly consultant fee of \$67,000.00 ("Consultant Fee"). The Consultant Fee shall be payable in advance on a monthly incremental basis on the first day of each month.

In the event that the Term (as defined in Section 5.1 of this Agreement) terminates on a day that is other than the first day of a month, SAK shall reimburse COUNTY the prorated amount of the Consultant Fee based on the number of remaining days in such month.

**3.2 Reimbursements.** COUNTY shall reimburse SAK for expenses incurred by SAK in connection with the Facility for: travel at the standard mileage rate as established by the IRS; food up to \$40.00 a day per SAK employee; lodging at a local economy hotel at seasonal rates; and reasonable expenses associated with any marketing and/or presentation materials created on behalf of the Facility to increase resident referrals. SAK shall not be entitled to be reimbursed for home office overhead or for any part of the compensation benefits or other payments to any officers or employees of SAK. Reimbursements will be invoiced by SAK to COUNTY and, as long as such invoice is provided thirty (30) days in advance, shall be payable in full by COUNTY at the time of COUNTY's payment of SAK's Consultant Fee on the first day of the next month.

**3.3 Rebates; Discounts.** Any and all refunds, volume discounts, rebates, reduced rates for timely payment, or other benefits derived from business done at, on or through the Facility shall be credited to COUNTY and not to SAK.

**3.4 Emergency Notification.** SAK shall contact the County Administrator as soon as practicable upon the discovery of any emergency situation at the Facility.

### SECTION 4. REPRESENTATIONS, WARRANTIES AND COVENANTS

**4.1 Representations, Warranties and Covenants of COUNTY.** COUNTY makes the following representations, warranties and covenants which are material representations and warranties upon which SAK relied as an inducement to enter into this Agreement:

- (a) Status of COUNTY. COUNTY is a government entity owning and operating the Facility and is duly organized and validly existing in good standing under the laws of the State of Illinois and has all necessary power to carry on its business as now being conducted, to operate its properties, including the Facility, as now being operated, to carry on its contemplated business, to enter into this Agreement and to observe and perform its terms.
- (b) Authority of Due Execution. COUNTY has full power and authority to execute and to deliver this Agreement and all related documents and to carry out the terms hereof and thereof; and such execution and delivery and such performance will

not with the passing of time, the giving of notice, or both, result in a default under or a breach or violation of (i) its Articles of Incorporation, By Laws, or other organization/governance agreement of COUNTY; or (ii) any law, regulation, court order, injunction or decree of any court, administrative agency or governmental body, or any mortgage, note, bond, agreement, lease, license, permit or other instrument or obligation to which COUNTY is now a party or by which COUNTY or any of its assets may be bound or affected. This Agreement constitutes a valid and binding obligation of COUNTY, enforceable in accordance with its terms, except to the extent that its enforceability is limited by applicable bankruptcy, reorganization, insolvency, receivership or other laws of general application or equitable principles relating to or affecting the enforcement of creditors' rights.

- (c) Litigation. There is no litigation, claim, investigation, challenge or other proceeding pending or, to the knowledge of COUNTY, threatened against COUNTY, its properties, including the Facility, or business which seeks to enjoin or prohibit it from entering into this Agreement or which, if adversely determined, would have a material adverse effect on COUNTY or its financial condition or on the Facility. COUNTY shall disclose to SAK in the event any such proceeding has been initiated. Any such disclosure or failure to disclose shall authorize SAK to terminate this Agreement for Cause.
- (d) Ownership of Materials. COUNTY agrees that SAK retains all ownership and other rights in all proprietary systems, policy and other manuals, materials and other information, in whatever form, developed by SAK in the performance of its services under this Agreement. Nothing contained in this Agreement shall be construed as a license or transfer of such information either during the Term or otherwise. Upon termination of this Agreement, COUNTY shall immediately return all such information to SAK.
- (e) Indemnification. COUNTY expressly covenants not to sue and agrees to indemnify, defend, and hold harmless SAK and its members, agents, and employees from and against any and all claims, costs, damages, expenses (including attorney's fees), fines, and/or penalties which may be asserted against SAK or its members, agents, or employees for or with respect to any and all actions taken pursuant to this Agreement and any and all matters relating to the Facility or its operation, except claims based solely on the gross negligence of SAK.

**4.2 Representations, Warranties and Covenants of SAK.** SAK makes the following representations, warranties and covenants which are material representations and warranties upon which COUNTY relied as an inducement to enter this Agreement:

- (a) Status of SAK. SAK is a limited liability company duly organized and validly existing in good standing under the laws of the State of Illinois and has all necessary power to carry on its business as now being conducted, to carry on its business as contemplated herein, to enter into this Agreement and to observe and

perform its terms.

- (b) Authority and Due Execution. SAK has full power and authority to execute and to deliver this Agreement and all related documents and to carry out the terms hereof and thereof; and such execution and delivery and such performance will not with the passing of time, the giving of notice, or both, result in a default under a breach or violation of (i) SAK's Articles of Organization, or (ii) any law, regulation, court order, injunction or decree of any court, administrative agency or governmental body, or any mortgage, note, bond, agreement, lease, license, permit or other instrument or obligation to which SAK is now a party or by which SAK or any of its assets may be bound or affected. This Agreement constitutes a valid and binding obligation of SAK, enforceable in accordance with its terms, except to the extent that its enforceability is limited by applicable bankruptcy, reorganization, insolvency, receivership or other laws of general application or equitable principles related to or affecting the enforcement of creditors' rights.
- (c) Litigation. Except as separately disclosed in writing to COUNTY prior to execution of this agreement, there is no litigation, claim, investigation, challenge or other proceeding pending or, to the knowledge of SAK, threatened against SAK, its properties or business which seeks to enjoin or prohibit it from entering into this Agreement or which if adversely determined would have a material adverse effect on SAK or its financial condition. SAK shall disclose to COUNTY in the event any such proceeding has been initiated. Any such disclosure or failure to disclose shall authorize COUNTY to terminate this Agreement for cause.
- (d) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. SAK certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. SAK agrees that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts.
- (e) Indemnification. SAK shall, at all times, fully indemnify, hold harmless, and defend COUNTY and its officers, agents, and employees from and against any and all claims and demands, actions, causes of action, and cost and fees of any character whatsoever made by anyone whomsoever on account of or in any way growing out of the performance of this contract by SAK and its employees and agents or its subcontractors including, but not limited to, any claims that may be made by the employees themselves for injuries to their person or property or otherwise, and any claims that may be made by the employees themselves or by the Illinois Department of Labor for SAK's violation of the Illinois Prevailing Wage Act (820 ILCS 130/1 et seq.). Such indemnity shall not be limited by reason of the enumeration of any insurance coverage or bond herein provided. Nothing contained herein shall be construed as prohibiting COUNTY and its officers, agents, or its employees, from defending through the selection and use of its own agents, attorneys and experts, any claims, actions or suits brought against them. SAK shall likewise be liable for the cost, fees and expenses incurred in

COUNTY's or SAK's defense of any such claims, actions, or suits.

(f) Insurance.

- (i) SAK shall furnish to the Director of Purchasing a Certificate of Insurance and provide policy endorsements evidencing specific coverage of the types of insurance in the amounts specified below. Such coverage shall be placed with a responsible company acceptable to COUNTY licensed to do business in the State of Illinois. **All required insurance shall be maintained by the contractor in full force and effect during the life of the contract, and until such time as all work has been approved and accepted by COUNTY.** SAK is responsible for all insurance deductibles and Self-Insured Retentions.

TYPE OF INSURANCE		MINIMUM ACCEPTABLE LIMITS OF LIABILITY
1	<b>Workers Compensation</b>	Statutory
2	<b>Employers Liability</b>	
	A. Each Accident	\$2,000,000
	B. Each Employee-disease	\$2,000,000
	C. Policy Aggregate-disease	\$2,000,000
3	<b>Commercial General Liability</b>	
	A. Per Occurrence	\$2,000,000
	B. General Aggregate	
	1. General Aggregate- Per project	\$2,000,000
	2. General Aggregate - Products/ Completed Operations	\$2,000,000
4	<b>Business Auto Liability</b>	\$1,000,000
5	<b>Professional Errors and Omissions</b>	\$2,000,000

- (ii) At all times during the term of the Agreement, SAK and its independent contractors shall maintain, at their sole expense, insurance coverage for SAK, its employees, officers and independent contractors, as follows:

- It is the responsibility of SAK to provide a copy of the Agreement to its carrier.
- It may also be required that SAK's insurer and coverage be approved by COUNTY prior to execution of the Agreement.
- No work shall be started until receipt of Certificate of Insurance.

The County of Winnebago shall be named as additionally insured on all certificates of insurance. Certificates should be sent to:

Winnebago County Purchasing Department  
404 Elm Street,  
Room 202 Rockford, IL 61101  
[AJohns@WinCoil.us](mailto:AJohns@WinCoil.us)

The insurance carrier of the insured is required to notify COUNTY of termination of any expiration or all of these coverages, prior to the completion of any contract, at least thirty (30) days prior to.

- (iii) SAK will immediately notify COUNTY if any insurance has been cancelled, materially changed, or renewal has been refused and SAK shall immediately suspend all work in progress and take the necessary steps to purchase, maintain, and provide the required insurance coverage(s) and limits. If suspension of work should occur due to insurance requirements, upon verification by COUNTY of the required insurance, COUNTY will notify SAK when it can proceed with the work. Failure to provide and maintain the required insurance coverage(s) and limits could result in immediate cancellation of the Agreement and SAK shall accept and bear all costs that may result due to SAK's failure to provide and maintain the required insurance.

## SECTION 5. MISCELLANEOUS

**5.1 Term.** The term of this Agreement shall commence on January 16, 2018 and shall continue until such time as COUNTY gives SAK thirty (30) days' notice of COUNTY's intent to terminate this Agreement or the County Board for Winnebago County, Illinois takes all steps necessary to approve and implement a management contract for the Facility (the "Term").

**5.2 Termination for Cause.** The parties may terminate this Agreement at any time for cause, upon delivery of written notice to the other party, in the event of the following:

- (a) COUNTY may terminate this Agreement if:
  - (i) SAK shall materially default in the performance of a provision hereof and such default shall continue for a period of ninety (90) days after SAK's receipt of written notice from COUNTY stating the specific default; or
  - (ii) SAK shall apply for or consent to the appointment of a receiver, trustee or liquidator of SAK or of all or a substantial part of its assets, file a voluntary petition in bankruptcy, admit in writing its inability to pay its debts as they become due, make a general assignment for the benefit of creditors, or file a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any insolvency law, or if an order, judgment or decree shall be entered by a court of competent jurisdiction, on the application of a creditor, adjudicating SAK bankrupt or insolvent or approving a petition seeking reorganization of SAK or



appointment of a receiver, trustee or liquidator of SAK or of all or a substantial part of its assets; or

(iii) Provided that funds shall have been made available therefor, SAK either fails to provide COUNTY with input to assist COUNTY to correct, within the time permitted by such applicable regulatory body plus thirty (30) days after SAK's receipt of notice thereof, any material conditions of participation capable of such correction by COUNTY within such period (or obtain waivers for such conditions of participation), or to diligently provide COUNTY with input to assist COUNTY to prepare a plan of correction for any remaining conditions of participation for which the Facility is cited pursuant to any licensure and/or certification survey or diligently provide COUNTY with input to assist COUNTY to implement the plan of correction.

(b) SAK may terminate this Agreement if:

(i) COUNTY shall materially default in the performance of a provision hereof and such default shall continue for a period of ninety (90) days, or (10) calendar days if such default involves the failure of any payment due SAK (including amounts due SAK for direct and indirect employee costs, other fees, insurance premiums, and amounts due affiliates of SAK), after COUNTY's receipt of written notice from SAK stating the specific default; or

(ii) COUNTY shall apply for or consent to the appointment of a receiver, trustee or liquidator of COUNTY or of all or a substantial part of its assets, file a voluntary petition in bankruptcy, admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, or file a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any insolvency law, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating COUNTY bankrupt or insolvent or approving a petition seeking reorganization of COUNTY or appointment of a receiver, trustee or liquidator of COUNTY or of all or a substantial part of its assets.

**5.3 SAK's Obligations after Termination.** Upon expiration of this Agreement, or the termination of SAK's services hereunder, as provided above, SAK shall:

(a) deliver to COUNTY, or such other person or persons designated by COUNTY, copies of all books and records (except for proprietary information and systems belonging to SAK) of the Facility and all funds, if any, in the possession of SAK pursuant to the terms of this Agreement for or on behalf of COUNTY;

(b) deliver to Facility or to such person or persons personal property relating to or used in the operation and maintenance of the Facility, except any personal

property which was paid for and is owned by SAK; and

- (c) remove, at its cost and expense, all signs that SAK may have placed at the Facility indicating its involvement at the Facility and replace and restore any damage resulting therefrom.

**5.4 Notices.** Any notice or other communication by either party to the other shall be in writing and shall be either delivered personally, sent by United States Mail, postage prepaid, registered or certified mail, return receipt requested, by facsimile transaction with hard copy mailed no later than the next business day, or by a nationally recognized overnight courier, addressed as follows:

To COUNTY:

Winnebago County  
424 Elm Street Room 533  
Rockford, IL 61101  
Attn: Ciria Paschal

To SAK:

S.A.K. Management Services, L.L.C.  
1 Northfield Plaza, Suite 210  
Northfield, IL 60093  
Attention: Suzanne Koenig, Member  
Facsimile No.: 847-446-8432

or to such other address, and to the attention of such other person or officer, as either party may designate in writing. Any such properly given notice shall be effective on the earliest to occur of actual receipt, two (2) business days following facsimile transmission, one (1) business day after sending by nationally recognized overnight courier, or three (3) business days after deposit in the United States Mail properly addressed with proper postage affixed.

**5.5 Modification and Changes.** Any changes hereto must be in writing executed by both parties.

**5.6 Headings.** The headings contained herein are for the convenience of reference only and are not intended to define, limit or describe the scope or intent of any provision hereof.

**5.7 No Waiver.** Neither the failure by the aggrieved party to insist upon strict performance of any covenant, agreement, term or condition hereof or to exercise any remedy consequent upon a breach thereof, nor the acceptance of full or partial performance during the continuance of any breach by the other party, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition.

**5.8 Further Instruments or Action.** Each party shall execute and deliver such further instruments and take such other actions as may be reasonably necessary in order effectively to discharge, perform or carry out any of the respective obligations and agreements hereunder.

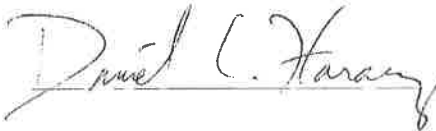
**5.9 Governing Law.** The validity and construction hereof shall be governed by the

laws of the State of Illinois. In the event that any action is brought under this Agreement, or as a result of the relationship of the parties created by or arising out of this Agreement, the prevailing party in such action shall be entitled to recover from the non-prevailing party the prevailing party's attorneys' fees and costs incurred in connection with such action.

**5.10 Jurisdiction.** Any suit involving this Agreement shall be filed in the Court for the 17th Judicial Circuit, Winnebago County, Illinois.

S.A.K. MANAGEMENT SERVICES, L.L.C.

ATTEST:

  
\_\_\_\_\_

By:

  
Its: Member

BOARD OF WINNEBAGO COUNTY,  
ILLINOIS

ATTEST:

  
\_\_\_\_\_

By:

  
\_\_\_\_\_