

CONFIDENTIAL MEMORANDUM

TO: Honorable Board of Supervisors
Jeffrey V. Smith, County Executive

FROM: Laura Rosas, Chief Executive Office, Valley Health Plan

RE: Summary of Nestldown facility use contract for County retreat

DATE: July 14, 2021

Nestldown is an event venue in Los Gatos which has graciously offered the County use of its facilities for a half-day County retreat for the nominal fee of one dollar. Pursuant to Board Policy 5.9.5.7, the Board has delegated to the County Executive the authority to enter into a contract with Nestldown (the “Agreement”) since: (1) the term of the Agreement is less than 10 days; (2) the fee is less than \$7,500; (3) the Agreement is non-renewable; (4) the use serves a public purpose; (5) County departments will comply with all applicable law pertaining to use of the space; and, (6) the Agreement will be provided to the Director of the Facilities and Fleet Department. Finally, Board Policy 5.9.5.7 requires an off-agenda memorandum summarizing the Agreement, along with a copy of the Agreement. The purpose of this memorandum is to apprise the Board of this Agreement.

BACKGROUND

In 2016, the Centers for Medicare and Medicaid Services implemented the Medicaid and Children’s Health Insurance Program Managed Care Final Rule, which requires in pertinent part that county behavioral health services programs like the Behavioral Health Services Department (BHSD) meet the same federal regulatory requirements that managed care health plans such as Valley Health Plan (VHP) have followed for many years. VHP and BHSD have been coordinating on a partnership whereby VHP will act as BHSD’s management service organization in order to leverage VHP’s experience in this arena, as well as to avoid the time and expense of creating the duplicative infrastructure necessary for BHSD to become compliant with these federal regulations.

The planning and coordination of these activities has required the guidance of Health Management Associates (HMA), which is a consulting group with direct experience in implementing this same project in other counties. HMA, VHP, BHSD, the County Executive’s Office, and the Office of the County Counsel have been meeting regularly to discuss items such as the progress of the project, planning next steps, and defining the role that VHP will play in

assisting BHSD with this ambitious project. While great progress has been made during regular teleconferences, it has been decided that the project timeline would be greatly accelerated if everyone physically met together for a half-day retreat. With the approval of the County Executive's Office, the County recently entered into the Agreement with Nestldown to host the retreat.

SUMMARY OF AGREEMENT

The Agreement allows the County use of Nestldown's facilities for the half-day retreat essentially for free and expires thereafter. The terms of the Agreement most pertinent to Board Policy 5.9.5.7 are: (1) the County will have use of Nestldown's facility on July 21, 2021 from 8:00 a.m. until 2:00 p.m. (section 15); (2) the rental fee is \$1.00 (section 3.2); and, (3) the agreement does not provide that it is renewable. Nestldown has also waived its standard \$3,000 cleaning and damage deposit (sections 3.1.2 and 3.3). The Agreement has non-standard indemnification and hold harmless provisions (sections 9 and 10) which are unilaterally in favor of Nestldown. Ordinarily, these types of provisions are disfavored because the County could be forced to participate in litigation when Nestldown bears more fault, and because the County could be left without a remedy for certain injuries or damage incurred due to the fault of Nestldown. However, in this case, the likelihood that an incident would occur during the short duration of the Agreement is low, and the County lacks bargaining power given that Nestldown is providing use of the facility essentially for free. The remaining terms are not likely to negatively impact the County.

Attachment: Nestldown Facility Use Agreement

cc: Miguel Márquez, Chief Operating Officer



2020 Non Profit Organizations Facility Use Agreement

To our Nestldown Non Profit Organizations,

Welcome to Nestldown. We are delighted to have you come here! You are one of the reasons that Nestldown exists as it does.

We love having you here and don't ask for much in return, but we will need a few things to move forward:

- 1. We'd like to ask that you consider the gift as a donation in your records and published information. We will let you know the amount, which is based on the day and scope of the event and the numbers of people that attend.*
- 2. In many cases, we will request a deposit, which will be returned (assuming no damage or contract violations within 60 days of your event.)*
- 3. Day-of Insurance coverage – (More on this will follow)*
- 4. The contract (this document) signed and returned.*

And forgive us for this suggestion, but YELP reviews of your time here mean a lot to us on a personal level! It not only reflects on your day here and who we are, but it also helps to spread the word that this is a key part of our purpose -- and the main reason we are still here.

In order to maintain and protect the environmental integrity of the grounds and preserve the beauty of the Barn and other structures, we simply ask that you and your guests observe rules that have been developed based on our knowledge of Nestldown. Your anticipated cooperation in insuring that all guests and service personnel follow these rules is greatly appreciated.

We look forward to working with you and having you come here!!

*Sincerely,
Barbara & Mark Beck*

The founders and 'caretakers' of Nestldown

1. GENERAL INFORMATION.

This Facility Use Agreement (hereafter referred to as the "Agreement") is entered into by and between Nestldown, LLC, a Limited Liability Corporation located at 22420 Old Santa Cruz Highway, Los Gatos, California (which shall be referred to as "Nestldown") and the Customer to this Agreement, as specified in Section 16, an individual(s) hereafter referred to as the "Customer." Jointly, "Nestldown" and the "Customer" may be referred to as the "parties" to this Agreement. Contracted service providers supplied by the Customer may otherwise be referred to as "service personnel" or "vendors." The term "guests" may refer to guests of the Customer, including or excluding the Customer.

2. FACILITY INFORMATION.

2.1. Capacity. The maximum number of guests for any event at Nestldown mid-May to October is two hundred (200), the base count included in the rental is one hundred and fifty (150). March, April, early May, November and December the maximum guest count is one hundred and fifty (150), the base count is one hundred and twenty-five (125). Smaller events are recommended in the winter due to the limited indoor space for seating in the Barn in case of inclement weather.

2.2. Business Hours. Nestldown is available for events as follows:

Tuesday - Wednesday	9:00 a.m. - 9:00 p.m.
Thursday and Sunday	9:00 a.m. - 10:00 p.m. (November - April)
Thursday and Sunday	9:00 a.m. - 11:00 p.m. (May - October)
Friday - Saturday	9:00 a.m. - 11:00 p.m.

2.3. The Event rental is for six hours; One hour set up, 4 hours for the event with guests, and one hour for clean up. No use of premises is allowed before or after the ending times listed above. Additional time may be rented for a fee but cannot extend the rental beyond the business hours listed in section 2.2. All Amplified Music must one hour and 30 minutes before the end of the rental time or 9:30pm, whichever is earlier. Use of the premises is not allowed after the stated business hours and is strictly enforced. The damage and rules violation deposit will be forfeited if all guests and service personnel are not off the premises by the times listed above.

2.4. Access to Event Area. The Event Area becomes available to the Customer at the beginning of the rental period specified in Sections 2.5.1 & 15. On-site transportation will be available, usually by golf cart, for physically challenged guests from the parking area to the Barn, and one is included in the base rental fee.

Most areas of the property are wheelchair accessible. Disabled guest vehicles may be driven to the Event Area for loading/unloading and parking in accordance with the requirements in Section 4.9.2. This should be addressed with your Nestldown Representative prior to the event day. Should the Customer desire to offer transportation by golf cart to all guests attending the event, arrangements for a second golf cart with driver should be made through the Customer's designated Events Manager, as the one included in the rental is not guaranteed for all guests.

2.5. Events at Nestldown.

- 2.5.1. Facilities/Areas Included. Event rental areas include use of the Chapel, Barn, Koi Pond and Lawn area, Fantasy Garden. The Foxglove Meadow, Koi Pond and Apple Knoll may be used for a portion of the event but only one set-up is allowed unless an extra fee is paid based upon the furniture set-up requested. If the Apple Knoll is used for Cocktail time or Dinner, a Nestldown staffed Golf Cart *must* be rented to assisted catering and guest movement regardless of guest count. Due to the County of Santa Clara County restrictions and ADA requirements, the Barn bathroom and kitchenette are not available for use. Use of certain locations are dependent on weather and should be discussed with the Event Manager.
- 2.5.2. Restrooms. *Restroom are located just across the road from the Barn.*
- 2.5.3. Event Planning. *Nestldown will start a timeline and layout for the customer in assistance with the logistics of the six (6) hour rental. It is the customer's responsibility to fill in and complete this document. All Vendors are required to be booked by sixty (60) days prior to the event and that information given to the Event Manager on the Nestldown Timeline for approval. Contracts as needed should be turned in, in addition to requests for any extras, by this time as well. A final timeline is due to the Event Manager by thirty (30) days prior to the event. A Semi-Final layout is due at the thirty (30) day prior mark as well but small changes may be made, due to guest count, up to 5 days prior.*
- 2.5.4. Final Guest Count. *The final guest count shall be provided to the Nestldown Event Manager no less than five (5) days prior to the event date and shall serve as the total number of guests for which the Customer shall be charged (i.e., base guest count plus additional guests, as applicable). Any reduction to the total number of extra guests above the base count is allowed only until this 5-days-prior cutoff date. Overpayment for guests above the contractual base count shall be returned with any unused portion of the Damage/Rules Deposit provided that written notice (via email or on layout) was given at least five (5) days prior to the event date.*

Should the actual guest count on the day of the event exceed the guest count provided by the Customer at the 5-day cutoff, the Customer shall be responsible for additional fees as specified in 3.3. Nestldown reserves the right to confirm the actual guest count on the day of the event when all guests are gathered at one (1) location (e.g., during dinner service). Children under three (3) years of age are not included in the final count. The Final Guest Count should match the number given to catering for meals and place settings (not including vendor meals).

3. **BOOKING AND DEPOSITS.**

3.1. **Rental Fees.** All fees are due as follows:

3.1.1. Booking Fee/Initial Deposit. An initial deposit of \$1.00 for the base rental fee for the event is due at the time of booking. Dates shall only be confirmed following execution of this agreement by both parties and receipt of the initial deposit by Nestldown.

zero (\$0)

3.1.2. Damage Deposit. A damage deposit for the event equal to ~~three thousand dollars (\$3,000.00)~~ is also required sixty (60) days prior to the event.

3.2. **Payment Schedule.** Payment of fees for the event as specified in the 2020 Non Profit Organizations Events Document

Base 6-Hour Rental Fee		<u>\$1.00</u>
Damage/Cleaning/Rules Deposit for events over 50	+	\$ <u> </u>
Total Amount Due (Rental Fee(s) + Security Deposit)	=	<u> </u>
Amount Paid at Execution (50% of Rental Fee)	-	<u>\$1.00</u> <u> </u>
Balance Due 60 Days Prior to Event	=	<u>\$1.00</u>

30

NOTE: INSURANCE DUE 60-days prior to the event

3.3. **Damage, Cleaning, and Rules Violation Deposit.** – N/A per Barbara Beck;

A Damage, Cleaning, and Rules Violation Deposit in the amount of ~~Three Thousand dollars (\$3,000.00)~~ is due sixty (60) days prior to the event date. Following inspection of premises at the end of the event, deposit funds will be refunded to the Customer within sixty (60) days, less any costs assessed due to property damage or cleaning required, rules violations, and/or other defined incidental charges not previously paid prior to the event date. Customer’s verbal or non-verbal actions requiring clean-up or extra time or service by Nestldown staff shall be construed as Customer’s express consent for Nestldown to charge for those items. The maximum guest count and event ending time requirements are per Santa Clara County regulations. If the Customer’s event exceeds the maximum guest count (200 or 150 respectively) depending on section 2.1, or extends beyond the ending time listed in section 2.2, even by 15 minutes, the total security deposit will be forfeited.

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4. RULES AND REGULATIONS.

4.1. Vendor Requirements. Customer's vendors are required to abide by all Nestldown rules and regulations. In addition to abiding by the rental time requirements, vendors are also subject to the conditions specified in their individual service contracts with Nestldown. The Customer will be responsible for extra time charges if vendors do not perform their services within the contracted time, including failure to vacate the premises by the end of rental times. Vendor contracts providing their specific requirements are available to the Customer for reference upon request.

4.1.1. Vendor Parking. A maximum of twelve (12) vendor vehicles are allowed to be parked in the parking lot during the event. Additional vendors vehicles will be subject to an extra charge of fifty dollars (\$50) each in 2019-2020. All vendors working at Nestldown must be properly licensed, insured, and have workers compensation insurance, if applicable.

4.1.2. Vendor Loading/Unloading. One (1) vehicle per vendor is allowed access into the Event Area for loading and unloading of equipment, décor, and materials, with the exception of caterers and bands, who are allowed two (2) vehicles each in accordance with the requirements specified in their separate vendor contracts.

4.2. Caterers. Caterers, or other vendors hired by the Customer, are responsible for all set-up before the event and all breakdown and clean-up at the conclusion of the event in both indoor and outdoor areas as specified in their Nestldown Catering Contract. All food preparation must be performed by the caterer per Health Department standards. Cooking is not allowed on the lawn areas.

Caterers shall abide by all requirements specified in the Nestldown Catering Contract, signed by the caterer. All food and beverage service arrangements and fees are the responsibility of the Customer. All food and liquor service are subject to local laws in force at the time of the event.

4.3. Alcohol. Any beverages provided by the Customer shall be delivered only during load-in time at the start of the rental period and must be unloaded by the Customer or their designee. All alcohol must be served only by Customer's caterer or a bartender contracted through the caterer. No Client hired Bartenders are allowed. It is the responsibility of the caterer and Customer to limit alcoholic consumption and to ensure that guests are not intoxicated on the premises. Shots of liquor, "Neat" or "On the Rocks" shall not be served to guests. Any vomiting on site shall result in a five hundred-dollar (\$500) clean-up fee per incident. Alcohol is not allowed in the parking lot and guests are not allowed to bring their own liquor or consume it on site. Cash Bars are not allowed nor tip jars. All alcohol service must end thirty (30) minutes before the official exit of guests; there shall be no announced last call, but a sign on the bar indicating the time that service will cease may be displayed. Violations of any of these rules by the client or their guests will subject the client to a \$500 fine. No liquor is allowed on inbound shuttles. There is a \$300 fee for BYOB. All BYOB deliveries are at start of rental. The Client needs to make sure that the getaway car can hold the leftover alcohol. There is no BYOB fee for alcohol/beverages brought in via the caterer or Bacchus Wine & Spirits.

4.4. Decorations & Set-Up All Decorations and Set Up should be done by the customer unless pre-approved and discussed with the Event Manager. Decorations cannot be

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nailed, taped, glued or tacked to the barn, even with 3M removable tape (for example). Any decoration that require a ladder shall be done by a qualified vendor with proper insurance and Nestldown Chairs, ladders or steps may not be used by the Customer for set up. All set up can begin no earlier than the start of the 6-hour rental time. If additional time for set up is needed, it can be rented.

- 4.5. Music and Dancing.** Nestldown is located in an area where sound carries; thus, music and amplified sound must be monitored to keep it from disturbing neighbors. All outdoor speakers must be directed away from surrounding neighbors. Sound levels are monitored by Nestldown staff with a hand-held meter and are recorded for each event. Nestldown Management reserves the right to request a volume adjustment at any time during the event, and can terminate an event due to an uncorrected or repeated violations of this Section.

4.5.1. Sound System Operation. The PA system in the Chapel and on the Lawn area by the Barn are available for use by an approved DJ or band from the Required Vendors List and Nestldown personnel only. Any outside DJs and musicians shall be subject to the requirements provided in Section **Error! Reference source not found.** The volume must be adjusted to be consistent with the levels required by County ordinances. The Nestldown audio systems are not available for operation by the Customer. Nestldown can simply plug in an iPod but if more services are requested, a professional DJ may be required if beyond the Event Managers scope or experience.

4.5.2. Limitations. Amplified music and dancing are limited to the Barn. Stages and tents are not permitted at Nestldown. Drums, percussion, brass, and loud wind instruments are not allowed outdoors and are only permitted inside the Barn only. All music and any amplified broadcasting are prohibited between the hours of 10:00 p.m. and 9:00 a.m. and must cease at least one and one-half (1.5) hours before the contractual ending time.

- 4.6. Photographers and Videographers.** If applicable, Nestldown recommends hiring photographers and videographers from the Recommended Vendors List as they have previously worked at Nestldown and are familiar with the logistical conditions on site. The Customer may select an outside vendor subject to approval by the Event Manager as provided in Section **Error! Reference source not found.** In addition, any outside photographers and videographers shall be principals only; no brokers are allowed. In addition to signing the Photography Agreement, any photographer who has not worked at Nestldown in the preceding two (2) years shall be required to view the site with Nestldown Management prior to the Customer's event. The Customer assumes responsibility for arranging for any required site visits on the weekend led by the customer or signed up on a guided weekend morning tour. *The use of drones is prohibited at Nestldown to protect the safety of our guests and wildlife. Nestldown has the right to use any photographs taken on/of the property for promotional/marketing purposes but if agreed upon prior, is happy to keep photos of person(s), names of companies, logos confidential and solely use set-up & Property photos.*

- 4.7. Use of Balloons and Candles.** Latex balloons are not permitted on the property, though Mylar balloons are acceptable. Signs and balloons are not permitted on public roads; Nestldown staff will help direct guests from the parking lot to the Event Area. All candles, must be contained by glass. Throwing lavender, sterilized birdseed etc. are prohibited in the barn. Sparklers and fog machines are prohibited.

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Clean-up of any of the aforementioned items is required either through prior arrangement between Customer and their florist or other designated person, or by Nestldown staff.

4.8. Supervision of Children. Nestldown does not provide childcare. The Customer and their guests are required to provide constant supervision of all children under thirteen (13) years of age attending or participating in the event. If children are not being adequately supervised, the Customer may be charged.

4.9. Guest Parking and Transportation. Parking for a maximum of one hundred fifteen (115) vehicles, including those of Customer, their vendors, and guests, is available on site and included in the rental fee. Parking for sixty (60) guests and fifteen (15) vendors is available in the lower/main parking lot, located a short five-minute walk from the Barn. There are an additional forty (40) parking spaces located at the top of the property near the entrance that may be used as Valet-only parking, as specified in Section 4.9.1 and must be approved by the Event Manager. Because parking is limited, carpooling is strongly recommended.

4.9.1. Valet Parking. If the Valet-only parking spaces are to be used, Nestldown is required by the County of Santa Clara to employ a licensed valet company to park the cars in this area. The cost of this valet service will be added to the facility use fee and charged to the Customer. If a valet company has not been hired for the event, Nestldown staff can/will park the additional vehicles for Fifty dollars (\$50) per vehicle and additional staff costs will be incurred. This does not affect the need for shuttles over 150 as listed in 4.10.3.

4.9.2. Disabled Parking. Parking is available in the Event Area for disabled guests. Customer should notify Nestldown staff of any guests requiring parking in the Event Area to help assist in directing their travel through the site.

4.9.3. Shuttles. Parking spaces for small shuttle buses carrying thirty-two (32) or fewer people may be available by prior arrangement. For events with more than one hundred fifty (150) guests, Customer shall be required to hire at least 2 X 25 person shuttles, at Customer's expense, to accommodate the transport of guests to and from Nestldown. In addition, during the rainy season (November 1 – March 31), due to the potential for inclement weather, Customer may be required to contract with an approved shuttle provider for two 22-person shuttles to help transport guests to and from the Event Area, subject to SEM approval.

4.9.4. Ridesharing Companies. While allowed, the use of ridesharing companies, such as Uber and Lyft, etc., as a primary method of transportation should be limited due to the additional logistical challenges it can present for both Nestldown staff and guests, including the ability for all guests to vacate the property by the end of rental time. Cell phone reception on site is not guaranteed and anyone using a ridesharing company as a primary method of transportation should reserve their ride early to ensure that the Customer is not charged for guests remaining on site past the end of rental time. If customers are waiting in the parking lot, additional costs may be incurred due to very close neighbors.

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4.10. Smoking/Environmental Hazards. Due to the serious threat of fire and other environmental concerns, smoking (including e-cigarettes/vaping) is only permitted by the outdoor restrooms in the designated area. Smoking is not allowed anywhere else on the property, including at the Changing Room or in the parking lots. Customer will be charged seventy-five dollars (\$75) per instance for smoking violations in areas other than the designated area. Please inform your guests, illegal substances are prohibited. Cannabis may not be provided for guests.

4.11. Pets or Animals. In order to protect the wild animals and birds that make their home on the property, pets or other animals may not be brought onto the premises without prior Event Manager approval, with the exception of specially trained animals assisting disabled guests, including Seeing Eye Guide Dogs.

4.12. Safety. Guests are required to wear shoes at all times while on site, including inside the Barn. The use of all unlit areas (i.e., Foxglove Meadow, Chapel, Apple Orchard Knoll, and Fantasy Garden) must cease by civil twilight.

Following a rain event measuring greater than one-quarter (0.25) inch, available use of the lawns for dining is subject to approval by the on-site horticulturist. A Nestldown event manager may need to make an adjustment based on weather of certain event locations for safety (ie. High winds and use of the Chapel).

All vendors hired by the client must be able to read and speak English.

The client and their guests are not allowed to berate, yell, act aggressively, threaten or use inappropriate language towards the Nestldown staff. The Nestldown staff cannot be touched for any reason. Violation of this civility clause is a \$500 fine.

4.13. No Fire Arms Firearms are not allowed on the property at any time.

5. DAMAGE ASSESSMENTS AND RULES VIOLATIONS.

Property damage assessments and rule violations assessments will be made by Nestldown Management, in its sole discretion, and will be based on the fair market value replacement cost, and/or actual cost of repairing the damaged property. Nestldown may (but shall not be required to) use, apply, or retain all or any part of the Damage Deposit for the payment of any amount which Nestldown may spend by reason of Customer's default or to compensate Nestldown for any loss or damage which it may suffer by reason of Customer's default or as a result of the event, including but not limited to the failure or refusal to leave the event area in a clean, undamaged condition.

In connection with the foregoing, Customer agrees that Nestldown will incur additional expenses, including increased labor costs, equipment fees, and wear and tear on the facilities (collectively the "Additional Administrative Costs"), in the event that any of the Nestldown rules are violated by the Customer, or by any of the vendors, contractors, or guests of the Customer. The rights of Nestldown pursuant to this Paragraph pertain to Additional Administrative Costs only, and are in addition to all other rights and remedies which it may possess under the terms of this Agreement, including, without limitation, the right of Nestldown to be indemnified and held harmless by the Customer

in the event of any damage or injury to person or property (whether or not such damage or injury results from a rules violation).

If Customer, their vendors, contractors, and guests fully and faithfully perform every provision of this Agreement, the unused portion of the Damage and Rules Violation Deposit shall be returned (without interest) to Customer as provided per Section 3.4.

6. CANCELLATIONS.

If an event is cancelled less six (6) months prior to the event date, a *cancellation charges equal to fifty percent (50%) of the total event fee shall be required*. If an event is cancelled three (3) months or less prior to the date of the scheduled event, a-cancellation charges equal to one hundred percent (100%) of the event fee shall be required. In addition to the cancellation charges set forth above, *a five hundred-dollar (\$500) processing fee shall be required for any cancelled event* (regardless of the timing of the cancellation).

7. FORCE MAJEURE.

If the Agreement becomes impossible to perform by either party due to Acts of God, war, government regulations, disaster, or other emergencies making it illegal or impossible to provide practical use of the entire facility or to hold the event, this Agreement may be terminated for any one or more of such reasons by written notice from one party to the other provided that the reason for said termination is in effect in Los Gatos, California, or the immediate surrounding area. In that event, neither party shall have any claim against the other by reason of cancellation. However, if such cancellation occurs prior to the event date, Nestldown shall not be obligated to refund any part of the Rental Fee paid by the Customer. Other than as set forth in this Section, there will be no refunds or offsets for inclement weather, loss of utilities, or other similar circumstances existing on the property.

8. NON-EXCLUSIVE LICENSE.

8.1. Purpose. Customer shall have the non-exclusive right to use Nestldown for the event described herein and for no other purpose.

8.2. Non-Exclusive. The license granted herein is non-exclusive, and in no matter should be construed to prevent any other person or entity from having free and unfettered access to Nestldown at any time and for any purpose consistent with its use, management, and operation.

9. INDEMNITY FROM LIABILITY.

Customer shall indemnify and hold Nestldown, its owners, officers, directors, employees, agents, and contractors, free and harmless from any and all liability, claims, loss, damages, or expenses, including attorneys' fees and court costs, arising by reason of the death or injury of any person, including Customer or any person who is an employee, agent, invitee, licensee, or guest of Customer, or by reason of damage to or destruction of any property, including property owned by Customer or any person

who is an employee, agent, invitee, licensee, or guest of Customer, caused or allegedly caused by: 1.) any cause whatsoever while such person or property is in or on the premises as a result of the scheduled event, or is in any way connected with the event or with any improvements or personal property within Nestldown; 2.) any condition or defect within Nestldown or any building or improvement within Nestldown; 3.) any act or omission of Customer or any person in, on, or about Nestldown as a result of the event; or 4.) any other matter connected with the event.

10. EXONERATION OF NESTLDOWN.

Customer assumes full responsibility for any injury, theft, loss or damage to its guests or property on the day of the event. Nestldown assumes no responsibility for such injury or loss of property. Customer is responsible for any rule’s violations of their guests. Nestldown shall not be liable for injury, loss, or damages of any nature whatsoever, including, without limitation, any injury or loss, which might be suffered by Customer as the result of inclement weather, loss of power, Acts of God or of any governmental agency, or from any other cause.

Customer specifically waives any and all rights or claims for damages and agrees that Nestldown shall not be liable for any damages or injuries to Customer or Customer’s business, for any loss of income from Customer’s business, for any damage or destruction of property belonging to Customer, or for any injuries to Customer or any person on the Nestldown property unless such damage, injury, loss, or destruction directly results from an intentional or willful act of Nestldown or some agent or employee of Nestldown.

11. INSURANCE.

11.1. Special Event Insurance. At all times during the scheduled event, the Customer, at Customer’s sole cost, shall maintain Special Event Insurance, including, without limitation, commercial general liability insurance, and, if alcoholic beverages will be served at the event, liquor liability, with a minimum single combined liability limit of one million dollars (\$1,000,000.00), insuring against liability of Customer, Customer’s Guests, Nestldown and their respective authorized or unauthorized representatives arising out of and in connection with the event. Not less than ~~sixty (60)~~ days prior to the commencement of the event, Customer shall deliver to Nestldown a Certificate of Insurance (COI) in a form acceptable to Nestldown, demonstrating such coverage as required herein. Late submittal of the required COI may be subject to a late fee equal to five percent (5%) of the contractual total amount due as specified in Section 3.3. If such Certificate is not so delivered by Customer thirty (30) days prior to the event, the event will be considered canceled. In case this Agreement is terminated, all rights under Customer’s insurance policy and proceeds thereunder, if any, shall be assigned to Nestldown if Nestldown so elects.

30 days

11.1.1. Insurance Requirements. The insurance required under this Agreement shall be provided in accordance with the following requirements:

- Be presented on Accord 25 form.
- Nestldown LLC, and its owners, officers, director, employees, and agents shall be named as additional insured. The insurance shall not have exclusion for Negligence.
- Be Issued by insurance companies authorized to do business in the State of California, with a financial rating of at least A + 3A status as rated in the most recent edition of Best's Insurance reports.
- Contain an endorsement requiring ninety (90) days written notice from the insurance company to both parties before cancellation or change in the coverage, scope or amount of any policy.
- Provide Liquor Liability if alcohol is being served.
- Cover one thousand dollars (\$1,000) in medical expenses per guest.
- Be purchased through a company approved by Nestldown (*Nestldown does not accept Wed Safe and Markel Policies as a form of Insurance*).

12. UTILITIES AND SERVICES.

Nestldown, at Nestldown's expense, shall provide reasonable quantities of electricity and water for the event. Nestldown, at Customer's expense, shall attempt to accommodate any reasonable requests for additional or greater quantities of utilities and services. Nestldown shall not be liable for failure to furnish utilities to the event when the failure results from causes beyond Nestldown's reasonable control. Nestldown buildings are not equipped with heating or cooling systems.

13. SECURITY/SITE PERSONNEL.

Such security/site personnel as Nestldown Management deems reasonably necessary, but in no event less than two (2) employees, shall be present on the Nestldown premises for the entire duration of the event, which person(s) shall have the right, but not the obligation, to direct that alcohol beverage service be discontinued due to any apparently inebriated individual(s). Nestldown Management reserves the right to ask any person to leave the premises for safety and security concerns. Early guests will not be allowed into the Event Area until the event access road is closed to vendor deliveries. Customer should not encourage guests to be early.

14. MISCELLANEOUS.

14.1. Authority. Customer has read and agrees to be bound by the foregoing requirements and provisions specified in this Agreement.

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- 14.2. Time of the Essence.** Time is expressly declared to be of the essence for this Agreement.
- 14.3. Modification of Agreement.** This Agreement shall not be modified or amended, unless the parties each first agree to and approve of such modification or amendment in a writing signed by the Customer and by Nestldown-Management.
- 14.4. Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the remaining provisions of this Agreement shall remain in effect.
- 14.5. Counterparts.** This Agreement may be executed in any number of counterparts, each of which counterpart shall be an original, but all of which together shall constitute one and the same instrument.
- 14.6. Attorney's Fees.** Should any litigation, including arbitration proceedings, be commenced between the parties to this Agreement concerning the event or the rights and duties of either in relation thereto, the party, Nestldown or Customer, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation, to a reasonable sum as and for his/her attorney's fees in litigation which shall be determined by the court in such litigation or in a separate action brought for the purpose.
- 14.7. Controlling Law.** This Agreement is entered into, and shall be construed and interpreted in accordance with the laws of the State of California.
- 14.8. Venue.** Any dispute or litigation brought to enforce or interpret of this Agreement shall be commenced in a court or other appropriate forum for the resolution of such disputes located within the County of Santa Clara of the State of California.

15. APPLICANT AND EVENT INFORMATION

Laura.Rosas@vhp.sccgov.org

Laura Rosas

Assistant: **Luisa.Lennon@vhp.sccgov.org**

Name of Applicant

Applicant's e-mail

County of Santa Clara

Company

c/o Valley Health Plan
2480 N. 1st St. Suite 160

Mailing Address

San Jose, CA 95131

City, State and Zip Code

work cell: 669-333-4640

work cell: 669-333-4640

Daytime Phone

Evening Phone

work cell: 669-333-4640

Fax number

Cell number

July 21, 2021, 8:30am - 1:00pm

8:00a 2:00 p

Day and Date of Scheduled Event

*From _____ .m. to _____ .m.
(4 hours including 1hour set up & 1 hour clean up)*

Type of event: County Executive MSO Executive Retreat/Meeting

Number of Guests: NTE 30

Guest Arrival time: est: 8:00-8:15a

Food vendor to be arranged for early setup (est 7:30a)

Please see Luisa Lennon as point person for County event. Her cell and email provided above.

Initials DS
BB DS
M M

16. CONTRACTUAL SIGNATURES

APPLICANT

Date: 6/23/2021

Print Name: Laura Rosas
Signature: DocuSigned by:
Laura Rosas
4A9F34C4C291447...
Title: Valley Health Plan, CEO

CO-APPLICANT

Date: 6/23/2021

Print Name: Miguel Marquez
Signature: DocuSigned by:
Miguel Marquez
B117DF0A133D47...
Title: County of Santa Clara
-Chief Operations Officer

NESTLTDOWN

Date: 6/23/2021

Signature: DocuSigned by:
Barbara Beck
72F03ACBAC0A43A...
Print Name: Barbara Beck
Title: owner

Approved as
to Form
(County
Counsel)

DocuSigned by:
David McDonough
David McDonough

x
6/23/2021