

**THE FITZGERALD OF PALISADES  
INDEPENDENT LIVING  
RESIDENCE AND SERVICES AGREEMENT  
WASHINGTON, D.C.**

**TERM SELECTED:**

\_\_\_\_\_ **MONTH-TO-MONTH**

\_\_\_\_\_ **12-MONTH LEASE TERM**

**WASHINGTON, D.C.**

**DRAFT**

# TABLE OF CONTENTS

<b>I.</b>	<b>SERVICES .....</b>	<b>3</b>
<b>II.</b>	<b>OPTIONAL SERVICES .....</b>	<b>5</b>
<b>III.</b>	<b>EXCLUDED HEALTH-RELATED SERVICES .....</b>	<b>5</b>
<b>IV.</b>	<b>TERM OF AGREEMENT.....</b>	<b>6</b>
<b>V.</b>	<b>FEES .....</b>	<b>6</b>
<b>VI.</b>	<b>TRANSFERS FROM APARTMENT.....</b>	<b>7</b>
<b>VII.</b>	<b>TERMINATION.....</b>	<b>8</b>
<b>VIII.</b>	<b>YOUR PROPERTY RIGHTS AND OBLIGATIONS .....</b>	<b>11</b>
<b>IX.</b>	<b>OTHER PERSONAL OBLIGATIONS.....</b>	<b>12</b>
<b>X.</b>	<b>MISCELLANEOUS .....</b>	<b>13</b>

<b>APPENDIX A</b>	<b>FEES FOR OPTIONAL SERVICES</b>
<b>APPENDIX B</b>	<b>RESIDENT HANDBOOK</b>
<b>APPENDIX C</b>	<b>PET POLICY</b>
<b>APPENDIX D</b>	<b>MOTORIZED CART POLICY</b>
<b>APPENDIX E</b>	<b>PERSONAL SERVICE PROVIDERS GUIDELINES AND WAIVER RELEASE</b>
<b>APPENDIX F</b>	<b>APARTMENT ENTRY AUTHORIZATION</b>

**THE FITZGERALD OF PALISADES  
INDEPENDENT LIVING  
RESIDENCE AND SERVICES AGREEMENT**

This Residence and Care Agreement (“Agreement”) is made as of \_\_\_\_\_ (“Effective Date”) by and among \_\_\_\_\_, as agent for \_\_\_\_\_ located at \_\_\_\_\_, (collectively, “we”, “our”, “us”) and \_\_\_\_\_ (“you”). (If more than one person is signing this Agreement, “you” refers to each of you individually and to both of you together).

\_\_\_\_\_ owns \_\_\_\_\_, (the “Community”).  
a residential community for persons aged 55 years and older, located at \_\_\_\_\_.  
This Agreement pertains to the Community’s age-restricted residential apartments that are not licensed to provide assisted living or nursing services.

\_\_\_\_\_ manages \_\_\_\_\_ on behalf of \_\_\_\_\_. The Community does not discriminate and does not permit discrimination, including, but not limited to, bullying, abuse or harassment on the basis of your (or your association with another individual’s) sex, race, color, religion, creed, disability, gender, national origin, marital status, registered domestic partner status, ancestry, actual or perceived sexual orientation, actual or perceived gender identity, gender expression or HIV status.

You have applied for accommodations and services in the unlicensed portion of the Community and your application has been accepted. The purpose of this Agreement is to provide a statement of the accommodations and services that we will furnish to you at the Community, and the other legal obligations that we will assume. This Agreement also sets forth your legal obligations to us, both financial and non-financial.

**I. SERVICES**

You will be provided with the following basic services and amenities at the Community, subject to the terms of this Agreement. These services and amenities are included in your Monthly Fee unless otherwise indicated. Pricing for those services which are not included in your Monthly Fee may be adjusted at our discretion, as described in Section V.C. below.

**A. Living Accommodations**

1. Residence. You have chosen to live in Apartment # \_\_\_\_\_ (“Apartment”) at the Community. You may live in your Apartment for the term selected on the front page of this Agreement, subject to the terms of this Agreement and to the general rules and regulations of the Community contained in the Resident Handbook (**Appendix B**), as it now exists and as it may later be amended and to the other written rules and policies of the Community. You may move into your Apartment on or after the Effective Date of this Agreement, however, your financial responsibility for the Apartment begins on the Effective Date of this Agreement.
2. Utilities. Your Apartment will be furnished with basic cable television, landline telephone service, community wi-fi, water, electricity, garbage removal, heat and air conditioning. Unless otherwise specified in the Resident Handbook (**Appendix B**), you will be responsible for telephone service and any additional/premium cable television or wi-fi services, which will be billed directly to you by the responsible company or as set forth in **Appendix A**.

3. Furnishings. Your Apartment comes equipped with kitchen appliances, a washer/dryer and floor and window coverings. You may furnish your Apartment with your own furniture. You are also free to use your appliances and special equipment, provided that the Community's safety standards are met. We reserve the right to limit the number and type of furnishings and appliances in your Apartment if they present a safety hazard. You or your estate will be responsible for removing your furnishings when your Apartment is vacated.
4. Maintenance and Repairs. You have examined your Apartment, including its furnishings, if any, appliances and fixtures, and agree that your Apartment is clean and in operating condition. You agree to keep your Apartment and all its appliances, fixtures and accessories in a clean, sanitary and safe condition. We will perform all necessary maintenance and repairs of your Apartment at our expense. However, you will be responsible for reimbursing us for the repair of any damage caused by you or your guests in excess of normal wear and tear. You will be responsible for repairs to your personal property.
5. Alterations. Any physical change to your Apartment requires the prior written approval of the General Manager of the Community and shall be made at your own expense. If we approve any alteration, the alteration will be performed by our maintenance staff or a contractor that we approve, and you will pay the cost of that alteration. Any alterations of a permanent nature are the property of the Community. Upon termination of this Agreement, you or your estate may, at the sole discretion of the Community, be responsible for all restoration costs relating to the removal of any alterations/modifications, and all costs associated with the restoration of the Residence to its original condition.
6. Common Facilities. You will be entitled to share with all other residents of the Community the use of the common areas, including the main dining room, lounge areas, beauty/barber shop and recreational rooms. We may change or reconfigure common spaces in the future at our discretion. Your use of the common areas is subject to the Community's general policies as described in the Resident Handbook (**Appendix B**).

#### **B. Laundry**

We provide laundry facilities/services as described in the Resident handbook (**Appendix B**) and set forth in **Appendix A**. Additional services as needed or requested will be available for a fee as set forth in **Appendix A**. You shall be responsible for your personal dry-cleaning.

#### **C. Housekeeping**

We will provide housekeeping services in your Apartment as described in the Resident Handbook and set forth in **Appendix A**. Additional housekeeping services as needed or requested are available for an additional charge (see **Appendix A**).

#### **D. Personal Supplies**

You shall provide your own supplies for personal care and hygiene.

#### **E. Meals**

1. Dining Room. We will make meals available to you as set forth in the **Appendix A**. These meals are included in your Monthly Fee. If you do not receive meals because of a continuous absence from your Apartment of fourteen (14) or more days due to a medical condition or other circumstance, you will receive a per day credit beginning on the fifteenth (15<sup>th</sup>) day as set forth in **Appendix A**, which will be credited to your account and reflected in your monthly statement. You will also be charged a fee for any special food services and products that you request and that we agree to provide.
2. Tray Service. We will provide Tray Service to your Apartment as set forth in **Appendix A**.
3. Guests. Guests are welcome to any meal as set forth in the Resident Handbook. There will be a fee for guest meals (see **Appendix A**).

## **F. Planned Activities**

We offer a program of social, intellectual, physical, spiritual and vocational wellness activities, both at and away from the Community. You are welcome to participate in such activities as desired. There may be an extra charge for some of the activities offered by us that require additional supplies or services provided by an outside vendor, or that involve outings away from the Community (see **Appendix A**).

## **G. Transportation**

We will make available to residents scheduled unescorted transportation for shopping, medical and dental appointments, religious services, other errands, and planned social events, as outlined in the Resident Handbook. We will provide or arrange for additional transportation for a charge (see **Appendix A**). If you utilize Community transportation, you agree to abide by our policy and procedures which are in place to protect the safety of our residents.

## **H. Emergency Response and Fire Protection**

Your Apartment will be equipped with an emergency call system, smoke detector and sprinkler system. The call system is monitored 24 hours per day to alert staff to emergencies and illnesses. If a member of the staff of the Community determines, in his or her judgment, that an emergency exists, he or she will call 911.

## **I. Guests**

You are welcome to have guests visit you at the Community. Before any guest stays in your Apartment overnight you must obtain permission from the General Manager or his or her designee. All guests must abide by any applicable rules contained in the Resident Handbook, including any limitations on the length of stay or frequency of visits. You will be responsible for assuring that your guests abide by these rules and are not disruptive.

## **J. Parking**

If you own a car, parking may be made available to you in accordance with the provisions of the Resident Handbook (**Appendix B**).

## **II. OPTIONAL SERVICES**

We will make several optional services available to you at an extra charge, to be billed on a monthly basis. The current fees for optional services at the Community are set forth in **Appendix A** and are subject to change as provided in Section V.C. below. Optional services offered by us may include:

1. Tray Service;
2. Guest meals and services;
3. Housekeeping and laundry services (beyond those included in Monthly Fee);
4. Transportation services;
5. Repairs and maintenance of personal items;
6. Beauty/barber shop services (if such services are provided by an outside vendor, the vendor will bill you directly); and
7. Any other services that we elect to offer in the future.

## **III. EXCLUDED HEALTH-RELATED SERVICES**

We shall not be responsible for furnishing or paying for any of your assisted living (personal care), nursing, or health care needs, including but not limited to acute care, assistance with the tasks of daily living, the services of personal service providers, physicians, and nurses, medications, and other items and services that may require a license to provide.

**IV. TERM OF AGREEMENT**

The initial term of this Agreement shall be either one month (i.e., month-to-month) or twelve months, as selected on the front page of this Agreement (the “Initial Term”). At the end of the Initial Term and all successive Renewal Terms, this Agreement shall automatically renew for an additional term of the same length as the Initial Term (each, a “Renewal Term”, and the Initial Term and any Renewal Terms are referenced herein as a “Term”), unless and until it is terminated as set forth in this Agreement.

FOR AN INITIAL TERM OF TWELVE MONTHS: YOU HEREBY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT WILL AUTOMATICALLY RENEW AT THE END OF EACH TWELVE MONTH PERIOD FOR AN ADDITIONAL TWELVE MONTHS UNLESS IT IS TERMINATED BY YOU AS SET FORTH IN THIS AGREEMENT.

ACKNOWLEDGED: \_\_\_\_\_

Resident(s) Initials

**V. FEES**

**A. Community Fee**

You shall pay a non-refundable Community Fee of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) prior to move-in to the Community. This fee is used to support the cost of various programs and services at the Community, such as wellness, computer tech center, and restaurant style dining. The fee is also used to help us attract and retain qualified and well-trained staff. The Community Fee is not an application fee, screening or processing fee, security deposit or rental payment for a dwelling.

**B. Monthly Fee**

Your initial Monthly Fee for single occupancy of your Apartment under this Agreement is \_\_\_\_\_ dollars (\$ \_\_\_\_\_). The initial Monthly Fee for double occupancy is \_\_\_\_\_ dollars (\$ \_\_\_\_\_).

Prior to occupancy of your Apartment, you will be responsible to pay your entire initial Monthly Fee. If you begin occupying your Apartment on a day after the first day of the calendar month, your initial Monthly Fee will be prorated accordingly and appear on your first monthly statement. The Monthly Fee is payable in advance by the first (1<sup>st</sup>) day of each calendar month and is considered delinquent if not received by the fifth (5<sup>th</sup>) day of the month. It shall be payable to \_\_\_\_\_ by electronic payment, check or money order. Payments made by check or money order are subject to a fee as outlined in **Appendix A**. If two residents occupy your Apartment and it reverts to single occupancy, the remaining resident shall pay the then current Monthly Fee for single occupancy. Your right to occupy and use your Apartment and to receive services at the Community is contingent upon timely payment of the Monthly Fee and all other applicable charges and fees under this Agreement.

**C. Adjustments To Fees or Services**

1. Fees Increase. Except as stated below, we may change charges for optional services upon thirty (30) days’ advance written notice to you or such longer amount of time as may be required by local law. If we propose to increase the Monthly Fee, we will give you thirty (30) days written notice of this change prior to the expiration of the then-current Term.
2. Services. We may modify the scope and/or frequency of services provided to you under this Agreement upon thirty (30) days’ prior written notice to you.

#### **D. Failure To Make Payments**

You will be required to make all payments due to us in a timely manner and otherwise fulfil your financial obligations to us. Payment shall be made to \_\_\_\_\_ by electronic payment, check or money order and either mailed to the Community at the following address: \_\_\_\_\_ or delivered to the business office at the Community. If you fail to pay your Monthly Fee or other charges by the tenth (10<sup>th</sup>) day of each calendar month, we may charge you a late payment of up to five percent (5%) on your then-current Monthly Fee for each delinquent payment. Returned checks/payment shall be subject to a Non-Sufficient Funds (NSF) fee penalty, as set forth in **Appendix A** in addition to any late fees that are assessed. If you fail to pay your Monthly Fee when due, we may terminate this Agreement and take legal action to regain possession of your Apartment according to the provisions in Section VII.B. You shall pay us any attorneys' fees and costs we incur to regain possession of your Apartment, subject to applicable law.

#### **E. Payor/Guarantor**

Your obligation to pay the Monthly fee and any other fees due under this Agreement shall be guaranteed by \_\_\_\_\_ ("Guarantor"). You agree immediately to give us written notice of any change in Guarantor's financial condition, address, or telephone number. By signing below, Guarantor agrees promptly to pay all fees and charges incurred by you or on your behalf under this Agreement. The foregoing is a guaranty of payment and not of collection, and the Community shall have no obligation to file suit or obtain a judgment against you prior to enforcing its rights against the Guarantor.

### **VI. TRANSFERS FROM APARTMENT**

#### **A. Your Capacity for Residential Apartment Living**

The portion of the Community in which you reside ("Residential Housing") consists of residential apartments with convenience services designed for persons who are capable of providing for their own health care and personal care needs. The Residential Housing portion of the Community is not licensed to offer and does not offer assistance with medications, bathing, dressing, mobility needs, supervision, monitoring of your health or safety, or other personal care activities. It is your responsibility to provide for your own health care and personal care needs so long as you reside in independent living. You represent to us that you are capable of providing for your own health care and personal care needs and will provide for all such needs for as long as you reside in Residential Housing. If you utilize any personal service providers or companions while you reside in the Residential Housing, you agree to comply with the Community's applicable policies for such personnel.

#### **B. Transfer Due to Care Needs**

If at any time you become incapable of providing or fail to provide for your health care or personal care needs, or if you develop a physical or mental condition that creates a danger to yourself or others, you agree to move promptly out of your Apartment to an accommodation of your choice that can provide an appropriate and safe living environment. If we operate a licensed adult care home at the Community, then you may choose to apply to move into such licensed adult care home operated by us at the Community, and if accepted, your residence and care there will be provided under a new and separate agreement, and this Agreement will be deemed terminated effective as of the date of the new agreement. Any determination that you are required to move for the reasons set forth in this paragraph shall be made in the sole judgment of the Community's General Manager.

#### **C. Voluntary Apartment Change; Move to Licensed Care**

You may request to move from your independent living apartment to another independent living

apartment at the community, or to an apartment within the Community that is licensed for Assisted Living or Memory Care (if we are licensed to provide such services at the Community). Your request for a change of apartment may be granted at our discretion. If accepted, you will sign a new agreement applicable to the new apartment, and this Agreement will be deemed terminated upon the later of: (i) the date of the new Agreement or (ii) the date you vacate the Apartment under this Agreement in accordance with Section VII.F. You will continue to be responsible for the Monthly Fee for the Apartment you are relinquishing until you vacate the Apartment in accordance with Section VII.F, however, any move within the Community campus pursuant to this Section will not be considered an early termination of this Agreement and you will not be responsible for the Monthly Fees for the remainder of the then-current Term after the apartment is vacated. You will pay the then-applicable Monthly Fee for the new apartment beginning on your first day of occupancy. If you move on a day other than the first day of the month, any difference in rates between your current Apartment and new apartment will be credited or debited to your account, as applicable, on a pro rata basis. You will be responsible for all costs associated with the move, including an apartment transfer fee as set forth in Appendix A.

#### **D. Substitution of Apartment**

We may need to substitute your Apartment with another apartment to comply with any law or lawful order of any authorized public official, or for any other reasonable purpose, as determined by us. If this occurs, we shall make reasonable efforts to substitute your Apartment with a reasonably comparable one. You agree to pay the Monthly Fee applicable to the new Apartment.

### **VII. TERMINATION**

#### **A. Termination By Resident**

You may terminate this Agreement with or without cause by giving us written notice of termination at least thirty (30) days prior to the end of the then-current Term. You need not cite a specific reason for the termination. With the exception of your death where this Agreement terminates automatically, you will continue to be responsible for your Monthly Fee until the thirty (30) day notice period has expired or you have vacated your Apartment and removed all your property from the Apartment, as described in Section VII.F. below, whichever occurs later. Except with respect to your death or certain transfers as described in Sections VI.B. and VI.C, if you terminate this Agreement prior to the end of the then-current Term, or if you abandon or vacate the premises, you will be in default under this Agreement, and we may take the actions described in Section VII.E.

#### **B. Termination By Us**

1. Upon Thirty (30) Days' Written Notice. We may terminate this Agreement effective as of the end of the then-current Initial Term or Renewal Term by providing you with at least thirty (30) days' written notice to you, with or without cause.
2. Upon Three (3) Days' Written Notice. We may terminate this Agreement upon three (3) days' written notice if:
  - a. You fail to pay the Monthly Fee or other fees you owe by the tenth day of the calendar month;
  - b. You fail to perform your obligations under this Agreement;
  - c. You fail to comply with the rules and regulations of the Community contained in the Resident Handbook (**Appendix B**) as it now exists, as it may be modified in the future or otherwise communicated to you by us;
  - d. You fail to comply with any law or ordinances or otherwise violate any other legal requirement;
  - e. You acquire a condition or engage in conduct that interferes with the health, safety, or peaceful lodging of others at the Community;



- f. Your unmet care needs warrant a transfer as described in Section VI.B;
  - g. You do not adequately maintain your personal hygiene or the cleanliness or safety of your Apartment;
  - h. You maintain a nuisance or dangerous condition or conduct or allow illegal activities in your Apartment.
  - i. The use of the Community is changed, in accordance with state law.
  - j. Any information provided by you in your application for your Apartment or in support of such Application is determined to have been false in any materially respect as of the date provided by you to us.
3. Right to Remedy Certain Types of Non-compliance. If we provide you with a three (3) day notice to terminate this Agreement under Section VII.B. above and the reason for termination involves something that you can correct (such as, non-payment of Monthly Fee when due), the written notice will state that you have an opportunity to correct the non-compliance within the three (3) day notice period.

#### **C. Death of Resident**

This Agreement shall terminate automatically upon our receipt of notice of your death. Termination shall be effective thirty (30) days following the last Monthly Fee payment before your death, or on the expiration of the then-current Term, whichever is earlier. Your estate will continue to be responsible for the Monthly Fee until you vacate the Apartment in accordance with Section VII.F. of this Agreement, however, a termination due to death will not be considered an early termination of this Agreement or an abandonment of the Apartment, and your estate will not be responsible for Monthly Fees for the remainder of the then-current Term after the Apartment is vacated. If your estate does not remove your property from your Apartment before the effective date of termination, we will store or dispose of it in accordance with Section VII.F. below. Your estate or designated beneficiary will receive a refund of any unused pro rata portion of your Monthly Fee (determined with respect to the date your property is removed from the Apartment), within thirty (30) days following removal of all property from your Apartment. If you have a Beneficiary Designation Form on file, we will issue the refund to the designee. If not, it will be issued to your estate.

#### **D. Couples**

If there are two residents under this Agreement, and one dies or permanently vacates your Apartment, this Agreement shall continue in full force and effect with respect to the remaining resident and the current Monthly Fee applicable to single occupancy of your Apartment shall apply to the remaining resident.

#### **E. Default and Remedies**

1. Election of Remedies. If you (i) fail to pay any Monthly Fees or other amount due hereunder when due, (ii) terminate this Agreement other than as permitted under Section VII.A.1, (iii) otherwise abandon or vacate the Premises, or (iv) fail to perform any of your other obligations hereunder, then in any such event we may either (A) declare your right of possession to be terminated and re-enter and take possession of the Apartment or (B) declare this Agreement terminated and re-enter and take possession of the Apartment. Any termination (whether of possession or of the Term) and re-entry by us (whether by ejectment or summary ejectment or otherwise) shall be without prejudice to any other legal remedies which we may have on account of such default by you, and you shall not thereby be relieved of liability under this Agreement but shall remain liable for the payment of the Monthly Fees and other amounts owed under this Agreement. Furthermore, upon the occurrence of a default or event of default under this Agreement, all Monthly Fees for the remaining Term of this Agreement may, at our election, become immediately due and payable.

2. Reentry and Termination. If we elect to terminate your right to possession pursuant to Section VII.E.1, without terminating this Agreement, then we may take any action in accordance with applicable District of Columbia law, including to enter into the Apartment and make such repairs as may be necessary in order to relet the Apartment, and may relet the Apartment or any part thereof for such term or terms (which may be for a term less than or extending beyond the Term of this Agreement) and at such rental or rentals and upon such other terms and conditions as we, in our sole discretion, may deem advisable. Upon each such reletting, all Monthly Fees received by us from such reletting shall be applied first, to the payment of any past-due Monthly Fees and, if applicable, additional amounts due hereunder from you; second, to the payment of any costs and expenses of reletting, including brokerage fees, and of costs of repairs; and the residue, if any, shall be held by us and applied in payment of future Monthly Fees and additional amounts due from you as the same may become due and payable hereunder. If such Monthly Fees received from such reletting during any month shall be less than that to be paid during that month by you hereunder, then you shall pay any such deficiency to us (and any such deficiency shall be calculated and paid monthly). No such reentry or taking possession of the Apartment by us shall be construed as an election on our part to terminate this Agreement unless a written notice of such intention is given to you or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination of this Agreement, we may at any time thereafter elect to terminate the Term of this Agreement for such previous breach. In the event of any termination, we shall be immediately entitled to possession of the Apartment, and you shall peacefully surrender possession of the Apartment immediately upon our demand. In the event you fail or refuse to surrender possession of the Apartment, we may exercise our rights in compliance with the District of Columbia Code, Real Property Article, Title 8, Landlord-Tenant, to reenter and retake possession of the Apartment only through a summary ejectment proceeding.
3. Removal of Personal Property. You or your estate agree to promptly remove all your personal property from the Apartment upon termination of this Agreement for any reason and restore the Apartment to its original clean condition (except for normal wear and tear). Upon any re-entry of the Apartment by us pursuant to this Agreement, including, without limitation, once a writ of possession has been executed (following summary ejectment), we may, but are not obligated to, without liability to anyone, remove, store or dispose of any personal property then located in the Apartment at your expense in accordance with District of Columbia law. The personal property so removed shall be deemed abandoned if you do not make a written demand for the return of such personal property within thirty (30) days of the re-entry. If you make such a demand, we will release the personal property to you upon payment by you of the costs of removal and storage. If no demand is made, we may sell, discard or otherwise dispose of the personal property without liability to anyone.
4. Fees and Costs. If a summary ejectment proceeding is instituted against you, in addition to any court costs and past-due Monthly Fees that may be awarded, you shall be responsible for paying us our reasonable attorneys' fees and actual-out-of-pocket costs incurred that result from the institution of such proceedings in accordance with the District of Columbia Code. In addition, you shall pay us reasonable attorney's fees and costs we incur to regain possession of your Apartment, subject to applicable law.

#### **F. Vacating Apartment**

Upon any termination of this Agreement, you or your estate agree to vacate and remove all your property from your Apartment and restore it to its original clean condition, excluding normal wear and tear. You or your estate shall remain liable for payment of the Monthly Fee until the effective termination date or

until your Apartment is vacated, all of your property is removed from it, and it is restored to its original clean condition (except for normal wear and tear), whichever occurs later. If you or your estate fails to remove your personal property from the Apartment after the effective date of termination, we may remove, store or dispose of any personal property as provided in Section VII.E.3 above. Please see **Appendix A.**

#### **G. Refund**

Following termination of this Agreement the Community will pay you, your beneficiary or your estate a refund equal to any amounts that the Community owes to you, minus the following: (i) the amount of any unpaid Monthly Fees or other charges that you owe to the Community under this Agreement; (ii) the costs of repairing any damage to the Apartment that is not caused by normal wear and tear; (iii) the costs of repairing any of the Community's property that was damaged by you or your visitors; (iv) the costs of restoring your Apartment to its original condition if physical alterations were approved by the Community pursuant to Section I.A.5; and (v) any expense incurred by the Community to remove and/or store any of your property that was not removed when you vacated the Apartment. If the sum you owe us exceeds any amounts the Community owes to you, we will bill you or your estate for the difference. You, your designated beneficiary or your estate will receive any refund that is due within thirty (30) days following the date all of your property is removed from the Apartment.

#### **H. Survival of Provisions**

Sections VII.E, VII.F. and VII.G of this Agreement shall survive the termination of this Agreement.

### **VIII. YOUR PROPERTY RIGHTS AND OBLIGATIONS**

#### **A. Use of Premises**

You agree to use and occupy your Apartment solely as your residence and to maintain it in a clean and orderly manner and in compliance with all applicable governmental requirements, including all public and health and police regulations, to the full extent permitted by law. You agree not to: permit another person to reside in your Apartment without our prior approval; use or operate any equipment or machinery or engage in any conduct that is harmful to your Apartment, the Community, residents, staff, or us, or is disturbing to other residents; engage in any commercial activity at the Community; employ any person in or about your Apartment whose employment may create a liability on our part; or hire any of our employees to perform any services at the Community without our consent.

#### **B. Conditions of Premises**

You acknowledge that we have made no representations regarding the condition or state of repair of your Apartment except as expressly set forth in this Agreement. You agree not to cause or permit any waste, misuse or neglect of your Apartment and to pay for any damages so caused.

#### **C. Right of Entry**

You agree to permit our authorized employees or agents to enter your Apartment to perform the services described in this Agreement or other necessary services, respond to emergencies, make necessary or agreed-upon repairs and improvements, and to show the Apartment to prospective residents (after notice of termination has been given by either party). Additional locks are not permitted on the entrance door to your Apartment. Except in cases of emergency, if you have abandoned or surrendered your Apartment, or if you are present and consent to our entry, we will give you twenty-four (24) hours' written notice of our intent to enter and will arrange to do so during normal business hours, unless you consent to allow us to enter at other times.

#### **D. Use of Video Surveillance**

The Community may have installed video surveillance equipment in common areas. Common areas that may be subject to video surveillance include driveways, parking areas, entry and exit doors, and interior

lobbies, hallways, and other gathering spaces. The Community does not use video surveillance in private areas such as apartments, associate workspaces, or care areas, and use of video surveillance in these areas is strictly restricted by the Community's policies and procedures. Video surveillance equipment is not monitored in real time, serves only to provide a record of recorded events for later internal review only if necessary and is not preserved indefinitely.

**E. No Management or Property Interest**

This Agreement shall give you no property right or management interest in the Community, us, or in any of our assets. In addition, you shall have no right to any of our personal property, including furnishings and fixtures in your Apartment or in the common areas at the Community.

**F. Damage to the Community's Property**

You shall be liable for damage that you or your guests, invitees or licensees cause to the Community's property or the property of others at the Community. You agree to reimburse us for any loss of or damage to our property, inside or outside your Apartment, caused by you or your guests or invitees, excluding normal wear and tear.

**G. Damage to Your Property**

We shall not be responsible for the loss of any personal property belonging to you due to theft, fire, or any other cause, unless the loss or damage was caused by our negligence or that of our employees. We strongly recommend that you obtain, at your own expense, insurance for the replacement value of your personal property, at adequate coverage and liability limits.

**IX. OTHER PERSONAL OBLIGATIONS**

**A. Your Liability to Others**

You accept full responsibility for any injury, damage, or loss caused to others at the Community, or suffered by you, as a result of your own acts or omissions, and those of your guests, invitees, or licensees, and you agree to indemnify, defend and hold us and our directors, agents, and employees harmless from any and all liability for such injury or damage, including attorneys' fees. We recommend that you maintain general liability and workers' compensation insurance (as applicable) in an amount and form sufficient to cover such liability.

**B. Your Personal Obligations**

We will not be responsible for any debts or obligations incurred by you or on your account. We will also not be responsible for giving you support, maintenance, board, or lodging, or any credit toward your Monthly Fee while you are absent from the Community, except as provided in Section I.E.1.

**C. Personal Affairs**

You agree to make reasonable advance arrangements in the event of your death or incompetence. You may want to execute a Durable Powers of Attorney (POA) for health care and financial decision-making. We encourage you to seek appropriate professional or legal advice regarding your options and request that you provide us with a copy of your POA, if applicable. If you have a signed Power of Attorney that is in effect, the individual(s) named as your attorney-in-fact shall be required to sign this Agreement along with any Guarantor as set forth in Section V.E.

**D. Personal Service Providers**

All outside caregivers, companions, personal service providers and other personnel employed or retained by you to render services at the Community shall be subject to our policies and rules. All such personnel must obtain the security clearances required under District of Columbia law and we recommend be employed by a licensed agency with insurance coverage, including liability and worker's compensation, satisfactory to us in our sole discretion. You shall procure and maintain or shall require any agency you

engage to procure and maintain, insurance covering the Personal Service Provider services, including liability and worker's compensation insurance, in such amounts as we deem satisfactory in our sole discretion. Our policies and rules for personal service providers were provided to you in the move-in documents and may be updated or revised from time to time. Current policies are available at the front desk of the Community. Generally speaking, these policies provide that you may utilize home health or home care agencies, or other providers of your choice provided that such agencies or providers abide by our rules and regulations and that we may exclude providers that do not comply. Our approval of your use of any such caregiver or service provider is not to be construed as an evaluation of any such caregiver or service provider, an approval of the quality or scope of services to be provided or any representation or warranty that any such person is properly licensed or trained. The services we provide as outlined in this Agreement do not include monitoring the services of outside providers, and we are not responsible for their actions or omissions.

## **X. MISCELLANEOUS**

### **A. Accuracy of Application Documents**

As part of your application to the Community, you have filed application forms, which are incorporated by reference into this Agreement and made an express part of it. You warrant that all information contained in these documents is true and correct, and you understand that we have relied on this information in accepting you for residency at the Community.

### **B. Motorized Carts**

If you at any time intend to utilize a motorized cart or a golf cart anywhere on the Community campus, you must abide by the Community's rules set forth in **Appendix D**.

### **C. Other Residents**

You shall have no right to object to or determine the admission, terms of admission, placement, or dismissal of any resident or non-resident participating in any of the Community's programs. We may enter into agreements with other residents that contain terms different from those contained in this Agreement. Despite such differences, this Agreement alone sets forth your rights and obligations with respect to your residency at the Community.

### **D. Resident Handbook**

You agree to abide by the general policies of the Community contained in the Resident Handbook, as it now exists or as it may later be amended at our discretion. A copy of the current Resident Handbook is attached as **Appendix B** and is made part of this Agreement. We reserve the right to change or amend the Resident Handbook at any time. If we do so, we will provide you with new inserts or a new Resident Handbook and a receipt acknowledgement. If we determine that you are not complying with the general policies, we will ask you to discontinue the behavior that we believe violates the general policies. You understand that your failure to abide by the Community's general policies may result in termination of this Agreement by the Community. In accordance with state law, these policies must be reasonable. By signing this Agreement, you hereby acknowledge **receipt of a copy** of the current Resident Handbook and the general policies of the Community and agree that they are reasonable. The following additional general policies apply:

1. Residents of the Community must pay all fees and charges that are owing to the Community in accordance with their Residence Agreement when due.
2. Residents may not breach any representation, covenant, agreement or obligation of the resident under their Residence Agreement, including but not limited to any representation regarding financial status.
3. Residents must not engage in conduct that poses a danger to themselves or others at the Community.

Residents must not be disruptive, must not create unsafe conditions, and must not be verbally, mentally, physically or sexually abusive to other residents or staff. The Community strives to provide a positive work and living environment, free from humiliation and intimidation.

4. Residents must ensure that their family members, guardians, personal representatives or guests are not disruptive, do not create unsafe conditions, and are not verbally, mentally, physically or sexually abusive to the detriment of the resident, other residents or staff.
5. Residents must not engage in conduct that violates federal, state, or local laws or ordinances.

If you wish to suggest changes to the general policies of the Community, you may do so at any time by notifying the General Manager.

#### **E. No Subletting, Subleasing or Assignment**

You shall not sublet your Apartment or transfer your right to use the services and accommodations at the Community to any other individual or entity without our express written permission. We reserve the right to assign this Agreement to any successor-in-interest selected by us.

#### **F. Smoking Policy**

The Community is a smoke free community and smoking/vaping is not permitted in your Apartment or any of the common areas of the Community. Smoking/vaping is only allowed in designated smoking/vaping areas of the Community.

1. In the event that you develop memory impairment, dementia, or other physical or mental conditions, that in the sole good faith determination of the Community makes it unsafe for you to smoke/vape unsupervised, you understand that you will not be permitted to smoke/vape on the property unless supervised by a staff person or approved visitor. Smoking/vaping is prohibited where oxygen is in use.
2. You are required to advise your guests of the smoking/vaping policy.
3. If you violate this policy, we may terminate this Agreement in accordance with Section VII. You also agree to reimburse the Community for refurbishment and cleaning costs associated with smoking/vaping in your Apartment or any indoor area.

#### **G. Pet Policy**

The Community is a pet friendly community. Please see **Appendix C** for our policies regarding domestic pets, as well as **Appendix A** for the current monthly pet fee.

#### **H. Notices**

All notices given under this Agreement shall be in writing and shall be addressed to us at our administrative office at the Community or to you at your Apartment. The General Manager-is authorized to receive legal notices on our behalf. All notices shall be effective when personally delivered or two (2) days after being deposited in the United States mail, first class postage prepaid.

#### **I. Performance of Agreement / Assignment**

We are solely responsible for the performance of this Agreement, and no other person or corporation, whether related or unrelated to us, shall assume any such responsibility except by our written agreement. We reserve the right to assign this Agreement to any successor-in-interest selected by us. You agree to look only to us or our successor-in-interest for the performance of this Agreement.

#### **J. Waiver**

Our failure in any one or more instances to insist upon your strict performance, observance, or compliance with any of the terms of this Agreement, or our waiver of your breach of any of the provisions of this Agreement shall not be construed to be a waiver of our right to insist on your strict performance, observance and compliance with all the terms of this Agreement in the future or of any other breach.

## **K. Arbitration**

BY INITIALING BELOW, YOU AGREE THAT ANY AND ALL CLAIMS AND DISPUTES ARISING FROM OR RELATED TO THIS AGREEMENT OR TO YOUR RESIDENCY, CARE OR SERVICES AT THE COMMUNITY, WHETHER MADE AGAINST US OR ANY OTHER INDIVIDUAL OR ENTITY, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY CLAIMS, WRONGFUL DEATH CLAIMS SHALL BE RESOLVED BY SUBMISSION TO NEUTRAL, BINDING ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT; EXCEPT THAT ANY CLAIM OR DISPUTE INVOLVING SUMMARY EJECTMENT PROCEEDINGS (EVICTION) OR ANY CLAIMS THAT CAN BE BROUGHT IN SMALL CLAIMS COURT SHALL NOT BE SUBJECT TO ARBITRATION UNLESS BOTH PARTIES AGREE TO ARBITRATE SUCH PROCEEDINGS. **IF SOMEONE OTHER THAN THE RESIDENT SIGNS THIS ARBITRATION CLAUSE, HE/SHE UNDERSTANDS AND AGREES THAT HE/SHE IS AGREEING TO ARBITRATE ON BEHALF OF THE RESIDENT AND ON BEHALF OF HIM/HERSELF AS AN INDIVIDUAL. YOU FURTHER WAIVE YOUR RIGHT TO PARTICIPATE IN A REPRESENTATIVE CAPACITY, OR TO PARTICIPATE AS A MEMBER OF A CLASS, IN ANY LITIGATION OR ARBITRATION PROCEEDING WITH RESPECT TO ANY SUCH DISPUTE.** THE ARBITRATION SHALL BE ADMINISTERED BY THE JUDICIAL ARBITRATION AND MEDIATION SERVICES (“JAMS”) AND SHALL BE CONDUCTED IN THE COUNTY IN WHICH THE COMMUNITY IS LOCATED BY A SINGLE NEUTRAL ARBITRATOR SELECTED BY JAMS, UNLESS OTHERWISE MUTUALLY AGREED. IN REACHING A DECISION, THE ARBITRATOR SHALL PREPARE A WRITTEN DECISION THAT INCLUDES FINDINGS OF FACT, THE REASONS UNDERLYING THE DECISION, AND CONCLUSIONS OF LAW. THE PARTIES AGREE NOT TO DISCLOSE THE EXISTENCE, CONTENT, OR RESULTS OF THE ARBITRATION WITHOUT THE PRIOR WRITTEN CONSENT OF THE PARTIES, UNLESS DISCLOSURE IS REQUIRED BY COURT ORDER. EACH PARTY SHALL BEAR ITS OWN COSTS AND FEES IN CONNECTION WITH THE ARBITRATION. **YOU MAY WITHDRAW YOUR AGREEMENT TO ARBITRATE WITHIN THIRTY (30) DAYS AFTER SIGNING THIS AGREEMENT BY GIVING WRITTEN NOTICE OF YOUR WITHDRAWAL TO US.** THIS ARBITRATION CLAUSE BINDS ALL PARTIES TO THIS AGREEMENT AND THEIR SPOUSES, HEIRS, REPRESENTATIVES, EXECUTORS, ADMINISTRATORS, SUCCESSORS, ASSIGNS, MANAGERS, AND AGENTS AS APPLICABLE. AFTER TERMINATION OF THIS AGREEMENT, THIS ARBITRATION CLAUSE SHALL REMAIN IN EFFECT FOR THE RESOLUTION OF ALL CLAIMS AND DISPUTES THAT ARE UNRESOLVED AS OF THAT DATE. IN THE EVENT THAT ANY PART OF THIS ARBITRATION CLAUSE IS DETERMINED TO BE UNENFORCEABLE, THE REMAINING PORTIONS OF THE CLAUSE SHALL REMAIN VALID AND SHALL BE ENFORCED BY THE PARTIES. IF JAMS IS UNABLE TO ADMINISTER THE ARBITRATION IN ACCORDANCE WITH THE TERMS OF THIS CLAUSE, THE PARTIES SHALL SELECT ANOTHER ARBITRATION ADMINISTRATOR THAT IS ABLE TO DO SO, AND IF NO SUCH ARBITRATION ADMINISTRATOR IS AVAILABLE, THE PARTIES SHALL SELECT AN ARBITRATOR IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT. IF THE FEDERAL ARBITRATION ACT DOES NOT PERMIT ARBITRATION IN ACCORDANCE WITH THIS CLAUSE, THEN THE MATTER SHALL BE ARBITRATED IN ACCORDANCE WITH THE LAWS OF THE DISTRICT OF COLUMBIA.

**BY INITIALING BELOW, YOU WARRANT THAT YOU HAVE READ THIS PARAGRAPH AND UNDERSTAND ITS SIGNIFICANCE, THAT YOU VOLUNTARILY AGREE TO BE BOUND BY IT, AND THAT YOU UNDERSTAND THAT AGREEING TO ARBITRATION IS NOT A CONDITION OF ADMISSION TO THE COMMUNITY.**

\_\_\_\_\_  
Resident(s) Initials

\_\_\_\_\_  
POA

\_\_\_\_\_  
Guarantor Initials

\_\_\_\_\_  
Community Representative Initials

**L. Entire Agreement**

This Agreement (together with the referenced appendices and documents incorporated by reference) constitutes the entire agreement between the parties and may be amended only by a written instrument signed by you and by our authorized representative. If any part of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement shall remain valid and enforceable, unless the context requires otherwise.

**M. Governing Law**

This Agreement shall be governed by District of Columbia law.

**N. Resident Acknowledgment**

By signing below, you acknowledge all of the following:

1. You have received a signed copy of this Residence and Services Agreement, which specifies the services and accommodations that you will receive at the Community and the charges for such services;
2. You have received a copy of **Appendix A** which contains fees for optional services;
3. You have received a copy of **Appendix B**, the Resident Handbook which contains the rules for the Community's residents and the Community's grievance procedure;
4. You have received a copy of **Appendix C**, the Pet Policy;
5. You have received a copy of **Appendix D**, the Motorized Cart Policy;
6. You have received a copy of **Appendix E**, the Personal Service Provider Guidelines Waiver Release;
7. You have received a copy of **Appendix F**, the Apartment Entry Authorization form;

**SIGNATURE PAGES FOLLOW**



This Agreement shall be effective as of the date first written above. I understand and agree to all the terms contained in this Agreement.

**RESIDENT:**

**RESIDENT:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Typed or Printed Name**

\_\_\_\_\_  
**Typed or Printed Name**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

**RESIDENT REPRESENTATIVE/POWER OF ATTORNEY**

**GUARANTOR:** I hereby guaranty the payment of all amounts owed by Resident hereunder.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Typed or Printed Name**

\_\_\_\_\_  
**Typed or Printed Name**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

**COMMUNITY REPRESENTATIVE**

\_\_\_\_\_  
**By**

\_\_\_\_\_  
**Title**

**Community** \_\_\_\_\_

**Address** \_\_\_\_\_

**Date** \_\_\_\_\_