

**THE FITZGERALD OF PALISADES
ASSISTED LIVING RESIDENCE
RESIDENCE AND CARE AGREEMENT**

DRAFT

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THE FITZGERALD OF PALISADES
ASSISTED LIVING RESIDENCE
RESIDENCE AND CARE AGREEMENT

This Residence and Care Agreement (“Agreement”) is made as of _____ (“Effective Date”) by and among _____, as agent for _____, located at _____, (collective, “we”, “our”, “us”) and _____ (“you” or “your”) (if more than one person is signing this Agreement, “you” or “your” refers to each of you individually and to both of you together. _____ owns _____, a licensed assisted living residence located at _____, which provides residence, care, and services to persons sixty-two (62) years of age and older (the “Community”). The Community is licensed by the District of Columbia Department of Health as an assisted living residence. _____ manages the Community 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 at the Community and your application has been accepted. The purpose of this Agreement is to provide a statement of the 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.

Please note that the Community does not utilize restraints. We encourage our residents to participate in physical activities to the extent of their capabilities. Thus, falls and other personal injuries may occur from time to time. If you are not comfortable with this type of environment, we suggest that you consider a higher level of care.

We recommend that you have your attorney or other representative or surrogate chosen by you review this Agreement.

I. CORE SERVICES

You will be provided with the following Core Services at the Community, subject to the terms of this Agreement. These services are included in your Monthly Fee (as described in Section VI below) 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 VI.D. below.

A. Living Accommodations

1. Residence. You have chosen to live in Apartment # _____ (the “Apartment”) at the
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Community. The Community offers apartments available for single or double occupancy. You are permitted to share the apartment with a person of your choosing. If you do share an apartment, the Community will leave bed assignments to the discretion of the residents. You may live in your Apartment on a month-to-month basis, subject to the terms of this Agreement and to the general policies 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, telephone, water, community wi-fi, electricity, garbage removal, heat, and air conditioning. Unless otherwise specified in the Resident Handbook (**Appendix B**), you will be responsible for 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 the Apartment with your own furniture provided they do not present a safety hazard and provided they meet the District of Columbia Fire Safety Code and are maintained in good repair. You or your estate will be responsible for removing your furnishings when your Apartment is vacated. If you are unable to provide your own furniture and furnishings or you choose not to provide it, we will supply to you at no charge only those furnishings required under applicable law (adult size bed with a clean and comfortable mattress and extra linens, a night stand, desk, chair, mirror, waste basket, and secure storage space). Any additional furnishings requested by you will be subject to an additional fee as set forth in **Appendix A**. Furnishings provided by the Community are intended solely for use by you during your occupancy and furnishings will remain with the community at the conclusion of your tenancy. You are also free to use your small appliances and special equipment, provided that the Community's safety standards are met and provided you have been assessed as capable to use such small appliances and special equipment in a safe manner without Community supervision. Due to fire and safety concerns, we restrict the use of plug-in heaters, electric blankets, toaster ovens, hot plates and electric skillets.
4. Maintenance and Repairs. We will perform all necessary maintenance and repairs of the Apartment at our expense. However, you will be responsible for reimbursing us for any damage or repairs not caused by normal wear and tear. You will be responsible for repairs to your personal property.
5. Alterations. Any physical modification to the Apartment requires the prior written approval of the General Manager of the Community and shall be made at your expense. If you obtain such approval, you will be responsible for restoring the original design/decor when the Apartment is vacated, unless we specifically exempt you from this requirement in writing. 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 will 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, library, beauty/barber shop, and multi-purpose room and recreation rooms. We may change or reconfigure common spaces in the

future at our discretion.

B. Laundry

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

C. Housekeeping

The Community will provide housekeeping services in your Apartment as described in the Resident Handbook (**Appendix B**). Additional housekeeping services as needed or requested will be available for an additional charge (see **Appendix A**).

D. Personal Supplies

We assume that residents wish to provide their own supplies for personal care and hygiene. However, if you are unable to provide such supplies or choose not to provide them, we will provide you with personal items for an additional charge (see **Appendix A**).

E. Meals

1. Dining Room. Three meals will be served daily to residents of the Community and between meal and evening snacks will likewise be made available. These meals and snacks are offered in your Monthly Fee. The dining menu accommodates regular diets and community approved diet alternatives. Please feel free to consult with our Dining Services Director or Assisted Living Director on available diet offerings. You will be charged a fee for any special diets or supplements not prescribed by your physician or that is not needed by your condition that you request and that we agree to provide (see **Appendix A**).
2. Tray Service. Upon request, we will provide Tray Service to your Apartment as described in the Resident Handbook (**Appendix B**). Fees for tray service are set forth in **Appendix A**.
3. Guests. Your guests are welcome to any meal as set forth in the Resident Handbook (**Appendix B**). There will be a fee for guest meals (see **Appendix A**).

F. Planned Activities

We have a program of social, emotional, intellectual, physical, spiritual, and vocational 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 the Community which require additional supplies or services provided by an outside vendor or outings which are away from the Community.

G. Transportation

We will make available to residents or otherwise facilitate access for the provision of appropriate health and social services, including scheduled transportation to the nearest appropriate health facilities for medical and dental appointments, social services agencies, home health agencies, rehabilitative, hospice, dietary, counseling, psychiatric services, shopping and recreational facilities, and religious activities as outlined in the Resident Handbook (**Appendix B**). We will provide or arrange for additional personal

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 twenty-four (24) hours per day to alert staff to emergencies and illnesses. When the staff at the Community determines that, in its judgment, an emergency exists, staff will call 911. Please notify us if you have an advance health care directive or durable power of attorney for health care () that contains information on your desires regarding life-sustaining treatment or intervention.

I. Parking and Valet Services

Parking and valet services may be available to you in accordance with the provisions of the Resident Handbook (**Appendix B**) and **Appendix A**.

II. PERSONAL ASSISTANCE AND CARE

A. Assisted Living Services

In accordance with your service plan and applicable District of Columbia law, we will provide you 24-hour supervision, some assistance with scheduled and unscheduled activities of daily living (eating, bathing, toileting, grooming, dressing, undressing, mobility, and in place transfers) and instrumental activities of daily living (housekeeping, meal preparation, shopping, money management, and travel outside of the Community) as needed to meet your scheduled and unscheduled needs, as well as coordination of recreational and social activities and health services in a way that promotes optimum dignity and your independence.

B. Assessment of Care Needs

When you submitted your application to the Community, the professional staff performed an assessment of your needs as identified on the Resident Assessment Tool. You also had an examination conducted by a clinician to identify your current health status. Based on those assessments, we determined that you are appropriate for admission into the Community and that your needs can be met by the Community. Based on the assessment, we have determined that you require the Level of Care as set forth in Section VI.A. below. The current fees for the various Levels of Care at the Community and the description of the Levels of Care are set forth in attached **Appendix A**. The Level of Care fees are subject to change upon forty-five (45) days prior written notice to you.

C. Change in Level of Care

During the first thirty (30) days of your residency, we will complete a “post move-in” reassessment to verify that we are providing you with the Level of Care appropriate for your needs. Thereafter, no less than every six (6) months, we will perform an evaluation of your needs to determine whether your condition and needs have changed. We will perform a full assessment within 48 hours, but not later than required by nursing practice and the patient’s condition, after a significant change of condition and after each non-routine hospitalization, unless the delegating nurse determines that the full assessment can be completed within seven (7) days. A review of the assessment will be completed at least every six (6)

months if the resident has not had a change in condition. As described in Section VI.G. below, if you begin receiving a different Level of Care, the rate for the new Level of Care shall be charged immediately.

D. Individualized Service Plan

Prior to your move-in, and following completion of the “post move-in” assessment, and following any other evaluations of your needs, an Individualized Service Plan (ISP) was developed for you by a healthcare practitioner using the information from your assessments. You and your surrogate, if any, have the right to participate in the development of your ISP, as well as any family and friends selected by you to participate in the development, review, and renegotiation of your ISP. You will be provided no less than 7 days’ advance notice prior to the review of your ISP unless such notice is made impracticable by a change in your condition that necessitates review of your ISP at a sooner date.

E. Delegating Nurse

The Community has a registered nurse on staff that is responsible for the following duties:

- (1) Be on-site to observe each resident at least every 45 days;
- (2) Be available on call or have a qualified alternate delegating nurse available on call; and
- (3) Have the overall responsibility for:
 - (a) Managing the clinical oversight of resident care in the assisted living residence;
 - (b) Issuing nursing or clinical orders, based upon the needs of residents;
 - (c) Reviewing the assisted living manager's assessment of residents; and
 - (d) Appropriate delegation of nursing tasks.

III. OPTIONAL SERVICES

We will make available to you several optional services at an extra charge, to be billed in arrears on a monthly basis (see **Appendix B** for full detail). The current fees for optional services at the Community are set forth in attached **Appendix A** and are subject to change as provided in Section VI.D. below.

IV. EXCLUDED HEALTH-RELATED AND OTHER SERVICES

The Community shall not be responsible for providing or paying for any health care items or services not expressly included in this Agreement, including but not limited to home health, hospice, physicians' services, nursing services, surgery, hospital care, home care, personal service providers or other care or equipment beyond the Community’s routine levels of staffing and equipment, treatment or examination of eyes or teeth, medications, medical supplies, vitamins, eyeglasses, contact lenses, hearing aids, orthopedic appliances, prosthetic devices, laboratory tests, x-ray services, toiletries and personal supplies not required to be provided under Section I.D. above. The Community will assist you with ascertaining the cost of and your purchase of durable medical equipment as needed.

The Community does not provide Adult Medical Day Care Services. If you, your representative or surrogate would like more information on the availability of these services in the area, the Community will provide that information upon request.

If at any point you disagree with the lifestyle, personal behavior, safety, and ISP, the Community, you, and

your surrogate, if any, and any other relevant service providers, will attempt to develop a Shared Responsibility Agreement in accordance with applicable law.

V. **TERM OF AGREEMENT**

This Agreement shall commence on the Effective Date and continue from month to month, unless and until it is terminated as set forth in Section VIII below.

VI. **FEES**

A. **Monthly Fee**

Fee for Core Services for Resident One: \$ _____

Fee for Level of Care: _____ \$ _____

Total Monthly Fee for Resident One: \$ _____

If applicable, the Monthly Fee for Second Resident residing in the Apartment:

Fee for Core Services for Resident Two: \$ _____

Fee for Level of Care: _____ \$ _____

Total Monthly Fee for Resident Two: \$ _____

Monthly Fee for Both Resident(s) (if applicable)*: \$ _____

***Excludes charges for optional/additional services. Fees for optional services shall be as set forth in Appendix A.**

Prior to occupancy of your Apartment, you will be responsible to pay your entire Monthly Fee. If the Effective Date of this Agreement is on a day after the first day of the calendar month, your Monthly Fee will be prorated accordingly and appear on your first monthly statement. If your Apartment is occupied by two (2) Residents and it reverts to single occupancy, the remaining Resident shall pay the fee for "Fee for Core Services for Resident One" and the Fee for the Level of Care for that resident. The Monthly Fee is payable in advance by the first (1st) day of each calendar month and is considered delinquent if not received by the tenth (10th) day of the month. Your right to occupy and use the 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. You are responsible for the management of your own funds and financial affairs. The Community does not handle or manage any resident funds or financial affairs.

B. **Fees for Levels of Care and Optional Services**

The charges for all Levels of Care and for all optional services at the Community shall be as set forth in **Appendix A**, which is attached to this Agreement or as it may later be amended as detailed in Section VI.D.

Unless necessitated by emergency circumstances requiring the immediate provision of an item or service that would otherwise require advance disclosure, we will not provide any billable service or item at a cost additional to your existing balance for the billing cycle without first providing you or your surrogate with oral and written notice of all fees, rates, and charges that you will incur for the provision of such items or services; and the dollar amount, frequency, and number of recurring charges that will occur for the provision of those services or items. You will be required to sign an acknowledgment regarding the receipt of this advanced disclosure prior to us providing those services or items.

C. Community Fee

You shall pay a non-refundable Community Fee of _____ dollars (\$ _____) prior to moving-in to the Community. This fee is used to support the costs incurred by the Community to review and process your application and other materials, including your physician's report, perform a pre-admission assessment, develop your care plan, reserve your residence, and admit you to the Community. The Community Fee is also used to help us attract and retain qualified and well-trained staff, as well as support the costs of various distinctive programs at the community, such as Wellness and technology initiatives, and to support the maintenance of the physical plant, your Apartment, and the common areas. The Community Fee is not a security deposit and is not refundable for any reason. The Community Fee will not be credited against your Monthly Fees.

D. Adjustments to Fees or Services

1. Fee Increase. The Community shall give forty-five (45) days prior oral and written notice to you of any change in the Monthly Fee, as set forth in **Appendix A**, fees for Levels of Care, or in the charges for optional services. However, as described in Section VI.G., if you begin receiving a different level of care, you will be notified in writing of the new Level of Care and rate, and the rate for the new Level of Care shall be charged immediately. Upon receipt of such notice, this Agreement will be automatically amended to reflect the new Care Level and associated charges.
2. Services. We may modify the services provided under this Agreement upon forty-five (45) days prior oral and written notice, provided that the services do not fall below the standards established by applicable law.
3. Absences. The Monthly Fee for Core Services will continue during any period of absence from the community. Details about Level of Care charges during an extended period of absence are outlined in **Appendix A**. With the exception of your death where this Agreement terminates automatically, you will continue to be responsible for your full Monthly Fee until a notice to terminate is given, the thirty (30) day period has expired and all your property is removed as described in Section VIII.D.1, below, whichever occurs later.

E. Payment and Failure to Make Payments

You will be required to make all payments due to us in a timely manner and otherwise fulfill your financial obligations to us. We do not accept SSI/SSP eligible residents for move-in to the

Community. Payment shall be made to The Fitzgerald of Palisades by electronic payment, check or money order and either mailed to the Community at the following address:

DC 20007

or delivered to the business office

at the Community, as applicable. Payments made by check or money order are subject to a fee as outlined in **Appendix A**. If you fail to pay your Monthly Fee or other charges by the tenth (10th) day of each calendar month, we may charge you a late payment of five percent (5%) on your then-current Monthly Fee for each delinquent payment. You will receive a monthly statement that itemizes any fees or charges you have incurred. Returned checks/payments are subject to a Non-Sufficient Funds (NSF) fee penalty, as set forth in **Appendix A** in addition to any late fees that are assessed.

F. 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. Guarantor is responsible for the Monthly Fee and any other fees due under this Agreement. Guarantor will be required to pay the full amount owed and will not be limited to the extent of the resident's funds. 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.

G. Change of Level of Care

The staff of the Community will perform a periodic reassessment of your needs. If we determine that you need a different Level of Care, we will provide you and your responsible party (if applicable) with written notice of change within (2) two business days. The notice will include the new Level of Care rate, the reasons for the increase and a general summary of the additional costs that led to the increase. You agree to change to a Level of Care appropriate to your needs. The rate for the new Level of Care, as set forth in **Appendix A** will be charged immediately.

VII. TRANSFERS FROM APARTMENT

A. Transfer for More Appropriate Care

The portion of the Community in which you will reside is licensed as an assisted living residence and is not designed to provide higher levels of care, such as nursing, or care for serious mental or emotional disorders. You may remain in the Apartment at the Community as long as doing so is permitted by applicable licensure laws and fire safety standards and, in the judgment of the staff of the Community, your care needs and levels of functioning are consistent with those of other residents and with the level of staffing and facilities offered at the Community, and your presence does not create a danger to yourself or others. If we determine that it is inappropriate for you to remain in your Apartment, you will be asked to move from the Community, and this Agreement will terminate in accordance with Section VIII. During your transition to another setting that can meet your needs, you may be required to obtain temporary one-on-one care from an outside provider as determined at the sole discretion of the General Manager. You will be financially responsible for this service which will be billed directly to you by the responsible company or the Community in accordance with **Appendix A**.

B. Emergency Transfers

When a sudden, unexpected, and life-threatening medical emergency arises necessitating your immediate transfer to an acute care facility, we will immediately notify your surrogate, if any, and your healthcare provider of the transfer and will provide them information concerning the cause of the transfer and the name and location of the acute care facility. Your return to the Community will be provisional pending a renegotiation of your ISP, together with you, your surrogate, if any, and your healthcare provider. If while renegotiating the ISP it is determined that you can no longer safely reside in the Community, we will commence discharge planning in consultation with you and your surrogate, if any, and your healthcare provider. Under these circumstances, we will waive the requirement to provide 30-days' notice to terminate this Agreement as set forth in Section VIII.A below.

C. Substitution of Apartment

We may need to substitute your Apartment with another in order to comply with any law or lawful order of any authorized public official. You agree to such substitution and agree to pay the Monthly Fee applicable to the new Apartment. Except in an emergency situation or a situation where your apartment has become unsuitable, if we determine that we may need to substitute your Apartment with another for any other reasonable purpose, as determined by us, we will provide you, your representative, or surrogate (if applicable) with at least five (5) days prior notice and we will obtain consent from you, your representative or surrogate (as applicable) for the move.

D. Voluntary Apartment Change

Your request for a change of apartment may be granted at the Community's discretion. 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 the new Apartment will be credited or debited to your account, as the case may be, on a pro rata basis. You will be responsible for all costs associated with the move, including an Apartment transfer fee as noted in **Appendix A**.

VIII. TERMINATION

A. Termination by You

You may terminate this Agreement at any time, with or without cause, by giving the Community at least thirty (30) days' prior written notice of termination. 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 full Monthly Fee until the thirty (30) day period has expired and all your property is removed as described in Section VIII.D.1, below, whichever occurs later.

B. Termination by Us

1. Upon Thirty (30) Days' Notice. The Community may terminate this Agreement upon thirty (30) days' written notice to you and your personal representative or surrogate if any of the following events occur:
 - a. Nonpayment of the Monthly Fee within ten (10) days of the due date; provided, however, if you pay all monies owed at any time prior to the discharge date, the termination shall be cancelled and you shall be permitted to remain in the Community.
 - b. Your failure to comply with federal, state, or local law or ordinances after receiving written notice of the alleged violation;

- c. Your failure to comply with general policies of the Community. These policies are as described below, in the Resident Handbook (**Appendix B**) as it now exists, as it may be modified in the future, or as determined by the General Manager; or
 - d. If after move-in, we determine that you have a need not previously identified and a reassessment has been conducted by the delegating nurse, a health care provider or other appropriate person, and Community and the person who performs the reassessment believe that the Community is not appropriate for you; provided, however, the negotiation of an ISP before the discharge date shall permit you to remain in the Community if the Community can safely provide you the services set forth in the renegotiated ISP;
 - e. You acquire a condition or engage in conduct that poses a danger to you or endangers the health or safety of other individuals at the Community or present a risk of physical self-harm or harm to one or more other residents or staff, for which no other reasonable means of mitigation are available;
 - f. 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 material respect as of the date provided by you to us;
 - g. Engaging in sexual harassment, exploitation or other degrading conduct to the detriment of another residents' dignity, in violation of the victim's rights provided under District of Columbia law;
 - h. Discharge is essential to meet our reasonable administrative needs and no practicable alternative is available; or
 - i. We cease to operate, the licensed capacity of the Community is being reduced by the District of Columbia Department of health or the license is otherwise suspended or revoked.
2. Exception to 30-Day Notice Requirement. The Community may terminate this Agreement with less than thirty (30) days' notice to you if it determines that either of the following circumstances exists: (a) a delay in discharge or transfer would jeopardize your health or safety or the health or safety of other residents at the Community; or (b) your condition has improved sufficiently to allow for a more immediate discharge or transfer, as documented by a physician.
3. Conditions That May lead To Reassessment. Please note that the following conditions, among others, may lead to a reassessment and a termination of your residency in accordance with paragraph VIII.B.1.d above. Termination may occur if:
- a. You do not meet the requirements for residency established by state law and the District of Columbia Department of Health.
 - b. You present an immediate physical threat or danger to yourself or others.
 - c. You have active communicable tuberculosis or another communicable disease.
 - d. You require twenty-four (24) hour skilled nursing or intermediate care or have an unstable medical condition which requires more than routine care by a licensed professional.
 - e. You are not elderly and have needs in conflict with other residents or the programs of services offered or require more care and supervision than other residents.
 - f. You have a primary need for care and supervision that results from dementia or a mental disorder resulting in ongoing behavior which would upset the general resident group, or which would require us to provide to you a greater amount of care and supervision than other residents at the Community or if you cannot generally benefit from the program of services available at the

Community.

- g. You are bedridden as defined by state licensing regulations or are unable to independently transfer or require multi-person transfers.
 - h. You refuse to accept services required in order for the Community to meet your needs.
 - i. You have health care needs that cannot be met at the Community for reasons such as exceeding the level of care that the Community is permitted to provide and the Community does not seek a waiver; including, but not limited to, conditions that require physical or chemical restraints, unstable mental health diagnosis, swallowing difficulties or other conditions that create a choking risk, a tracheostomy, complex special diets that cannot be self-managed, the inability to self-manage insulin or other injections ordered by a physician, inability to self-manage the administration of supplemental oxygen, severe circulatory disorders, unmanageable incontinence, stage III or IV skin ulcers, a staph infection or other serious infection, any unstable medical condition or conditions that cannot be accommodated by the Community as defined by state licensing regulations.
 - j. Your personal physician has determined that you require services not available at the Community.
 - k. Your condition changes so that you are considered a wandering or significant fall risk or if you are unable to respond to verbal instructions in an emergency.
 - l. You have fluctuating or high levels of medication administration including, but not limited to, frequent changes or readjustment of medications, multiple physicians prescribing resident medications, or combinations of medications or medical regimens prescribed by the physician beyond the Community's scope of services or the staffs' training and skill or do not comply with state licensing regulations.
 - m. In the event of termination by the Community, you will be responsible for the Monthly Fee until such time as all property is removed from your Apartment. After all property has been removed, you or your estate will receive a refund of any unused pro rata portion of any prepaid Monthly Fee within thirty (30) days, or will be billed for any unpaid Monthly Fee, in each case calculated by reference to the date on which all property has been removed.
4. Appeal. If you wish to appeal a termination by us, you may do so by requesting a review in writing to the Chief Operating Officer, 5790 Fleet Street, Suite 300, Carlsbad, CA 92008 [1-866-KISCO SL (1-866-547-2675)] within ten (10) days following the thirty (30) day termination notice or within one (1) day following a three (3) day termination notice. The Chief Operating Officer or designee will schedule a meeting with you and your representative or surrogate during which you can present reasons why the termination should not occur. The Chief Operating Officer will then make a final determination which will be provided to you in writing.

Further, if there is an involuntary discharge, we will provide you with notice of your right to a hearing to contest the involuntary discharge.

C. Your Death

This Agreement shall terminate automatically upon your death. Your estate or designated beneficiary will receive a refund of any unused pro rata portion of your Monthly Fee within fifteen (15) days

following removal of all property from your Apartment. In the event of your death your representative or surrogate, as identified in your admission documentation will be notified. Your estate will be responsible for paying the Monthly Fee until the apartment is vacated, as set forth in paragraph VIII.D below. 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. Refund Policy

1. Vacating Apartment. If this Agreement is terminated for any reason, you or your estate must vacate the Apartment and remove all your property from it. You, your designated beneficiary or your estate shall remain liable for the Monthly Fee until the effective termination date and all property is removed from your Apartment and it is restored to a clean condition (except for normal wear and tear), whichever occurs later. The Community may also remove your property from the Apartment and charge you or your estate a property storage fee if either you or your estate fails to vacate the Apartment and remove your personal belongings from it by the effective termination date. If you or your estate abandons your personal property following termination of this Agreement, the Community shall have the right to dispose of such abandoned property in accordance with state law.
2. Final Accounting. Within thirty (30) days after the date of the discharge or death, we shall provide you or your estate a final accounting of funds and personal property that have been deposited or managed by us for your benefit and shall return any refunds due to you or your surrogate or your legal representative.
3. Refund of Unused Portion of Monthly Fee. Following termination of this Agreement, we will pay you, your designated beneficiary or your estate a refund equal to amounts that we owe 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 our 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 us to remove and/or store any of your property that was not removed when you vacated the Apartment.
4. Payment of Refund. We will issue refund checks only to you or to your estate. If you wish refund checks to be issued to a trust, family member, or otherwise, you must indicate this on a Beneficiary Designation Form which is available from the General Manager or Resident Relations Director.
5. Survival. Sections VIII.C and D. shall survive the termination of this Agreement.

E. Dual Occupancy

If there are two residents under this Agreement, and one dies or permanently vacates the Apartment, the Community will not assign a new roommate and this Agreement shall continue in full force and effect. The then-current Monthly Fee applicable to single occupancy of the Apartment at the Level of Care for the remaining resident shall apply.

F. Termination Due to License Forfeiture or Change of Use

Community may terminate this Agreement upon forfeiture of its license, whether due to voluntary closure or otherwise, or upon change of use of the Community, in accordance with state law.

IX. YOUR PROPERTY RIGHTS AND OBLIGATIONS

A. No Management or Property Interest

This Agreement does not grant to you any property right or management interest in the Community, or any of their assets. In addition, you shall have no right to any of the Community's personal property, including furnishings and fixtures in the Apartment or in the common areas at the Community.

B. Damage to Our Property.

You agree to maintain your Apartment in a clean, sanitary and orderly condition. You further agree to reimburse us for any loss of or damage to the Community's property, inside or outside the Apartment, caused by you or your guests or invitees, excluding normal wear and tear.

C. 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.

D. Right of Entry

For your safety and comfort, the staff of the Community must be permitted to enter the Apartment to perform basic housekeeping services, respond to emergencies, make repairs and improvements, and perform other management functions as we deem necessary or advisable. In addition, because the Apartment is licensed under the District of Columbia Department of Health (the "Department") we may, upon stating the purpose of the visit, enter and inspect any licensed portion of the Community, including your Apartment, without advance notice. We shall also have the right to show the Apartment to prospective residents at any reasonable time during the thirty (30)-day period prior to the termination date for this Agreement. Whenever feasible, our staff will attempt to give you reasonable notice before entering the Apartment.

E. Third Party Access Approval

Except as provided in Section IX.D., we will grant access to your Apartment only to those persons you have designated on the Apartment Entry Authorization Form, a copy of which is attached to this Agreement as Appendix F. You may change the form at any time by contacting the Customer Service Representative. If you have a visitor or provider entering your Apartment while you are away, you need to notify us in writing prior to the scheduled visit.

F. 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 cameras 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 if necessary and is not preserved indefinitely. In order to protect the dignity and privacy of our residents, we do not permit the use of nanny cams or other video surveillance in resident Apartments.

X. OTHER PERSONAL OBLIGATIONS

A. One-On-One Care

If at any point during your residency at the Community, including after a termination notice has been served, we determine that (i) you have experienced a change in your physical, medical and /or mental condition such that you require immediate one-on-one care; (ii) you have engaged in conduct that makes you a wander risk; or (iii) you have engaged in behavior that poses a potential threat to your safety or the safety of others, we reserve the right to require that you, or we may retain on your behalf, a twenty-four (24) hour private duty personnel to provide care appropriate to your needs and you agree to be responsible for payment of the costs of such personnel. We will provide you with written notice of any such determination of requirement of private duty personnel. You will be financially responsible for this service which will be billed directly to you by the responsible company or the Community in accordance with **Appendix A**.

B. Your Liability to Others

You accept full responsibility for any injury or damage caused to persons or property, or suffered by you, as a result of your own acts or omissions, and those of your guests, your service providers (engaged pursuant to Paragraph D below) or invitees, and you agree to indemnify, defend and hold harmless Community and its directors, agents and employees from any and all liability for such injury or damage, including attorneys' fees. We recommend that you maintain general liability and workers' compensation insurance in an amount and form sufficient to cover such liability.

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 power of attorney (POA) for health care and financial decision-making, and we encourage you to seek appropriate professional or legal advice regarding your options. If you have executed a POAs 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 VI.

D. Personal Service Providers

You may utilize outside caregivers, companions, personal service providers and other personnel. All such personnel shall be subject to our policies and rules and we may exclude providers who do not comply. 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. 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. All personal service

providers employed by you must obtain the security clearances required under District of Columbia law. 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.

E. Liability for Injury

You acknowledge the use of restraints is inconsistent with our philosophy. We encourage our residents to participate in physical activities to the extent of their capabilities. The Community does not guarantee that the assisted living services delivered to you will prevent falls or other injuries. You acknowledge that falls and other injuries, including injuries caused by objects within your Apartment or your personal property, may occur during your occupancy of the Apartment. You will be provided with an emergency call device by the Community, and we encourage you to wear the emergency call device at all times. You agree that (i) the Community is not liable for injuries caused by falls or other incidents within your Apartment or in the common areas, unless such injuries are caused by the actual negligence or intentional misconduct of the Community, and (ii) the Community is not liable for any injury caused or exacerbated by your failure to wear your emergency call device, and you hereby waive and release any and all claims arising from the injuries described in this sentence.

F. No Gratuities; No Hiring

In accordance with our philosophy of providing exemplary service delivered with integrity, dignity, and compassion, associates at the Community are not permitted to accept gratuities, tips, or gifts from residents. You agree not to offer any gratuities, tips, or gifts to the Community associates. The Community requests that you notify the General Manager if any associate asks you for a gratuity, tip, or gift. In addition, you agree not to hire any of our employees to perform any services for you at the Community without our consent.

XI. MISCELLANEOUS

A. Accuracy of Application Documents

As part of your application to the Community, you completed and signed our application forms. 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. Examination of Records

You acknowledge that the Department of Social Services or any other state licensing agency may inspect your residency and care records as part of an evaluation of the Community.

C. Resident Handbook

You agree to abide by the general policies of the Community contained herein and 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 modify or amend the Resident Handbook at any time. If we do so, we will notify residents of any material changes to the Handbook and such changes shall be effective upon notice to you. 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 the Agreement by Community. In accordance with state law, these policies must be reasonable. By signing this Agreement, you 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 us in accordance with their Residence and Care Agreement when due.
2. Residents may not breach any representation, covenant, agreement or obligation under your Residence and Care Agreements, including but not limited to any representation regarding financial status set forth in **Appendix H**, which is a part of this Agreement.
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, surrogates 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.

D. Guest Visits and Communications

We encourage family visits and communication. Your guests are welcome to visit and participate in appropriate activities at the Community, if you so desire, provided they respect the rights of other residents and staff and abide by our visitor and guest policies, including reasonable limitations on the length of stay and frequency of visits. You will be responsible for assuring that your guests abide by these rules and are not disruptive. All visitors must register at the front desk when entering and leaving the Community. We reserve the right to remove or deny entry to the Community to any visitor whom we determine is disruptive or dangerous or who fails to abide by our visitor and guest policies.

E. Smoking Policy

The Community is a smoke/vape free community and smoking is not permitted in your Apartment or any of the common areas of the Community. Smoking/vaping is only allowed in designated smoking 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 policy.
3. If you violate this policy, we may terminate this Agreement in accordance with Section VIII. You

also agree to reimburse the Community for refurbishment and cleaning costs associated with smoking in your Apartment or any indoor area.

F. 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.

G. Motorized Cart

Your use of a motorized cart at the Community is subject to the rules and requirements set forth in **Appendix D**.

H. Assignment

The Community reserves the right to assign this Agreement to any successor-in-interest selected by it. You may not transfer or assign this Agreement or your right to use the services and accommodations at the Community to any other individual or entity.

I. Personal Rights

Consistent with District of Columbia law, you shall have the rights set forth in the Statement of Residents' Personal Rights, which is attached to this Agreement as **Appendix G**.

J. 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. Such notices shall be effective when personally delivered, sent by overnight carrier, or two (2) days after being deposited in the United States mail, properly addressed and first-class postage prepaid.

K. Grievances

If you have a grievance or complaint regarding the Community, you may contact the General Manager or Kisco Senior Living management company at **1-866-KISCO SL (866-547-2675)**. A copy of our grievance procedure for resolution of resident complaints is available upon request. In addition, you have the right to contact the Department or the local Long-Term Care Ombudsman. (See **Appendix G**).

L. Entire Agreement; Severability

This Agreement constitutes the entire Agreement between you and the Community and may be amended only by a written instrument signed by you and by an authorized representative of the Community or as otherwise specifically provided herein. 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. Waiver

Our failure in any instance or instances to insist upon your strict performance or observation of or compliance with any of the terms or provisions of this Agreement, shall not be construed to be a waiver

or relinquishment of our right to insist upon your strict compliance with all of the terms and provisions of this Agreement. In addition, acceptance by the Community of any payment from you after your breach of any term of this Agreement or after providing you with a notice of termination based on a reassessment as described in Section VIII.B.1.d, above, shall not constitute a waiver of the right of the Community to insist upon full performance of all terms of this Agreement, nor shall it waive the Community's right to terminate this Agreement for any breach previously committed or to terminate in accordance with Section VIII.B.1.d.

N. 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. BOTH PARTIES GIVE UP THEIR CONSTITUTIONAL RIGHTS TO HAVE ANY SUCH DISPUTE DECIDED IN A COURT OF LAW BEFORE A JURY, AND INSTEAD ACCEPT THE USE OF ARBITRATION. 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 STATE LAW.

BY INITIALING BELOW, YOU WARRANT THAT THIS PARAGRAPH HAS BEEN EXPLAINED TO YOU, THAT YOU 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 MOVE-IN TO THE COMMUNITY.

Resident(s) Initials

POA Initials

Guarantor Initials

Community Representative Initials

O. Governing Law

This Agreement shall be governed by District of Columbia law.

P. Resident Acknowledgment

By signing below, you acknowledge all of the following:

1. You have received a signed copy of this Residence and Care 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 and Levels of Care;
3. You have received a copy of **Appendix B**, the Resident Handbook which contains the rules for the Community residents. It also contains the Community's grievance procedure for resolution of complaints, or my responsible person, and I was informed of my right to contact the Department, The Long-Term Care Ombudsman, or both, regarding grievances against the Community;
4. You have received a copy of **Appendix C**, the Community's Pet Policy.
5. You have received a copy of **Appendix D**, the Community's Motorized Cart Policy.
6. You have received a copy of **Appendix E** the Personal Service Providers (PSP) guidelines, which contains the Community's Private Duty Aides policies;
7. You have received a copy of **Appendix F**, Apartment Entry Authorization.
8. You have received a copy of **Appendix G**, Statement of Residents' Personal Rights;
9. You have received a copy of **Appendix H**, Financial Status.
10. You have received the Community's theft and loss policy found in the Resident Handbook (**Appendix B**);

11. The Community' staff has indicated to you whether the Community has signed Form DSS-1464

- concerning compliance with Title VI of the Civil Rights Act;
12. You or your family members, as appropriate, have received the information that must be disclosed under Section 131D-8 of the District of Columbia Statutes and Rule 1906 of the Administrative Code.

SIGNATURE PAGES FOLLOW

DRAFT

RESIDENT:

Signature

Typed or Printed Name

Date

**RESIDENT REPRESENTATIVE/POWER OF
ATTORNEY/SURROGATE**

Signature

Typed or Printed Name

Address

Date

COMMUNITY REPRESENTATIVE

By

Title

Community _____

Address: _____

Date

RESIDENT:

Signature

Typed or Printed Name

Date

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

Signature

Typed or Printed Name

Address

Date