



**COMPREHENSIVE (TYPE A)  
RESIDENCE AND CARE AGREEMENT**

Effective September 1, 2014

**The Highlands at Wyomissing  
A Continuing Care Retirement Community  
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**THE HIGHLANDS AT WYOMISSING  
COMPREHENSIVE (TYPE A)  
RESIDENCE AND CARE AGREEMENT**

This Agreement is made between **THE HIGHLANDS AT WYOMISSING**, a Pennsylvania not-for-profit corporation which is the owner and operator of The Highlands at Wyomissing, a Continuing Care Retirement Community, hereinafter called the "Community" or "The Highlands," and \_\_\_\_\_ hereinafter called the "Resident," (Where two individuals sign this Agreement for Double Occupancy, they are called collectively the "Resident" where the context permits, and individually the "Co-Resident") for residency of Resident to the Community for Occupancy of \_\_\_\_\_ (called "Residence").

**RECITALS:**

Community operates a continuing care retirement community;

Resident has applied for residency to occupy the Residence; and

Community has reviewed and accepted Resident's application subject to the execution of this Agreement.

In consideration of the mutual promises in the Agreement, and intending to be legally bound, Community and Resident agree as follows:

**1.0 RESIDENCE AND AMENITIES PROVIDED TO RESIDENT**

**1.1 Living Accommodation and Term.**

Community shall provide Resident with the accommodations, common areas and services specified in this Agreement, for and during the balance of Resident's life or for such shorter period as shall apply under this Agreement in the event it is terminated pursuant to its terms.

**1.2 Description of Residence.**

Community shall provide Resident with the Residence designated under this Agreement furnished with the items identified in Exhibit "A" Resident may provide other furnishings, subject to Community's approval, which shall remain Resident's property.

**1.3 Optional Furnishings or Fixtures.**

At Resident's request, and subject to Community's approval, Community shall provide optional furnishings or fixtures identified in an addendum(s) attached to this Agreement. Optional furnishings or fixtures are not included in the Entrance Fee or Monthly Service Fee and are provided at an additional cost. If requested prior to Occupancy, the cost of any optional furnishings or fixtures shall be paid prior to Occupancy. At Community's

discretion, the costs of any optional furnishings or fixtures requested after Occupancy shall be paid prior to or at the time of installation. Upon installation, all additional furnishings or fixtures immediately become Community's property and shall remain in the Residence after the termination of this Agreement. An addendum to this Agreement reflecting all optional furnishings or fixtures and their cost shall be signed by Resident and Community.

#### **1.4 Structural Changes and Redecoration.**

Any structural or physical change of any kind or redecoration to the interior or exterior of the Residence, including, but not limited to, wallpaper, painting or floor covering, may be made only after obtaining written approval from Community. The cost of any redecoration or structural change requested by Community, and restoration to original condition, except that cost due to normal wear and tear, shall be paid by Resident unless otherwise agreed in writing by Community. The selection of a contractor for any structural changes shall be approved by Community. The charge or value of any physical or structural changes will not be considered in calculating any applicable Entrance Fee refunds and are not considered part of the Entrance Fee. An addendum to this Agreement reflecting all structural changes and their cost shall be signed by Resident and community.

#### **1.5 Common Areas.**

The Resident, in common with other members of the Community, may use the dining venues, cultural center, library, fitness center, indoor pool, social and recreational areas, woodshop, art studio and other common areas in accordance with the policies governing the reservation and use of common areas as specified in the Resident Handbook, which is subject to change from time to time. Use of such common areas may be restricted from time to time by Administration.

#### **1.6 Laundry.**

Some Residences house laundry appliances. Additionally, centrally located washers and dryers are available for the Residents' personal laundry.

#### **1.7 Storage.**

A locked storage area of approximately two hundred (200) cubic feet shall be provided for each apartment. The Resident bears all risk of loss or damage to stored property.

#### **1.8 Health Care.**

Community shall operate licensed personal care and nursing care within the Community.

#### **1.9 Designated Occupancy Date.**

Community shall establish a date when Resident must accept Occupancy (the "Designated Occupancy Date"). Community will provide notice of the Designated Occupancy Date no later than [thirty (30) days] before the Residence is available. The obligation to pay the Monthly Service Fee shall begin on the Designated Occupancy Date or actual date of Occupancy, whichever is earlier and not to exceed 75 days after signing the contract. The Entrance Fee shall be paid in full on the Designated Occupancy Date or upon actual Occupancy, whichever is earlier. Community reserves the right to extend the Designated Occupancy Date.



## **2.0 SERVICES PROVIDED BY THE COMMUNITY**

### **2.1 Meals.**

#### **2.1 (a) Full Service Dining.**

Community dining is available daily with a choice of standard menus. For Residents occupying apartments, the Monthly Service Fee provides for one (1) daily meal per resident. For Residents who reside in Villas/Gaelson, the Monthly Service Fee provides for ten (10) meals per month per resident. Residents desiring additional meals may arrange for such meals at the current charges then in effect. Reasonable special dietary meals will be provided upon request; however, some adjustment in the charge may be required.

#### **2.1 (b) Guest Meals.**

Residents are encouraged to bring guests for meals served in the dining rooms. Reservations are preferred. Charges for guest meals are added to the Residents monthly bill at the current charges then in effect; such charges are subject to change. The Community's Resident Handbook contains established policies on Guest Meals. These rules are subject to change from time to time.

#### **2.1 (c) Room Service.**

The Community shall provide a Resident with room service if the Resident is confined to his/her Residence for minor illnesses and if medically prescribed by the Resident's physician and/or approved by the Community. The Community reserves the right to restrict the duration of room service in accordance with Community's policy. Room service that is not medically prescribed will be charged to and paid by the Resident.

#### **2.1 (d) Modification to Meal Plan.**

The Resident has the option to select an alternate meal plan one time per year during open enrollment. Residents desiring additional meals as part of the alternative meal plan may arrange for such meals at the current charges then in effect. Residents choosing a reduced meal plan option will receive a meal credit based on a rate evaluated and published annually. The Community's Resident Handbook contains established policies on Meal Plan Modifications. These rules are subject to change from time to time.

### **2.2 Housekeeping Services.**

The Resident agrees to maintain his/her Residence in a clean, sanitary and orderly condition. The Community shall provide housekeeping in all public areas, and twice-monthly light housekeeping service in the Residence, which is included in the Monthly Service Fee. Annual, heavier cleaning services shall be provided by Community to maintain each Residence in a clean and sanitary condition, which is also included in the Monthly Service Fee. Residents desiring additional housekeeping services may arrange for such services at the charges then in effect. Should the Resident be unwilling to maintain his/her Residence in a clean, sanitary and orderly condition, the Community shall, after notice to the Resident, arrange for the provision of additional cleaning, and the cost for such additional cleaning will be charged to the Resident.

**2.3 Cable and Telephone Services.**

The Community shall provide telephone wiring to each Residence. All telephone service and charges shall be at the expense of the Resident. Basic cable television service, or its general equivalent, shall be provided to each Residence. Expanded pay channel service charges are not included in the Monthly Service Fee and shall be paid by Resident. If an exterior antenna or satellite dish is desired, the Community reserves the right to prescribe installation requirements to include, but not limited to, mounting of the device and any cabling requirements. All such installation, maintenance, and service charges are the responsibility of the Resident.

**2.4 Utilities, Maintenance and Repair Services.**

The Community shall furnish hot and cold water, heat, air conditioning, electricity, and sewer to each Residence. Such services are included in the Monthly Service Fee. Villa/Gaelsong Residents shall be billed directly for natural gas and electricity. The Community shall be responsible for trash removal, snow removal, lawn maintenance, and all necessary repairs, maintenance and replacement of property and equipment owned by the Community. The Resident shall be responsible for his/her own personal property.

**2.5 Transportation.**

The Community shall provide regularly scheduled transportation at no extra charge to the Residents for shopping, banking, or other needs deemed necessary by the Community. Transportation for medical appointments within a ten (10) mile radius with advance notice as in accordance with the Community's policy will also be provided if necessary and is included in the Monthly Service Fee. In its discretion, Community shall provide unscheduled transportation, subject to availability, for an additional charge as reflected on the Transportation Fee Schedule. The Community's Resident Handbook contains established policies on Transportation; these rules are subject to change from time to time.

**2.6 Social Events and Programs.**

The Community shall offer a schedule of social, educational, travel, recreational and religious programs to stimulate and support the overall physical, spiritual, and educational wellbeing of the Residents. Access to, participation in, and fees, if any, associated with activities are governed by our policy, which is subject to change from time to time.

**2.7 Property Insurance.**

Community shall provide insurance on its property only. Resident is responsible to insure against personal property and general liability losses and for the cost of such insurance.

**2.8 Additional Services and Fees.**

Other miscellaneous services are available at an additional charge and are not included in the Monthly Service Fee. A written list of these services is available from the Finance Department. Services and fees may be changed periodically.

## **2.9 Changes in Services.**

The Community reserves the right to provide additional services or delete existing services in its sole and absolute discretion. Thirty (30) days advance notice of any such change in services shall be provided when feasible.

## **3.0 PERSONAL CARE AND NURSING CARE SERVICES**

### **3.1 Nursing Care and Personal Care.**

Community shall operate a Nursing Care Center and a Personal Care Center licensed by the Commonwealth of Pennsylvania for the provision of Routine Nursing Care Services (semi-private accommodations) and Personal Care Services (studio accommodations) for temporary or permanent stays. The Community, however, reserves the right to provide shared accommodations in the Personal Care Center for short-term, temporary stays. There is no adjustment in the Monthly Service Fee if a shared accommodation is provided in the Personal Care Center on a temporary basis. Private accommodations in the Nursing Care Center are provided on a space available basis and at an additional charge as reflected on the Schedule of Charges. There is also an additional charge for any accommodation larger than a studio accommodation in the Personal Care Center. Community will exercise its best efforts to accommodate Resident's level of care needs. In the event that there is no space immediately available in the Nursing Care Center or the Personal Care Center at the time that you may require such level of care, then Resident will be transferred to an outside nursing or personal care in accordance with Section 9.6 of this Agreement. Resident will sign an admission agreement upon transfer to the Nursing Care or Personal Care which agreement will supplement the terms of this Agreement. In the event any payment provisions of the admission agreement to either the Nursing Care or Personal Care is in conflict or inconsistent with any of the terms or provisions of this Agreement, then this Agreement shall control and govern the relationship between Resident and Community.

### **3.2 Charges Upon Transfer to Community's Nursing Care or Personal Care.**

#### **a) Single Occupancy.**

Upon transfer to Nursing Care or Personal Care, Resident shall continue to pay the applicable Monthly Service Fee for Single Occupancy of the Residence initially designated under this Agreement; unless Resident, prior to the transfer to the Nursing Care Facility or Personal Care Facility, moved to a different Residence within Community than the one initially designated under this Agreement, then in that event, Resident, except as provided in Section 10.1 of this Agreement, shall continue to pay the applicable Monthly Service Fee for Single Occupancy of the Residence designated at the time of transfer, subject to any annual or uniform increases in the Monthly Service Fee. Resident also shall pay the charges for additional daily meals, if applicable. The Monthly Service Fee shall cover only the cost of services and supplies included in the Daily Rate.

#### **b) Double Occupancy.**

Upon transfer of one or both Co-Residents to Nursing Care or Personal Care, the Monthly Service Fee for Double Occupancy of the Residence initially designated under this Agreement, [which fee includes the Second Person Monthly Service Fee], shall continue to be due and payable; unless both Co-Residents, prior to the transfer of one Co-

Resident to Nursing Care or Personal Care, moved to a different Residence within Community than the one initially designated under this Agreement, then, in that event, the Monthly Fee for Double Occupancy of the Residence designated at the time of transfer, [which fee includes the Second Person Monthly Service Fee], shall be due and payable, except as provided in Section 10.1 of this Agreement, and subject to any annual or uniform increases in the Monthly Service Fee. Resident also shall pay the charges for additional daily meals, if applicable. The Monthly Service Fee shall cover only the cost of services and supplies included in the Daily Rate.

**c) Ancillary Services.**

All miscellaneous charges and fees for additional services not covered by or included in the Daily Rate shall be paid directly by Resident and are not included in the Monthly Service Fee. A description of the personal and nursing care services covered by and included in the Daily Rate is contained in the Schedule of Charges and is reflected in the applicable admission agreements, which are subject to change from time to time. The Monthly Service Fee covers only Routine Nursing Care Services as defined in this Agreement. Higher acuity care services, to the extent available, are provided at an additional charge and at our sole discretion.

**d) Medicare Covered Stays.**

For any period of time during which a stay in Nursing Care is covered by the skilled nursing care benefit under the Medicare program, there will be no charge for additional meals, and Resident shall receive a daily meal credit in accordance with our policy. There will be no reduction in the Monthly Service Fee in the event any stay in Nursing Care is covered by Medicare or any other insurance.

**3.3 Exclusions.**

The following items are not covered by the Monthly Service Fee, and Resident shall be responsible to pay the additional charges for such items: prescription drugs, over-the-counter drugs, hospitalization, ambulance services, therapy or rehabilitation services, home health services, laundering of personal clothing, physician services, Medicare deductibles and co-payments, medical or diagnostic tests, psychotherapy and psychiatric consultations or services, diagnostic services, dental services, chiropractic services, transplants, private duty nurses or companions, podiatry, refractions, eyeglasses, contact lenses, hearing aids, orthopedic devices and appliances such as walkers, braces, wheelchairs, special beds or chairs, incontinence supplies, personal care supplies such as disposable under garments, toiletries, digestive aids and over-the-counter pharmaceutical and other health supplies, medical equipment and supplies, such as respirators, ventilators, oxygen tanks, intravenous items, catheterization materials, specialized treatment including ventilator dependent treatment, dialysis, and all sub-acute care services, services in Nursing Care in excess of Routine Nursing Care Services, chemotherapy, blood transfusions, or special rehabilitation services, and any other health or medical service not specifically set forth in this agreement. The Community in its discretion may provide any or all of the services not covered by the Monthly Service Fee at an additional charge, or refer the Resident to another provider capable of providing higher acuity services.

**3.4 Hospitalization or Special Service Facility Care.**

The Community does not provide hospital, acute, sub-acute care, or psychiatric/mental health services. The Community will arrange for the transfer of the Resident to a hospital or other facility on order of the Resident's Physician or the Medical Director. The costs of ambulance or emergency transportation for transfer to a hospital, acute or sub-acute care, or psychiatric/mental health services or any specialty care services provider and the costs of such hospitalization, acute and sub-acute care, and psychiatric/mental health or specialty care services are not covered by the Monthly Service Fee and shall be the responsibility of Resident.

**3.5 Accident or Illness Away From the Community.**

Except as provided herein, in the event the Resident suffers an accident or illness while away from the Community, and the Resident relies on health care and support services available in the area where the accident or illness occurred, the Resident's health insurance or other personal resources available to Resident must be used for payment for such services and Community is not responsible to provide or pay for such services. If, however, the Resident suffers an accident or illness while away from the Community, and Resident utilizes the services of a nursing care facility in the area where the accident or illness occurred, then in that event, the Community shall, as long as the Resident continues to pay all monthly charges that the Resident would be obligated to pay if cared for in Community's Nursing Care, contribute to the cost of temporary care in the other nursing facility up to an amount equal to the Community's daily cost for semi-private nursing care. The Resident shall make every reasonable effort to notify the Community of the accident or illness and, upon the Resident's return to the Community, the Resident shall be entitled to all benefits under this Agreement [subject to the requirement to complete the Transition Period in accordance with Section 8 of this Agreement].

**3.6 Limitations on Care.**

The Community's services are not designed to care for persons with serious mental illness, drug or alcohol abuse, or who require specialized psychiatric care or services not authorized or permitted under licensing currently granted by the Commonwealth to the Community or high acuity nursing care services beyond the Routine Nursing Care Services as defined in this Agreement. If the Community determines that the Resident's mental or physical condition is such that the Resident's continued presence in the Community is either dangerous or detrimental to the life, health, safety of the Resident, other Residents or to the peaceful enjoyment of the Community by other Residents, the Community may transfer the Resident to an appropriate outside care facility. If the transfer is for a temporary period, then the Resident shall continue to pay the applicable Monthly Service Fee and also shall be responsible to pay for the cost of the Resident's care in such other facility. If the transfer is to be permanent, then the Termination provisions of this Agreement shall apply, except in cases of Double Occupancy where only one Co-Resident is transferred, and except that only such notice of Termination as is reasonable under the circumstances shall be given in any situation where the Resident is a danger to self or others, or to the health, safety, or peace of the Community.

**3.7 Limitation on the Resident's Liability.**

If a health care provider seeks payment from the Resident for health services which are the responsibility of the Community to pay under this Agreement, then the Community shall hold the Resident harmless from all loss or liability arising from such claims for payment.

**3.8 Private Duty Nursing or Companion Services in the Residence.**

Subject to the approval of the Community, the Resident may utilize the services of licensed private duty nurses or companions providing personal or nursing care services in the Residence so long as the Resident is able to satisfy the Conditions of Occupancy. Such services must be approved in advance in writing by the Community. The Community reserves the right to review credentials of all nurses and companions, to approve or prohibit the use of or to require the discontinuation of such services. The Resident is responsible to pay for all such services. As a condition of the Community's approval, all private duty nurses or companions must provide the Community with an appropriate release and indemnification agreement, proof of liability insurance, as well as proof that such nurses or companions are free of tuberculosis and/or any other contagious or communicable disease, and are subject to a criminal background check. To the extent required, the Resident shall confirm that any approved private duty nurse, companion, or attending individual has workers' compensation insurance coverage. In the absence of such coverage, the Resident is required to provide workers' compensation insurance to the extent required by law. In exchange for the Community's consent to the Resident's request for the services of a private duty nurse, companion, or other assistant, the Resident shall execute, if requested by Community, an [Aging-in-Place Addendum], which shall be attached to this Agreement and incorporated by reference. The Community reserves the right to terminate the Resident's authorization to utilize the services of private duty nurses, nurse assistants or companions in the event that the Resident does not comply with the requirements of this Section or the Aging-in-Place Addendum, or require transfer to another level of care. If transfer to another level of care is required, the Community reserves the right to transfer the Resident to another level of care within the Community or to such other external care facility as the Community deems appropriate.

**3.9 Response Call System.**

Community shall equip each Residence with a twenty four (24) hour response call system. Community does not provide Emergency Medical Services (EMS) or Emergency Medical Technicians (EMT). In the event of a medical emergency, Resident is required to contact 911 to obtain medical assistance. While the response call system may be used to inform Community of a medical emergency, Community disclaims any and all responsibility for providing emergency medical care services in the Residence. If Resident utilizes the response call system in such an emergency, Community will call 911 on Resident's behalf.

**4.0 HEALTH INSURANCE****4.1 Required Insurance.**

The Community expects that some of the cost of medicines, medical or nursing services or equipment provided for the Resident under this Agreement will be paid by present or

future federal, state, municipal, or private plans or programs of medical/surgical insurance, including, without limitation, the benefits available through Social Security programs (commonly known as “Medicare A, B & D”). Prior to occupancy, the Resident shall secure, in a form acceptable to the Community, medical and surgical insurance for protection from medical risks and, when eligible, shall secure and maintain in force at the Resident’s expense maximum coverage available under the federal government Social Security health insurance indemnity program known as “Medicare A, B and D”, or an equivalent policy approved in writing by the Community, and at least one Medicare supplemental health insurance policy (commonly known as Medigap insurance, which must include coverage for nursing care co-insurance) such as those offered by the Blue Cross and Blue Shield Plans, or an equivalent policy as approved in writing by the Community which provides coverage for Medicare deductibles and co-insurance. The Community may exercise an option to grant occupancy to a Resident without Medigap insurance if the Resident has equivalent alternative coverage approved by the Community or if the Resident can establish to the satisfaction of the Community the ability to self-fund the co-insurance obligations typically covered by Medigap insurance. An addendum shall be signed by a resident who exercises this option.

Benefits from a Medicare Advantage Plan (like a Health Maintenance Organization “HMO” or a Preferred Provider Organization “PPO”) or any other managed care plan will not satisfy the insurance requirements under this agreement, unless the Medicare Advantage or managed care plan is approved by the Community in writing as an equivalent policy. See Section 4.4 below.

Proof of such insurance must be provided at the time of application and prior to Occupancy. In the event the Resident fails to maintain such health care insurance after occupancy, the Community reserves the right to make payments for purposes of maintaining insurance in force for the Resident's benefit. The Resident is obligated to reimburse the Community for payments made on behalf of the Resident and the cost of premiums shall be added to and included in the Monthly Service Fee. The payment by the Community of any premium due on the required policies does not constitute a waiver of the Community’s right to terminate this Agreement upon the Resident's failure to make premium payments, and the Community has no obligation or liability to provide or pay for the Resident's health insurance. The Resident shall provide proof of health insurance from time to time after occupancy as established by the Community, and shall notify the Community immediately upon any change in the conditions of coverage.

#### **4.2 Long-Term Care Insurance.**

If the resident has been approved for occupancy under this Agreement based upon proof of long-term care insurance, the Resident is obligated to maintain the long-term care insurance policy premiums after occupancy. Annually the Resident shall provide proof of long-term care insurance at the request of, and in the sole discretion of, Community. Failure to maintain the long-term care insurance may result in termination of this Agreement.

#### **4.3 Assignment of Required Insurance and Third Party Payments.**

Resident assigns and transfers over to Community all rights of Resident to public and private insurance and benefits to the extent necessary to pay Community for services provided to Resident under this Agreement. If Resident becomes eligible to receive

payment from any third party for services provided under this Agreement by Community, Resident shall at all times cooperate fully with the Community and each third-party payor so that the Community may make claim for and receive any applicable third-party payments. Resident authorizes Community to make any and all claims for such insurance and benefits and agrees to execute all documents necessary to enable Community to collect or enforce such claims. If for any reason Community cannot apply directly for such benefits, Resident shall from time to time apply for the payments for services provided by Community to which Resident is entitled under applicable insurance benefit programs, and pay to Community the benefits received.

#### **4.4 Enrollment in a Health Maintenance Organization (“HMO”) or Other Managed Care Plan.**

The Resident may not enroll in a health maintenance organization (“HMO”) or other managed care plan for which the Community is not a network or participating provider, and the Resident may not enroll in or subscribe to any HMO or managed care plan providing equivalent Medicare benefits without the written consent of the Community. Prior to enrolling in any HMO or managed care plan, the Resident shall sign an addendum identifying the plan and reflecting the Community’s approval or disapproval.

In the event that the Resident subscribes to a Medicare Advantage Plan (like a HMO or a PPO) or any other managed care plan, and the Community is not a participating provider in the Resident’s managed care plan, the Community may elect, at its option, to attempt to negotiate an agreement with and to obtain payment from the Resident’s managed care plan for covered services to be provided by the Community. If the Resident’s managed care plan and the Community do not reach an agreement on the terms under which services would be provided, or the Resident’s managed care plan does not agree to provide payment for covered services provided by the Community, the Resident shall either transfer to and receive service from a participating provider in the Resident’s managed care plan or shall pay the Community, in addition to the Monthly Service Fee, the incremental difference between the what otherwise would have been covered by traditional Medicare coverage and the Monthly Service Fee, but only for the limited period of time during which Medicare or other required insurance coverage would have been available. The Resident shall pay for all other ancillary charges and services related to such care.

In the event that the Resident is transferred to a provider participating in the Resident’s managed care plan, the Resident shall continue to pay the Monthly Service Fee, less any applicable away allowances and additionally all costs and charges related to the transfer to and occupancy of the participating provider. There will be no reduction in the Monthly Service Fee, as a result of the Resident’s participation in any health insurance program or managed care plan, which provides for payment for services rendered in Nursing Care or for other services provided by the Community.

If the Community is or becomes a network provider in the Resident’s managed care plan, the Community reserves the right to withdraw from participating as a network provider.



## **5.0 FINANCIAL PROVISIONS**

### **5.1 Processing Fee.**

The Resident has paid to the Community a Processing Fee of \$400.00 per person for processing of the application. This Processing Fee is non-refundable.

### **5.2 Deposit and the Entrance Fee.**

The Resident has paid, or will cause to be paid before the Designated Occupancy Date, a total Entrance Fee of \$\_\_\_\_\_, exclusive of the Processing Fee, which was paid for processing of the application. The amount of the Entrance Fee is determined by the type of Residence and number of occupants. The Entrance Fee shall be paid as follows:

[The Resident has paid an Application Deposit of \$\_\_\_\_\_ as a down payment towards the Entrance Fee;]

\$ \_\_\_\_\_ (10%) is due immediately upon the signing of this Agreement;

\$ \_\_\_\_\_ (45%) is due within forty-five (45) days of the signing of this Agreement;

\$ \_\_\_\_\_ (45%), which is the balance of the total Entrance Fee less the Application Deposit, is due upon the Resident's Designated Occupancy Date, not to exceed (75) days after signing the agreement, whichever is earlier. If two persons sign this Agreement as the "Co-Residents," the sum stated in this paragraph covers both persons.

### **5.3 Amortization of Entrance Fee.**

The Entrance Fee shall be amortized over a period of fifty (50) months at two percent (2%) for each month of occupancy, or portion thereof, from the Designated Occupancy Date. At the conclusion of the amortization period, the Entrance Fee shall be earned in full by Community, and Resident will not be entitled to a refund of any portion of the Entrance Fee.

### **5.4 Limitations on Increases in the Entrance Fee.**

After execution of this Agreement and payment of the ten percent (10%) deposit, there shall be no increases in the Entrance Fee. Charges for care paid in one lump sum in the form of an Entrance Fee shall not be increased or changed during the duration of the agreed upon care, except for changes required by state or federal assistance programs, or except in instances where transfer to a larger or smaller unit is elected by Resident.

### **5.5 Use of Entrance Fee.**

The entire Entrance Fee after payment shall be used in any manner deemed appropriate by us, in our sole discretion.

### **5.6 Monthly Service Fee.**

The Resident shall pay to the Community a Monthly Service Fee of \$\_\_\_\_\_, in advance for each month of Occupancy. The amount of the Monthly Service Fee is based on the size and number of occupants of the Residence as well as contract type. Payment of the first Monthly Service Fee is due on the date the Resident accepts Occupancy or the Designated Occupancy Date, whichever is earlier. The Monthly

Service Fee for the first month of Occupancy shall be pro-rated if the Resident assumes Occupancy after the first of the month. All subsequent payments are due immediately upon receipt of a monthly statement.

**5.7 Statement of Charges.**

Billing statements will be generated monthly and will include the advance Monthly Service Fee and all other charges for meals and for miscellaneous, ancillary, or other services and applicable meal and other credits during the previous month. Payment for all other charges is due at the same time as the Monthly Service Fee.

**5.8 Away Allowance.**

If the Resident plans to be away from the Community for a period of fourteen (14) or more consecutive days and notifies the Community in advance, the Resident shall be credited with the published daily away allowance on the monthly statement for such absence. The Community reserves the right to limit the number of away allowances granted in one year. The Community's Resident Handbook contains established policies on Away Allowance; these rules are subject to change from time to time.

**5.9 Late Payment and Cost of Collection.**

If payment is not received within thirty (30) days of the date of mailing set forth on the monthly statement, the Resident will be charged interest on the outstanding balance at an annual rate of eighteen (18%) percent unless other arrangements are made in writing between the Community and the Resident. If payment of the outstanding balance is not made within ninety (90) days from the due date, the Community may elect to exercise its available rights and remedies under this Agreement, including Termination. In the event the Community initiates mediation and/or arbitration to collect payments past due in excess of ninety (90) days and the parties, through mediation, mutually agree in favor of the Community, or if unable to mutually agree, the Community, through arbitration, is deemed to be the prevailing party, the Resident shall be responsible to pay all attorneys' fees and costs incurred by the Community in pursuing the enforcement of the Resident's financial obligations under this Agreement. If the parties mutually agree in favor of the Resident or the Resident is the prevailing party in a collection action, the Resident shall be entitled to recover attorneys' fees and costs incurred in defending the collection action.

**5.10 Adjustments in Monthly Service Fee.**

The Monthly Service Fee may be adjusted from time to time. The Community will provide at least thirty (30) days advance written notice of any changes in the Monthly Service Fee.

**5.11 The Co-Resident's Fee Responsibility.**

In situations of Double Occupancy, each Co-Resident shall be jointly and severally liable for each other's financial obligations and for all payments due under this Agreement. If one Co-Resident expires or leaves the Community, both Co-Residents and/or their estates remain jointly and severally liable for all financial obligations incurred by either Co-Resident under this Agreement. In the event one Co-Resident transfers to the Nursing Care, this provision shall not be construed as a third party guarantee nor shall it impair such Co-Resident's eligibility for Medicare benefits.

**5.12 Disclosure of Financial Information.**

The Community reserves the right to require the Resident to update the financial information disclosed in the Application for Occupancy. Such disclosure allows the Community to monitor and project future financial assistance needs.

**5.13 Termination of Obligation to Pay Fees.**

In the event this Agreement is terminated, the Resident's obligation to pay the Monthly Service Fee shall continue until the date of Surrender of the Residence.

**6.0 FINANCIAL ASSISTANCE POLICY**

**6.1 Inability to Pay.**

It is Community's policy that Resident shall not be dismissed solely because of the financial inability to pay the Monthly Service Fee or other charges, if (a) Resident presents to Community facts which, in Community's opinion, justify financial assistance, and (b) any necessary financial assistance can be granted or continued without impairing the ability of Community to attain its objectives while operating on a sound financial basis. The ability of Community to provide financial assistance is contingent upon a number of factors, including the availability of charitable gifts and the financial condition of Community. Since Community's Financial Assistance Policy is subject to many variables, it may be changed or amended from time to time. Community may discontinue or reduce any financial assistance if there is a change in Resident's financial circumstances permitting Resident to bear all or an increased portion of the Monthly Service Fee or other charges, or if any factual representation by Resident made in the original application for admission and related documents or in support of a request for financial assistance is determined to have been materially false or inaccurate, or if the continuation of such financial assistance will, in Community's opinion, impair the ability of Community to attain its objectives while operating on a sound financial basis. Community shall take into consideration future economic conditions and the ability of Resident's estate to satisfy financial obligations when making a determination regarding Resident's request for financial assistance under this Agreement. The following provisions are related to the foregoing statement of policy.

**6.2 Conditions of Eligibility.**

It shall be a condition of eligibility for consideration for financial assistance that Resident shall not have transferred, gifted or depleted resources in contemplation of the execution of this Agreement, or subsequently, which were represented as being available or which would impair Resident's ability to satisfy his/her financial obligations under this Agreement. Additionally, the financial information provided by Resident in the application documents for admission, and documents subsequently requested by Community, or in support of Resident's request for financial assistance must not contain any material misrepresentations or omissions. In the event that Resident's income is or becomes insufficient to pay the monthly expenses incurred, Resident shall immediately take all necessary steps to sell and liquidate capital assets and other resources in order to fulfill Resident's financial obligations to Community. Resident has an affirmative obligation to make his/her financial needs and resources known to Community at least

sixty (60) days in advance of the need for financial assistance. Prior to requesting consideration for financial assistance, it is expected that Resident will seek other available sources of financial assistance, including Veteran's benefits and family, church or social welfare agencies, which may be in a position to render financial assistance. If other resources are available to provide financial assistance to Resident, that fact will be taken into consideration in determining whether any financial assistance should be granted by Community, and if so, in what amount.

### **6.3 Accommodations.**

Community reserves the right to select the location and type of accommodation it deems most appropriate for any resident receiving financial assistance. Community, in its sole discretion, shall have the option of relocating Resident to another residence within the Community in the event Resident depletes his/her resources.

### **6.4 Other Resources and Recovery of Community Subsidy.**

If Resident's Monthly Service Fee or other charges are subsidized wholly or partly by Community, Resident shall not sell or otherwise transfer property without Community's written consent. If Resident owns any property not disclosed on the application documents or acquires property subsequently and does not disclose its acquisition, Community shall be entitled to so much of such property, up to its whole value, as is equal in value to the total amount of subsidy or financial assistance provided by Community. If Resident's Monthly Service Fee or other charges have been subsidized wholly or partly by Community, then Resident or Resident's estate shall be liable to Community for amounts equivalent to the amount of any financial assistance provided by Community to Resident under this Agreement. Community, in its sole discretion, may deduct from funds otherwise due to Resident as a refund under this Agreement, amounts equivalent to the amount of any financial assistance provided by Community up to the whole value of the refund. Such deductions shall be made at the time that any refund becomes due and payable to Resident under this Agreement.

### **6.5 Disclosure of Financial Statements and Other Financial Information.**

Resident shall submit copies of his/her annual tax return for the three (3) years immediately prior to the year in which application for financial assistance is made. Resident shall submit to Community a copy of his/her annual tax return for each year in which Community provides financial assistance to Resident. Resident shall also provide any other financial information requested by Community.

## **7.0 MARRIAGE AND/OR ADDITIONAL OCCUPANTS**

### **7.1 Marriage or Sharing of a Residence by Two Residents.**

Should a Resident marry another Resident of the Community or wish to share his/her Residence with another Resident, the Residents may, with the Community approval, which will not be unreasonably withheld, occupy one Residence and pay the double occupancy Monthly Service Fee for the Residence in which they reside. The Residence not designated for joint occupancy shall be surrendered on or before the date of the proposed move to the designated Residence. Any unamortized Entrance Fee for the vacated Residence shall be refunded to the vacating Resident, minus any charges required for restoration of the Residence other than for normal wear and tear, but only after the

vacated Residence has been reoccupied by another resident and the applicable Entrance Fee for the vacated Residence has been paid in full by the reoccupying resident. Each resident shall then be treated as a Co-Resident, and any subsequent refund shall be paid in accordance with the refund provisions of this Agreement relating to Double Occupancy, unless otherwise agreed upon in writing. In the event Resident requests to move to a larger Residence not then occupied by Resident or the anticipated co-resident, then subject to Community's approval and the availability of a larger Residence, Resident and such other person shall pay an additional fee, which shall be equal to the amount, if any, by which the then current Entrance Fee for Double Occupancy of the selected Residence exceeds the sum of the initial Entrance Fee paid by Resident and the anticipated co-resident. The additional fee shall be immediately amortized and earned in full by Community. An addendum to this Agreement will be signed that reflects the new occupancy status.

## **7.2 Proposed Co-Resident Applying to Reside with Existing Resident in One Residence.**

In the event that Resident desires to marry or have another person enter the Community and share the Residence as a Co-Resident, the proposed Additional Occupant must file an application for residency and meet all age and other requirements for residency to the Residence. Admittance of an Additional Occupant shall be at the sole discretion of Community. If the proposed Additional Occupant receives approval to occupy the Residence, then the Additional Occupant shall pay the an Entrance Fee equivalent to the current Entrance Fee for a studio apartment, which will be amortized over a period of fifty (50) months at two percent (2%) for each month of occupancy, or portion thereof. The parties to this Agreement and the proposed Additional Occupant shall execute an addendum so that the Additional Occupant shall become a Co-Resident under this Agreement. Upon the admission of the Additional Occupant as a Co-Resident, the Monthly Fee for Double Occupancy shall be due and payable for Occupancy of the Residence. The Additional Occupant and Resident shall be jointly and severally liable for each other's financial obligations and for all payments due under the addendum and this Agreement. In the event that the proposed Additional Occupant does not satisfy the requirements for admission, then Resident may exercise his/her option to terminate this Agreement.

## **8.0 TRANSITION PERIOD**

### **8.1 Resident Obligation.**

Resident is required to successfully complete a ninety (90) day Transition Period commencing on Resident's actual physical Occupancy of the Residence, during which Resident must affirmatively show the ability to satisfy the Conditions of Occupancy of the Residence. Community shall have no obligation to provide Continuing Care as defined in this Agreement unless the Transition Period is successfully completed by Resident. [If Resident is transferred to Nursing Care or Personal Care during the Transition Period, Resident, in addition to paying the Monthly Fee to reserve the Residence, shall pay the Daily Rate for personal or nursing care services and any other applicable charges for the duration of Resident's stay.] If Resident is transferred to Nursing Care or Personal Care at any time during the ninety (90) day Transition Period, Resident must begin the ninety (90) day Transition Period again after discharge from

Nursing Care or Personal Care. Any days prior to transfer to Nursing Care or Personal Care are not counted toward the ninety (90) day Transition Period since the Transition Period must be consecutive days without any breaks for days spent in Nursing Care or Personal Care. [If Resident is transferred to Nursing Care or Personal Care more than a total of two (2) times prior to completing the ninety (90) day Transition Period, Resident will be deemed to have failed to successfully complete the Transition Period and will not be eligible for Continuing Care under this Agreement.] The Community reserves the right to have the Resident [at Community's expense,] provide an updated, written medical examination report, including a dementia assessment, from Community's Medical Director thirty (30) days prior to the completion of the ninety (90) day Transition Period. Community's Medical Director shall provide the report to Community and provide a copy to Resident. Community reserves the right to determine in its sole discretion whether Resident has completed successfully the Transition Period.

## **8.2 Community Obligation.**

If [Community's Appropriate Placement Committee], with the advice of Community's Medical Director, determines that Resident is incapable of fulfilling the Conditions of Occupancy of the Residence as a result of Resident's condition during the ninety (90) day Transition Period, then Community shall terminate this Agreement. In the event of Termination of this Agreement for failure to satisfy the Conditions of Occupancy, the Entrance Fee shall be refunded to Resident in accordance with the refund provisions of this Agreement.

## **9.0 TRANSFER TO COMMUNITY'S NURSING CARE OR PERSONAL CARE OR TRANSFER TO AN OUTSIDE FACILITY**

### **9.1 Conditions of Residence Occupancy.**

The Resident may occupy the Residence as long as the Resident is able to satisfy the Conditions of Occupancy. The Resident's ability to satisfy the Conditions of Occupancy may be reviewed from time to time by the Community.

### **9.2 Decision to Transfer.**

#### **(a) Authority to Transfer.**

The Community, in its sole discretion, may transfer the Resident from and between the Residence, and Nursing Care or Personal Care, or any other appropriate health care facility on a permanent or temporary basis if it determines that such a move should be made because of the inability of Resident to comply with the Conditions of Occupancy, or for the health and safety of the Resident, the health, safety and peaceful enjoyment of other residents, for the proper operation of the Community, to comply with regulations of the Commonwealth of Pennsylvania, including but not limited to the Pennsylvania Department of Public Welfare, the Pennsylvania Department of Health, local regulations of the Fire Department, the Pennsylvania Department of Insurance, or any other duly constituted authorities or agencies, or to otherwise meet the requirements of law. Upon a determination by the Community's Appropriate Placement Committee or its successor, that the Resident is no longer capable of meeting the Conditions of Occupancy of the Residence, the Resident or the Resident's legal representative, or agent acting on the

Resident's behalf, will be notified by the Community that arrangements will be made for the Resident's transfer to Nursing Care or Personal Care or other appropriate care facility.

**(b) Role of Community's Medical Director.**

Community will appoint a medical doctor licensed to practice medicine in the Commonwealth of Pennsylvania as Community's Medical Director. Upon certification by Community's Medical Director or Resident's attending physician, that Resident is no longer capable of meeting the Conditions of Occupancy of the Residence, the Resident or Resident's next of kin, legal representative or agent acting on Resident's behalf, will be notified by Community that arrangements will be made for Resident's transfer to Nursing Care, Personal Care or another appropriate care facility. Community shall not be liable for acting in accordance with the certification of the Medical Director or attending physician. The decision as to whether a transfer shall be deemed temporary or permanent shall be made by Community in its sole discretion. Community shall consider Resident's opinion and the advice of a family representative, if available, and, if requested and at Resident's expense, a private physician. Resident's opinion and the advice of family and of Resident's physician are advisory only, and shall not be binding on Community.

**9.3 Transfer to Nursing Care or a Personal Care within Community.**

If, in the opinion of the Community, with the advice of the Medical Director, the Resident becomes ill or incapacitated and requires transfer to Community's Nursing Care or Personal Care, such care will be available in the Community on either a temporary or permanent basis. During the first [sixty (60) days] of Resident's Occupancy in Nursing Care or Personal Care, Community's Appropriate Placement Committee, with the advice of Community's Medical Director or Resident's physician and, if reasonably available, family members, will determine whether or not the stay in Nursing Care or Personal Care is temporary or permanent. If Community's Appropriate Placement Committee determines that Resident's health is such that Occupancy in Nursing Care or Personal Care will be permanent, Resident's Residence will be released (if not occupied by a Co Resident) and made available for Occupancy by another resident. In the event that Community decides that the transfer is permanent, Resident shall Surrender the Residence within thirty (30) days of notice of our decision.

**9.4 Transfer To Hospital or Outside Facility.**

In the event that hospitalization or outside care of the Resident becomes necessary as determined by the Community, with the advice of the Community's Medical Director, the Resident will be transferred to a hospital or other outside health care provider. In the event the Resident's mental, emotional, or physical condition deteriorates to the degree that, in the professional opinion of the Medical Director, the Resident's presence at the Community is deemed detrimental to the health, safety, or peace of other Residents, the Community may transfer the Resident to an appropriate outside care facility.

**9.5 Costs Related to Transfer to an Outside Facility.**

**(a) Single Occupancy.**

During any temporary transfer to an outside health care facility or Special Service Facility or hospital, Resident shall continue to pay the Monthly

Service Fee and all costs and charges related to the transfer to the outside facility. Resident shall also pay the charges for all care in an outside facility except when Resident is transferred to an outside personal or nursing care provider because of the unavailability of a bed or a room in Community as set forth in Section 9.6. Upon permanent transfer to an outside facility, and upon Surrender of the Residence, the obligation to pay the Monthly Service Fee shall end and this Agreement shall terminate in accordance with the Termination provisions of this Agreement. Any refund due shall be paid in accordance with the refund provisions of this Agreement.

**(b) Double Occupancy - Transfer of One Co-Resident.**

During any temporary transfer of one Co-Resident to an outside facility, the Monthly Service Fee for Double Occupancy shall continue to be due and payable. Additionally, the transferred Co-Resident shall pay all costs and charges related to the transfer to and occupancy of the outside facility or hospital, except as provided in Section 9.6. Upon the permanent transfer of one Co-Resident to an outside facility, the Monthly Service Fee shall be reduced to the Single Occupancy rate for the Residence.

**(c) Double Occupancy - Transfer of Both Co-Residents.**

In the event both Co-Residents are temporarily transferred to an outside facility, the Monthly Service Fee for Double Occupancy shall continue to be due and payable. Additionally, both Co-Residents shall pay all costs and charges related to the transfer to and occupancy of the outside facility or hospital, except as provided in Section 9.6. In the event both Co-Residents are permanently transferred to an outside facility, then, after the Surrender of the Residence, the obligation to pay the Monthly Service Fee shall end and this Agreement shall terminate in accordance with the termination provisions. Any refund due shall be paid in accordance with the refund provisions of this Agreement.

**9.6 Transfer Because of Insufficient Space.**

If the Community determines that the Resident requires prompt access to nursing care or personal care services and no space is available in the Community's Nursing Care or Personal Care, then the Resident may be admitted temporarily to a comparable Nursing Care or Personal Care of the Resident's choice that is mutually agreed upon by the Resident and the Community and shall be placed on a priority waiting list for transfer back to the Community as soon as possible. In that case, if the outside facility is located within Berks County, the Community shall be responsible to pay the semi-private Nursing Care or studio Personal Care charges for the Resident's care as charged by that facility. If the outside facility is located outside of Berks County, the Community shall be responsible to pay charges for the Resident's care up to an amount equal to the Community's then-current semi-private rate in Nursing Care or studio rate in Personal Care. If the Resident chooses to transfer to another Nursing Care or Personal Care while a bed is then available in the Community, the Resident shall be responsible for all costs incurred for such transfer to and care at the outside facility.



**9.7 Release of or Return to Residence After Transfer.**

(a) **Temporary Transfer.**

If Resident is temporarily transferred to Nursing Care, Personal Care or another facility, Resident may return to the Residence at such time as Community determines that Resident can satisfy the Conditions of Occupancy.

(b) **Permanent Transfer.**

If Resident is permanently transferred to Nursing Care, Personal Care or another facility, Resident shall Surrender and vacate the Residence within thirty (30) days of written notice of Community's decision to permanently transfer Resident and release the Residence. If in Community's opinion, Resident subsequently recovers sufficiently to satisfy the Conditions of Occupancy of a Residence, Community in the exercise of its discretion, shall make available as soon as reasonably practicable a Residence with a floor plan comparable to the one relinquished. [Resident shall execute a new Residence and Care Agreement with Community and pay the then current Entrance Fee and the then current Monthly Service Fee.]

**9.8 General Powers of the Community.**

The Community reserves the right to make all necessary arrangements and adjustments regarding residency not otherwise specifically provided for in this Agreement.

**10.0 TRANSFER BETWEEN RESIDENCES**

**10.1 Transfer to Smaller Residence.**

Subject to the Community's approval, the Resident has the ability to move to a smaller residence. Should a Resident elect to move to a smaller Residence, the original Entrance Fee paid by the Resident is amortized at the rate of two percent (2%) per month for fifty (50) months (including the probationary period). The difference between the unamortized balance of the Entrance Fee of the larger Residence and the unamortized balance of the Entrance Fee of the smaller Residence, based upon the cost of the Residences when the original Residence was purchased, should any remain, shall be refunded to the Resident. Any such refund shall be made only after the Residence vacated has been reoccupied and upon receipt of a full Entrance Fee payment from the new Resident.

The Resident's Monthly Service Fee shall change to the then current Monthly Service Fee applicable to the newly occupied Residence. If the Resident is subsequently transferred on a permanent basis to Personal Care or Nursing Care within one year of occupying the new, smaller Residence, the original monthly service fee associated with the original, larger Residence will be applied. In a situation of double occupancy, upon the death of the resident permanently transferred to Personal Care or Nursing Care, the Monthly Service Fee will revert to the then current monthly service fee applicable to the smaller Residence.

The Resident shall be responsible for all moving charges and any restoration charges beyond normal wear and tear for the Residence vacated.

**10.2 Transfer to Larger Residence.**

Subject to the Community's approval, the Resident has the ability to move to a larger residence. Should the Resident be approved to move to a larger Residence, the unamortized portion of the original Entrance Fee shall be carried forward as a credit toward the then-current Entrance Fee of the new Residence. The Resident will be required to pay the difference between the then-current Entrance Fee for the new Residence and the unamortized portion, if any, of the original Entrance Fee. The Entrance Fee for the larger Residence shall then be amortized at the rate of two percent (2%) per month for fifty (50) months.

The Resident's Monthly Service Fee shall change to the then current Monthly Service Fee applicable to the newly occupied Residence.

The Resident shall be responsible for all moving charges and any restoration charges beyond normal wear and tear for the Residence vacated.

**10.3 Transfer to Residence of the Same Size.**

Subject to the Community's approval, should the Resident move to a Residence of the same size, there shall be no adjustment to the original Entrance Fee, and the Monthly Service Fee shall remain the same.

The Resident shall be responsible for all moving charges and any restoration charges beyond normal wear and tear for the Residence vacated.

**10.4 Transfer Addendum.**

The Resident shall sign an addendum to this Agreement reflecting all costs and charges related to the transfer to another Residence, including the Monthly Service Fee for the designated Residence.

**11.0 POWER OF ATTORNEY, ADVANCE HEALTH CARE DIRECTIVES AND ARRANGEMENTS FOR GUARDIANSHIP**

**11.1 Will and Funeral Arrangements.**

The name of the Executor or Executrix designated in the Resident's Will and the name of the funeral director selected by the Resident shall be provided in writing to the Community prior to occupancy of the Residence. In the event that the Resident changes the name of the Executor or Executrix designated in the Resident's Will or selects another funeral director, the Resident shall notify the Community of the changes in writing.

**11.2 Power Of Attorney.**

If Resident has executed a Durable Power of Attorney, then, a complete copy of the document, including the address and telephone number of the Resident's appointed attorney-in-fact, shall be submitted by the Resident to the Community at the time of

occupancy. All changes in this information shall be communicated immediately to the Community.

### **11.3 Advance Health Care Directives.**

The Community recommends, but does not require, that each Resident have in effect an “Advanced Health Care Directive” in the form of a Living Will and/or Durable Power of Attorney for Healthcare stating the Resident’s desires regarding life sustaining treatment. The Community further recommends that such documents be made available to the Community as part of the Resident’s permanent file.

### **11.4 Arrangements of Guardianship.**

If the Resident becomes incapacitated or unable to care properly for himself/herself or his/her property and if the Resident has made no designation of a person or legal entity to serve as guardian, trustee, or power of attorney, or if the authorized guardian, trustee, or power of attorney is unable or unwilling to act on the Resident’s behalf, then Community may institute legal proceedings to adjudge Resident incapacitated and have a guardian appointed for Resident’s estate and person or both. Resident hereby authorizes the Community to nominate a person or entity to serve as guardian, trustee, or power of attorney, when approved by a court as provided by law, and releases Community from any liability related to the nomination. All costs of legal proceedings, including attorney fees, shall be paid by Resident or the legally appointed guardian of Resident’s estate.

## **12.0 TERMINATION OF AGREEMENT & REFUNDS**

### **12.1 Right of Rescission.**

In addition to the termination provisions contained herein, the Resident may rescind this Agreement within seven (7) days of execution by signing the attached Notice of Right to Rescind and delivering it to the Community. Community shall refund the Entrance Fee in full; however, there is no refund available for the one time Processing Fee which was submitted with the Application for Occupancy.

### **12.2 Termination by Death, Illness, Injury or Incapacity Prior to Occupancy.**

In the event of the Resident’s death, illness, injury or incapacity, prior to the Designated Occupancy Date or actual date of Occupancy, whichever is earlier, this Agreement shall automatically terminate. In situations of Double Occupancy, should one of the Co-Resident be precluded from taking Occupancy because of death, illness, injury or incapacity, the other Co-Resident may opt to terminate this Agreement, or may continue to seek to occupy the Residence, in which event, the Monthly Service Fee shall be reduced to the Monthly Service Fee for Single Occupancy. If Resident dies or is precluded from becoming a resident because of illness, injury or incapacity prior to the Designated Occupancy Date or actual Occupancy, whichever is earlier, then Community shall refund the Entrance Fee in full less the cost of any completed, customized alterations requested by Resident to the extent that such alterations require restoration to the previous condition. The Community will remarket the residence. The Entrance Fee refund shall be made within thirty (30) days of the termination of this Agreement.

**12.3 Termination by the Resident Prior to Occupancy.**

After the lapse of the seven (7) day rescission period, Resident may terminate this Agreement by delivering written notice to Community prior to the Designated Occupancy Date or actual date of Occupancy, whichever is earlier. In such event, and so long as Resident is capable of taking possession of the Residence on the Designated Occupancy Date, the Resident shall forfeit five percent (5%) of the total Entrance Fee as a Cancellation Fee and the balance of the Entrance Fee shall be refunded less any amounts deducted to cover restoration costs incurred by the Community for alterations to the assigned Residence which were requested by the Resident. The refund, subject to any adjustment, shall be made only after the Residence has been reoccupied and upon receipt of the full Entrance Fee from a new Resident.

**12.4 Termination by the Community Prior to Occupancy.**

At any time prior to Occupancy, the Community may terminate this Agreement for failure of the Resident to meet the Conditions of Occupancy or other cause by delivery of written notice to the Resident. Termination shall be effective upon delivery of notice of termination. Community shall refund the Entrance Fee in full, subject to adjustment for any restoration costs incurred by the Community, shall be made within thirty (30) days of the effective date of termination.

**12.5 Termination by Either Party during Transition Period.**

Resident may terminate this Agreement during the Transition Period for any reason by providing Community with thirty (30) days advance written notice. Termination by Resident shall be effective after the lapse of the thirty (30) day notice period and Surrender of the Living Accommodation. If Resident fails to give thirty (30) days advance written notice to terminate or Resident, after giving notice to terminate, leaves the Community before the expiration of the required thirty (30) day notice period, Resident shall remain responsible for payment of the Monthly Service Fee and other charges then in effect for Resident's stay and care for the entire thirty (30) day notice period, whether or not Resident resided in Community during that time. If Community's Appropriate Placement Committee, with the advice of Community's Medical Director, determines that Resident has failed to successfully complete the Transition Period and/or Community has just cause to terminate for any other reason as defined in Section 12.8, then Community, during the ninety (90) day Transition Period, or within thirty (30) days thereafter, may terminate this Agreement by delivery of written notice to Resident. Termination by Community shall be effective thirty (30) days after delivery of notice or upon the Surrender of the Living Accommodation, whichever is earlier. If the Resident or Community exercises the right to terminate this Agreement during the Transition Period as reflected above in this Section, any unamortized amount of the Entrance Fee, less the amount of any financial assistance provided to Resident by Community, and/or any amounts deducted to cover the costs or expenses incurred at Resident's specific request, and/or costs incurred by Community to refurbish the Residence in the event of unreasonable wear and tear, and/or any outstanding charges, shall be refunded to Resident within ninety (90) days of the effective date of termination. The Resident must remove all possessions and return the keys to the Community within thirty (30) days of receipt of notice of termination by the Community or within thirty (30) days of notice to the Community of Resident's intent to terminate. The Resident remains obligated to pay the Monthly Service Fee until such time as the keys have been returned to Community.

and all possessions have been removed from the Residence. [The Resident shall permit the Community reasonable access to the Residence in order to facilitate the remarketing of the Residence.

**12.6 Termination by Death during Transition Period.**

If the Resident expires during the ninety (90) day Transition Period, a refund of the unamortized portion of the Entrance Fee shall be made, less any restoration costs as set forth above. The refund shall be made only after the Residence has been reoccupied and upon receipt of the full Entrance Fee from a new Resident. In situations of Double Occupancy, the death of one Co-Resident shall not terminate this Agreement, and per Section 12.12, no refund shall be due or paid so long as one Co-Resident continues to occupy the Residence or any accommodation in Nursing Care or Personal Care. The Resident shall permit the Community reasonable access to the Residence in order to facilitate the remarketing of the Residence.

**12.7 Termination by Resident after Occupancy and Successful Completion of the Transition Period.**

If Resident terminates this Agreement for any or no reason after Occupancy and the successful completion of the Transition Period, the Resident shall provide the Community with thirty (30) days advance written notice of the Termination. Upon such notice to the Community, the Resident must remove all personal possessions from the Residence and return the keys to the Community within thirty (30) days. The Resident remains obligated to pay the Monthly Service Fee until the Surrender of the Living Accommodation. A refund of the unamortized balance of the Entrance Fee, less the amount of any financial assistance subsidy provided to the Resident by the Community, or less any amounts deducted to cover costs incurred by the Community to refurbish, restore, or repair the Residence in the event of conditions beyond normal wear and tear, or to cover costs incurred at the specific request of Resident, or to satisfy unpaid charges, shall be paid to the Resident or the Resident's estate. The refund shall be made only after the Residence has been reoccupied and upon receipt of the full Entrance Fee from a new Resident. The Resident shall permit the Community reasonable access to the Residence in order to facilitate the remarketing of the Residence. In a situation of double occupancy, upon the death of one of the Residents, the Monthly Service Fee will revert to the then current single occupancy monthly service fee applicable to the Residence.

**12.8 Termination by Community After Successful Completion of the Transition Period.**

The Community may terminate this Agreement upon a determination of just cause and delivery of thirty (30) days advance written notice or upon delivery of such written notice as is reasonable under the circumstances to the Resident or the Resident's representative. Just cause shall include, but not be limited to, a default in payment subject to the Community's financial policies, the omission of any material information in the application documents, the submission of any false information in the application documents, the failure of the Resident to abide by the Community's rules, regulations, policies and procedures, the breach of any of the other terms of this Agreement, including the Resident's obligation to make required health, general liability and personal property insurance premium payments, or a good faith determination in writing by Community's Medical Director and Administrator that continued Occupancy in the Residence by the

Resident creates a serious threat or danger to the life, health, safety or peaceful enjoyment of the Resident or other Residents or persons in the Community. In situations where continued Occupancy threatens the life, health, safety, or peaceful enjoyment of the Resident or other Residents, only such notice as is reasonable under the circumstances will be provided to the Resident or the Resident's representative, and termination may be effective immediately.

The Resident remains obligated to pay the Monthly Service Fee until the Surrender of the Living Accommodation. A refund of the unamortized balance of the Entrance Fee, less the amount of any financial assistance subsidy provided to the Resident by the Community, or less any amounts deducted to cover costs incurred by the Community to refurbish, restore, or repair the Residence in the event of conditions beyond normal wear and tear, or to cover costs incurred at the specific request of Resident, or to satisfy unpaid charges, shall be paid to the Resident. The refund shall be made only after the Residence has been reoccupied and upon receipt of the full Entrance Fee from a new Resident. The Resident shall permit the Community reasonable access to the Residence in order to facilitate the remarketing of the Residence.

**12.9 Termination upon Separation or Divorce.**

The termination of the Agreement and withdrawal from the Community by one of two individuals who sign as Resident shall not result in a termination of the Agreement with regard to the remaining Co-Resident. There will be no refund to the vacating Co-Resident. The last remaining Co-Resident or his/her estate shall be entitled to any applicable refund.

**12.10 Further Obligations and Release Upon Termination.**

Upon Termination of this Agreement, the Community is released from any further obligations to the Resident or the Resident's estate except for the payment of any refund which may be due. The Resident or the Resident's estate is released from any further obligations to the Community except for: (a) the obligation to repay any financial assistance received from the Community; (b) the obligation to vacate and surrender the Residence and leave it in the condition it was on the date of possession, normal wear and tear excepted; and (c) the obligation to pay any unpaid sums due under the Agreement, including any indemnification obligations and payment of the Monthly Service Fee up to the date of surrender of the Residence. The indemnification obligation reflected in Section 21 shall survive the termination of this Agreement.

**12.11 No Accrual of Interest.**

No interest will accrue to the benefit of the Resident on any amounts required to be refunded under this Agreement, and no interest will be paid on Termination.

**12.12 Conditions and Due Date For Refund Payments.**

As long as the Resident, or in the case of Double Occupancy, a Co-Resident, continues to occupy any Residence within the Community, including accommodations in Nursing Care or Personal Care, no refund shall be due and no refund shall be paid until the death, discharge or voluntary departure of the Resident from the Community, (or in situations of Double Occupancy, both Co-Residents) and the Termination of this Agreement.

**12.13 Distribution of Refund upon Death.**

Any applicable refund shall be made to the duly appointed representative of Resident's estate after proof of such appointment is provided to Community in the form of a certified copy of the testamentary letters confirming such appointment. In situations of Double Occupancy, any applicable refund shall be paid by Community to the estate of the last surviving Co-Resident unless otherwise agreed in writing.

**12.14 Failure to Vacate and Surrender Residence.**

Upon notice of Termination, in the event that Resident fails to vacate and Surrender the Residence timely, then Community may file a complaint with the applicable District Justice seeking an order to evict Resident from the Residence. Resident shall be obligated to pay Community reasonable attorneys' fees and costs in the event Community commences legal proceedings against Resident to evict Resident for his/her non-compliance with or breach of the terms of this Agreement.

**13.0 AUTHORIZATIONS FOR RELEASE OF MEDICAL INFORMATION****13.1 Release Authorization.**

The Resident consents to the release of Resident's personal and medical records maintained by the Community for treatment, payment and operations as determined reasonably necessary by the Community. Any such release may be to the Community's employees, agents and to other health care providers from whom the Resident receives services, to third-party payors of health care services, to any Managed Care Organization in which the Resident may be enrolled, or to others deemed reasonably necessary by the Community for purposes of treatment, payment, and operations. Release of records for other purposes shall be done in accordance with applicable law, with a specific authorization from the Resident where required. Authorized agents of the state or federal government, including the Long Term Care Ombudsman, may obtain the Resident's records without the written consent or authorization of the Resident.

**14.0 RIGHTS AND OBLIGATIONS OF RESIDENT AS TO PROPERTY****14.1 Rights to Property/Subordination.**

The rights and privileges granted to Resident do not include any right, title or interest in any part of the personal property, land, buildings and improvements owned or administered by Community. Resident's rights are primarily for services, with a contractual right of occupancy. Nothing contained in this Agreement shall be construed to create the relationship of landlord and tenant between Community and Resident. Any rights, privileges, or benefits under this Agreement including Resident's right to a full or partial refund, shall be subordinate to any existing or subsequent mortgages or deeds of trust on any of the premises or to any other interest in the real or personal property of Community and to all amendments, modifications, replacements, or refinancing of any such mortgages or deeds of trust or to any liens or security interests held by secured creditors of Community. This subordination provision means that the claims of secured creditors in the event of Community's bankruptcy or default on its financial obligations shall be paid before Resident is entitled to receive any applicable refund. Upon request, Resident will execute and deliver any document which is required by Community, or by

the holder of any such mortgages or deeds of trust or similar interests, to effect such subordination or to evidence the same.

#### **14.2 Inspection of Residence and Right of Entry.**

Resident shall permit Community, or its agents, or any representative of any holder of a mortgage or similar interest on the property, or, when authorized by Community, the employees of any contractor, utility company, municipal agency or others, to enter the Residence for the purpose of making reasonable inspections and repairs and replacements. Such entry will be made only with reasonable advance notice, except in cases of emergencies. Community shall have the right to enter the Residence to perform scheduled housekeeping, to respond to the call system, to respond to the fire alarm system, and to perform routine maintenance and for other reasonably necessary purposes having due regard for Resident's privacy.

#### **14.3 Guests.**

The Resident may entertain and accommodate guests in his/her Residence, but no one other than the Resident shall have a right of occupancy in a Residence without the consent of the Community. Guest policies are established by the Community for the general welfare of the Residents and guests and for the safe operation of the Community; these policies are subject to change from time to time. The intent of such policies is to permit guest visits of short duration where such visits do not adversely affect the operation of the Community and are consistent with the welfare of the Residents. A Resident shall notify the Community of any guest whose stay exceeds seven (7) consecutive days. The Community has sole discretion to consent to guests remaining for any period longer than seven (7) consecutive days. If the Community grants consent for any guest to stay in excess of seven (7) consecutive days, the Community may establish conditions for the extended stay, limit the length of the extended stay, and may assess a charge to the Resident for the extended stay.

#### **14.4 Motor Vehicles & Parking.**

Resident may operate a vehicle on Community's campus only if you have a valid driver's license and a valid state registration. Residents who drive motor vehicles shall maintain their own automobile liability insurance to cover liability and medical expenses arising from injury to themselves and others. Resident must register the vehicle with Community and comply with Community's rules and policies governing the safe operation of motor vehicles. Community reserves the right to revoke Resident's operating privileges and remove Resident's vehicle from Community's property if Resident does not abide by Community's policy as reflected in the Resident Handbook, which is subject to change from time to time. The Community maintains a limited number of parking areas. There are no individually reserved parking spaces. Guest and additional vehicle parking is available in accordance with the Community policy, which is subject to change from time to time. The Community reserves the right to designate parking areas. A vehicle that is not being regularly driven, as defined in the Community policy set forth in the Resident Handbook, or does not have a valid Pennsylvania registration sticker, shall be removed from the premises.



#### **14.5 Responsibility for Property Damage to Community.**

**(a) Responsibility for Condition of Residence Upon Termination.**

Upon termination of this Agreement, Resident shall vacate and Surrender the Residence and leave it in as good condition as the date of Occupancy except for reasonable wear and tear. If the Residence is damaged beyond ordinary wear and tear as determined by Community, Resident shall be responsible for the costs of repair which will be deducted from any refund that may be due or billed directly to Resident or Resident's estate, or both. Community will provide Resident a written description of damages including the cost of repairs no later than thirty (30) days following Surrender of the Residence. If damage to the Residence is such that it cannot be repaired within fourteen (14) days, Community may charge Resident or Resident's estate and Resident or Resident's estate shall pay in addition to the costs of repairs, a Monthly Service Fee pro-rated for the time period needed to accomplish the repairs.

**(b) Property Damages Caused by Resident.**

Any loss or damage to real or personal property of Community caused by Resident shall be paid for by Resident. In the event of Resident's death, Resident's estate shall be liable for any loss or damage to Community's property caused by Resident.

#### **14.6 Responsibility for Resident's Personal Property.**

**(a) Responsibility for Loss or Damage.**

Community shall not be responsible for the loss or damage due to fire, theft, or any other cause of any property belonging to Resident or Resident's estate or Resident's guests, including motor vehicles, unless the care and control of said property is specifically accepted in writing by Community, and then only for willful or gross negligence in failing to safeguard and account for such property. Resident shall have the responsibility to provide insurance to protect against any such loss. No personal property insurance is provided Resident by Community.

**(b) Obligations Upon Termination.**

If Resident has become unable to comply with the Conditions of Occupancy of the Residence, or this Agreement has been terminated for any reason, Resident or the duly authorized representative of Resident's estate must remove all personal property from the Living Accommodation, including property held in storage. The applicable Monthly Service Fee shall continue to be due and payable until Surrender of the Living Accommodation. [If Resident's personal property is not removed by Resident or Resident's representative within thirty (30) days of Resident's permanent transfer or termination of this Agreement, Resident or Resident's estate, in addition to paying the applicable Monthly Service Fee, shall be obligated to pay an additional charge equivalent to the then-

existing Monthly Service Fee for a period of time up to thirty (30) days or until the property is removed by Resident or Resident's representative, whichever is earlier.] If Resident's personal property remains unclaimed by Resident or Resident's representative within sixty (60) days of Resident's permanent transfer or termination of this Agreement, Community shall place Resident's property in storage and Resident or Resident's estate shall be obligated to pay all costs for such storage for a period of time [up to sixty (60) days] or until Resident or Resident's estate removes the property from storage, whichever is earlier. Community shall not be liable for any damages to Resident's property while the property is in storage. If Resident's property is not removed from storage within sixty (60) days, Community shall dispose of Resident's property. Resident or Resident's estate shall be obligated to pay all costs for the removal or disposal of Resident's property.

## **15.0 OTHER RIGHTS AND OBLIGATIONS OF RESIDENT**

### **15.1 Release Regarding Conduct of Other Residents or Guests.**

Community assumes no responsibility for the conduct of Resident or any other residents or guests, and Resident hereby releases and discharges Community from any claims for personal injury to Resident or damage to Resident's personal property caused by the conduct of other residents or guests.

### **15.2 Right to Receive Disclosure Statements and Resident Handbook.**

Community shall deliver to Resident at the time of the execution of this Agreement, and at least annually thereafter, the disclosure statement required by the Continuing Care Provider Registration and Disclosure Act, Act No. 82 of 1984. The Resident acknowledges receiving a copy of the Community's Annual Disclosure Statement, audited financial statements, and the Resident Handbook prior to signing this Agreement.

### **15.3 Right of Self-Organization.**

The Resident, along with other residents of the Community, shall have the right of self-organization and to attend bi-monthly meetings of the residents with a designated representative of the Community's governing board. At least seven (7) days' notice of each bi-monthly meeting shall be given to the Resident. The residents of the Community have an elected Residents' Council to act in an advisory capacity with the Community to facilitate the exchange of ideas between the residents and the Community. The management of the Community will hold regular meetings with the Residents' Council for the purpose of free discussions of policies, programs and services.

### **15.4 Use of Personal or Family Physicians.**

Resident may employ the service of any physician at Resident's expense. Community shall not be responsible for the costs of any medical or health care ordered by Resident's personal physician except for the health care services provided under this Agreement.

**15.5 Resident's Compliance Obligations.**

Resident shall comply with the rules, regulations, policies and procedures established by Community and such amendments, modifications or changes in such rules, regulations, policies and procedures as may be adopted from time to time by Community.

**15.6 Pets.**

The Resident, with approval of the Community and the execution of an Addendum to this Agreement, may bring into his/her Residence a pet presently owned by the Resident. After occupancy, the Resident must have written approval from the Community for the addition of a pet in the Residence. The Community's Resident Handbook contains established policies for the maintenance of a pet in the Community; these rules are subject to change from time to time. At any time that a pet becomes a nuisance, or a disturbance to the health, safety or wellbeing of the Community, or violates the policies established by the Community for pet maintenance, the Community may, in its sole discretion, revoke approval for the pet. Failure to remove pet after revocation of approval by the Community will constitute grounds for Termination of this Agreement.

**15.7 Smoking.**

Resident and guests are not permitted to smoke or utilize any form of tobacco products anywhere on Community's premises, which includes residential dwellings, common areas, patios, balconies, outside grounds, parking lots and parked cars.

**15.8 Trade, Business or Occupation.**

Resident may not utilize any Living Accommodation to engage in a trade, business or other occupation, unless approved in writing by Community.

**15.9 Rights of the Resident Are Personal and Non-transferable.**

The rights and privileges of the Resident under this Agreement are personal to the Resident and cannot be transferred or assigned. No person other than the Resident may occupy or use the Residence covered by this Agreement unless approval is obtained in writing from the Community.

**15.10 The Resident's Continuing Disclosure Obligation.**

The information regarding the Resident's age, health, and financial affairs submitted by the Resident in the Continuing Care Application, Medical Records, Confidential Financial Information, and related application documents constitutes a material part of this Agreement, and that information is incorporated as a part of this Agreement. The Resident acknowledges that the submission of false information shall constitute grounds for the Termination of this Agreement. The Resident must disclose any material changes in the Resident's physical and/or mental condition, and financial position. The failure to make such disclosure shall constitute grounds to terminate this Agreement.

**15.11 Medical Examinations.**

Resident must be examined by a qualified physician of his/her own choosing before the Designated Occupancy Date. The Community reserves the right to have the Resident schedule an appointment with the Community's Medical Director approximately thirty (30) days prior to the end of the Transition Period for an examination at Community's expense. Resident must be examined by a physician annually thereafter, and must make

the results of the examination available to Community. The cost of the annual medical examination shall be paid by Resident.

**15.12 Reduction of Income or Assets.**

Resident shall make every reasonable effort to meet his/her financial obligations to Community. Resident shall not transfer control of property or make any gifts subsequent to the date of application for admission and shall not make any such transfer or gifts after occupancy, other than to Community, which would substantially impair Resident's ability or the ability of Resident's estate to satisfy Resident's financial obligations to Community.

**15.13 Obligation to Maintain Personal Property and General Liability Insurance.**

Resident shall be required to obtain and maintain at Resident's expense general liability insurance with coverage limits not less than \$500,000, which amount is subject to change from time to time. Resident also shall be required to obtain and maintain personal property insurance in an amount sufficient to cover the loss of all personal property in the Living Accommodation. Resident shall provide Community with Certificates of Insurance verifying required coverage. Policies shall be endorsed so as to provide that the Community shall receive thirty (30) days prior written notice of cancellation or non-renewal.

**15.14 Motorized Mobility Aid Device.**

Resident may operate a motorized mobility aid device (e.g., motorized scooter/cart or motorized wheelchair) in accordance with Community's policies and procedures which are reflected in the Resident Handbook and which include, but are not limited to, reasonable traffic and parking rules for the safe operation of a motorized mobility aid device (e.g., safe speed limits, yielding to pedestrians, designated parking areas, etc.). Community reserves the right to restrict Resident's use of a motorized mobility aid device if Resident fails to comply with the applicable rules, regulations and policies and procedures.

**15.15 Obligations Concerning Firearms.**

Resident shall be allowed to possess firearms in the Residence, but only if the firearms are used for recreational purposes as defined under state law. For the security of Residents, staff and visitors, Resident shall register the number, makes and types of firearms in the Residence.

**15.16 Non-discriminatory Occupancy Policy.**

The Highlands at Wyomissing is a Continuing Care Retirement Community designed to provide retirement living in an atmosphere of peace and harmony to persons who have attained the age of sixty-two (62), regardless of race, color, creed, religion, national origin, ancestry, sex, or limited English proficiency.

**16.0 AVERAGE ANNUAL COST OF PROVIDING CARE**

The average annual cost of providing care and services during the most recent twelve (12) month period for which a report is available is reflected in the Community's Disclosure Statement, which is made available to a Resident on an annual basis.

**17.0 NON-WAIVER OF ACT 82**

No act, agreement, or statement of the Resident, or of any individual purchasing care for a Resident under any agreement to furnish care to the Resident, shall constitute a valid waiver of any provision of the Continuing-Care Provider Registration and Disclosure Act, Act of June 18, 1984, P.L. 391, No. 82 Sections 1-25, 40 P.S. Section 3201 et. seq., (Act 82), intended for the benefit or protection of the Resident or the individual purchasing care for the Resident.

**18.0 CASUALTY LOSS**

In the event the Residence occupied by Resident or the building in which the Residence is located, is destroyed or is damaged by fire or other casualty so as to render the Residence generally unfit for Occupancy, Community will endeavor in good faith to rebuild and replace the Residence and/or building with substantially similar accommodations unless doing so would threaten our financial viability. In the unlikely event that Community determines that rebuilding threatens Community's financial viability so as to preclude replacement of the Residence or building, then Community will strive to develop an alternative restoration plan in which Community will exercise its best efforts to locate, identify or provide, if financially feasible as determined by Community, reasonable alternative accommodations for any resident affected by such a catastrophic loss. [Community will provide notice to the Insurance Department of such a catastrophic loss prior to a decision to terminate any agreements, which will provide an opportunity for the Insurance Commissioner to intervene on Resident's behalf.] If Community elects to terminate this Agreement, written notice of termination shall be given to Resident as soon as is reasonably possible from the date of the damage to the Residence. Any applicable refund due to Resident in accordance with Section 12 shall be paid to Resident in full upon any such termination. If notice of termination is not given, or if the damage does not render the Residence unfit for Occupancy, Community shall be obligated to rebuild or repair the damage to the Residence as soon as reasonably possible for Occupancy by Resident, and this Agreement shall remain effective unless the parties may otherwise mutually agree. In the event Resident is unable to occupy the Residence for any period of time during any reasonably necessary period of restoration of the Residence, the Monthly Service Fee shall be reduced proportionately, unless a vacant Residence is available for temporary Occupancy by Resident. Community shall not be liable for any damage, compensation, or claim by reason of inconvenience or annoyance arising from the necessity of repairing any portion of the Residence, or the interruption in use of the Residence, or the termination of this Agreement by reason of the destruction of the Residence or building.

**19.0 RENOVATION OF RESIDENCE**

Community reserves the right to relocate Resident to another residence within the Community in the event the Residence occupied by Resident or the building in which the Residence is located is subject to renovation. In such event, Resident shall relocate to a residence that is substantially similar to the Residence designated under this Agreement. In the event of such relocation, Community shall assume responsibility for Resident's reasonable moving costs. During temporary occupancy of the other residence, Resident shall pay the Monthly Service Fee applicable to that residence. Upon completion of the renovations, Resident may, subject to Community's approval, elect to remain in the

residence that Resident has occupied on a temporary basis, or return to the renovated Residence or the renovated building in which the Residence is located. If Resident, subject to Community's approval, chooses to remain in the residence that Resident has been occupying, then Resident shall continue to pay the applicable Monthly Service Fee, and any applicable refund due to Resident upon the termination of this Agreement shall be based on the Surrender of that residence. In the event Resident, subject to Community's approval, chooses to return to the renovated Residence or the building in which the Residence is located, then this Agreement shall terminate and Resident shall receive any applicable refund. Resident shall execute a new Residence and Care Agreement with Community and pay the then current Entrance Fee and the then current Monthly Service Fee. All costs associated with relocation to the renovated Residence or the building in which the Residence is located shall be paid by Resident.

## **20.0 COMMUNITY'S GRIEVANCE PROCEDURE AND MANDATORY ARBITRATION**

### **20.1 Reporting Complaints.**

If Resident believes that he/she is being mistreated in any way or his/her rights have been or are being violated by staff or another resident, Resident shall make his/her complaint known to Community. Resident must first notify Community of any such complaints, and provide Community with sixty (60) days to resolve the complaint satisfactorily to Resident [before he/she may pursue mediation and/or arbitration.]

### **20.2 Voluntary Mediation.**

Mediation is a form of alternative dispute resolution whereby an impartial person facilitates communication between the parties. The goal of mediation is to resolve the dispute promptly, amicably, and without incurring significant time and expense. Mediations are non-binding in nature. This Agreement provides for voluntary mediation whereby the parties may, upon mutual agreement, engage in mediation before resorting to arbitration. If the parties mutually agree to mediate any dispute that may arise between them, then the mediation will be conducted at a site selected by the Community, which shall be at the Community or at a site within a reasonable distance of the Community. If the parties are unable to resolve their dispute through mediation, then the dispute may only be resolved by arbitration as provided in this Agreement. If the parties do not mutually agree to mediate any dispute that may arise between them, then they may proceed directly to arbitration. The costs of the mediation shall be borne equally by each party, and each party shall be responsible for their own legal fees, except in collection actions where the parties mutually agree in favor of the Community or, if unable to resolve the dispute through mediation, where the Community, through arbitration, is deemed to be the prevailing party, then in that event, the Community shall be entitled to recover attorneys' fees and costs incurred in pursuing the enforcement of Resident's financial obligations. If the parties mutually agree in favor of Resident or Resident is the prevailing party, Resident shall be entitled to recover attorneys' fees and costs incurred in defending the collection action.

### **20.3 Mandatory, Binding Arbitration.**

Arbitration is a specific process of dispute resolution utilized instead of the traditional state or federal court system. Instead of a judge and/or jury determining the outcome of a

dispute, a neutral third party (“Arbitrator(s)”) chosen by the parties to this Agreement renders the decision, which is binding on both parties. Generally an Arbitrator’s decision is final and not open to appeal. The Arbitrator will hear both sides of the story and render a decision based on fairness, law, common sense and the rules established by the Arbitration Association selected by the parties. When Arbitration is mandatory, as it is under this Agreement, it is the only legal process available to the parties. Mandatory Arbitration has been selected with the goal of reducing the time, formalities and cost of utilizing the court system. Resident or, in the event of Resident’s incapacity, Resident’s authorized representative has the right to rescind this arbitration clause in accordance with the terms and conditions specified in Section 20.3(h) of this Agreement.

**(a) Contractual and/or Property Damage Disputes.**

Unless resolved or settled by mediation, any controversy, dispute, disagreement or claim of any kind or nature, arising from or relating to this Agreement, with the exception of: (1) guardianship proceedings resulting from the alleged incapacity of the Resident; (2) eviction proceedings initiated by Community and (3) disputes involving amounts in controversy of less than Twelve Thousand Dollars (\$12,000), shall be settled exclusively by arbitration. This means that the Resident will not be able to file a lawsuit in any court to bring any claims that the Resident may have against the Community. It also means that the Resident is relinquishing or giving up all rights that the Resident may have to a jury trial to resolve any claims against the Community. It also means that the Community is giving up any rights it may have to a jury trial or to bring claims in a court against the Resident. Subject to Section 20.3(f), the Arbitration shall be administered by ADR Options, Inc., in accordance with the ADR Options Rules of Procedure, and judgment on any award rendered by the Arbitrator(s) may be entered in any court having appropriate jurisdiction. Resident acknowledges and understands that there will be no jury trial on any claim or dispute submitted to arbitration, and Resident relinquishes and gives up the Resident’s right to a jury trial on any matter submitted to arbitration under this Agreement.

**(b) Personal Injury or Medical Malpractice.**

Unless resolved or settled by mediation, any claim that the Resident may have against the Community for any personal injuries sustained by the Resident arising from or relating to any alleged medical malpractice, inadequate care, or any other cause or reason while residing in the Community, shall be settled exclusively by arbitration. This means that the Resident will not be able to file a lawsuit in any court to bring any claims that the Resident may have against the Community for personal injuries incurred while residing in the Community. It also means that the Resident is relinquishing or giving up all rights that the Resident may have to a jury trial to litigate any claims for damages or losses allegedly incurred as a result of personal injuries sustained while residing in the Community. Subject to Section 20.3(f), the Arbitration shall be administered by ADR Options, Inc., in accordance with the ADR Options Rules of Procedure, and judgment on any award rendered by the

Arbitrator(s) may be entered in any court having appropriate jurisdiction. Resident acknowledges and understands that there will be no jury trial on any claim or dispute submitted to arbitration, and Resident relinquishes and gives up the Resident's right to a jury trial on any claims for damages arising from personal injuries to the Resident which are submitted to arbitration under this Agreement.

**(c) Exclusion from Arbitration.**

Those disputes which have been excluded from mandatory arbitration (i.e., guardianship proceedings, eviction proceedings initiated by Community and disputes involving amounts in controversy of less than \$12,000) may be resolved through the use of the judicial system. In situations involving any of the matters excluded from mandatory arbitration, neither Resident nor the Community is required to use the arbitration process. Any legal actions related to those excluded matters may be filed and litigated in any court which may have jurisdiction over the dispute.

**(d) Right to Legal Counsel.**

Resident has the right to be represented by legal counsel in any proceedings initiated under this arbitration provision. Because this arbitration provision addresses important legal rights, the Community encourages and recommends that Resident obtain the advice and assistance of legal counsel to review the legal significance of this mandatory arbitration provision prior to signing this Agreement.

**(e) Location of Arbitration.**

The Arbitration will be conducted at a site selected by the Community, which may be at the Community or at a site within a reasonable distance of the Community.

**(f) Time Limitation for Arbitration.**

Any request for Arbitration of a dispute must be requested and submitted to ADR Options, Inc., with notice to the other party, prior to the lapse of two (2) years from the date on which the event giving rise to the dispute occurred. ADR Options, Inc. is the designated arbitration agency that shall hear disputes specified in Sections 20.3(a-b) of this Agreement. ADR Options, Inc. is an impartial alternative dispute resolution organization that provides a panel of neutral third party arbitrators from which Resident and the Community, upon mutual agreement, shall select an arbitrator to facilitate dispute resolution. In the event ADR Options, Inc. is unable or unwilling to serve, then the request for Arbitration must be submitted to the Community within thirty (30) days of receipt of notice or other determination of ADR Options, Inc.'s unwillingness or inability to serve as a neutral arbitrator. The Community shall select an alternative neutral arbitration service within thirty (30) days thereafter and the selected Arbitration Agency's procedural rules shall apply to the arbitration proceeding. The failure to submit a request for Arbitration to ADR Options, Inc., or an alternate neutral arbitration service selected by



Community, within the designated time (i.e., two (2) years) shall operate as a bar to any subsequent request for Arbitration, or for any claim for relief or a remedy, or to any action or legal proceeding of any kind or nature, and the parties will be forever barred from arbitrating or litigating a resolution to any such dispute. Contact information for ADR Options, Inc., is as follows:

Two Commerce Square, Suite 1100  
2001 Market Street  
Philadelphia, PA 19103-7044  
Phone: (215) 564-1775/ (800) 364-6098  
Fax: (215) 564-1822  
Website: www.adroptions.com

**(g) Allocation of Costs for Arbitration.**

The costs of the arbitration shall be borne equally by each party, and each party shall be responsible for their own legal fees, except in collection actions where the Community is the prevailing party, then in that event, the Community shall be entitled to recover attorneys' fees and costs incurred in pursuing the enforcement of Resident's financial obligations. If Resident is the prevailing party in a collection action, then Resident shall be entitled to recover attorneys' fees and costs incurred in defending the collection action.

**(h) Limited Resident Right to Rescind this Mandatory, Binding Arbitration Clause (Section 20.3(a-j) of this Agreement).**

Resident or, in the event of Resident's incapacity, Resident's authorized representative has the right to rescind this arbitration clause by notifying the Community in writing within thirty (30) days of the execution of this Agreement. Such notice must be sent via certified mail to the Community, and the notice must be post-marked within thirty (30) days of the execution of this Agreement. The notice may also be hand-delivered to the Community within the same thirty (30) day period. The filing of a claim in a court of law within the thirty (30) days provided for above will automatically rescind the arbitration clause without any further action by Resident or Resident's authorized representative.

**(i) Confidentiality.**

Resident agrees that, at all times, Resident will keep any information regarding the arbitration proceeding, including rulings, decisions and awards by the arbitrator, confidential and will not disclose voluntarily to any third party, except to the extent required by law. Resident is permitted to disclose that the matter has been resolved, without disclosing the results of the arbitration proceeding.

**(j) Severability of Arbitration Clause (Section 20.3(a-i) of this Agreement).**

If any provision of this arbitration clause is determined by a judicial or administrative tribunal of proper jurisdiction to be invalid or

unenforceable, such provision shall be severed, and the balance of this arbitration clause shall remain in full force and effect.

## **21.0 INDEMNIFICATION**

The Community shall not be responsible or liable for, and the Resident shall indemnify, defend and hold the Community harmless from any and all claims, losses, damages, fines, penalties, expenses, judgments, reasonable settlements, or lawsuits, including reasonable attorneys' fees and all costs incurred in defending against any such claims, arising from or based upon any injury or death to persons or any damages to property caused by, or arising from, or based on, or in any way attributable to or connected with the negligent, reckless, intentional or other acts, conduct or omissions of the Resident. The Resident's indemnification obligation is payable on demand by the Community.

## **22.0 SUBROGATION**

In the event the Resident is physically injured by an individual or entity not a party to this Agreement, the Resident grants to the Community a right of subrogation, and authorizes the Community to bring such demands, claims or legal proceedings in the name of or on behalf of the Resident for purposes of recovering from any third party or third party's insurer responsible for the Resident's injury, the dollar value of all care provided by the Community to the Resident as a result of any such injury. The Resident shall cooperate and sign any documents necessary to facilitate the Community's ability to exercise its subrogation right.

## **23.0 MISCELLANEOUS PROVISIONS**

### **23.1 Severability.**

If any provision of this Agreement is determined by a judicial or administrative tribunal of proper jurisdiction to be invalid or unenforceable, such provision shall be severed, and the balance of this Agreement shall remain in full force and effect.

### **23.2 Acts of Forbearance.**

No act of forbearance or failure to insist upon prompt performance of any of the terms of this Agreement by the Community shall be construed as a waiver of any of the rights granted to the Community, or a limit on Community's ability to strictly enforce all of the provisions of this Agreement.

### **23.3 Editorial Provisions.**

The Headings of the paragraphs in this Agreement are inserted for convenience only and do not constitute a part of this Agreement. The use of gender-based pronouns shall be interpreted to include both the male and female pronouns unless explicitly specified to relate to one gender only.

### **23.4 Binding Effect.**

This Agreement shall bind and serve to benefit the successors and assigns of the Community, and the heirs, executors, and administrators of the Resident.

**23.5 Consent to Assignment.**

The Resident consents to the collateral or other assignment by the Community of its right, title, and interest in this Agreement.

**23.6 Governing Law.**

This Agreement shall be interpreted and enforced according to the laws of the Commonwealth of Pennsylvania.

**23.7 The Community's Modification of Agreement and Policies.**

The Community reserves the right to modify unilaterally this Agreement to conform to changes in law or regulation, and to modify unilaterally its rules, regulations, policies, and procedures.

**23.8 Entire Agreement.**

This Agreement along with any applicable addendum(s) or schedules, the Resident's application and financial statement, constitute the entire Agreement between the Community and the Resident. The Community shall not be responsible or liable for any statements, representations, or promises made by any person representing or purporting to represent the Community, unless such statements, representations, or promises are set forth in this Agreement. Any brochures or advertisements describing the Community are for the purpose of inviting inquiries only and are not to be relied upon as legally or contractually binding. The Resident may not amend this Agreement except by a subsequent written Agreement executed by the parties.

**23.9 Notice.**

Any notice or request which shall be required under this Agreement shall be delivered in person or sent by United States first-class mail, postage prepaid. Such notice or request shall be addressed to the Community in the following manner:

The Highlands at Wyomissing  
Office of the President  
2000 Cambridge Avenue  
Wyomissing, PA 19610-2714

Notice or request which shall be required under this Agreement shall be delivered in person or sent by United States first-class mail, postage prepaid, addressed as follows:

Resident's Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City State Zip \_\_\_\_\_

After occupancy, the notice/request shall be sent to the Resident's mailing address at The Highlands at Wyomissing. Either party may designate an alternate address by giving written notice to the other party.

**THE RESIDENT HEREBY ACKNOWLEDGES READING THIS AGREEMENT IN ITS ENTIRETY, UNDERSTANDING ITS PROVISIONS AND HAVING BEEN ACCORDED AN OPPORTUNITY TO CONSULT WITH PERSONAL ADVISORS, INCLUDING LEGAL COUNSEL, REGARDING ITS TERMS.**

**IN WITNESS WHEREOF**, the Community has caused this Agreement to be signed by its authorized representative, and the Resident has hereunto affixed his/her/their signature(s), this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Attest:

**The Highlands at Wyomissing**

Witness:

By

Kevin P. DeAcosta, President and CEO

\_\_\_\_\_  
(Resident's name)

\_\_\_\_\_  
(Resident's name)

**NOTICE OF RIGHT TO RESCIND**

**Date rescission period begins \_\_\_\_\_ . You may rescind and terminate your Residence and Care Agreement without penalty or forfeiture within seven (7) days of the above date. You are not required to move into the continuing care facility (i.e. the Community) before the expiration of this seven (7) day period. No other agreement or statement you sign shall constitute a waiver of your right to rescind your Agreement within this seven (7) day period.**

To rescind your Residence and Care Agreement, mail or deliver a signed and dated copy of this notice, or any other dated written notice, such as a letter or facsimile, stating your desire to rescind to the following:

**The Highlands at Wyomissing  
Office of the President  
2000 Cambridge Avenue  
Wyomissing, PA 19610-2714**

**Facsimile: 610-775-9851**

**Not later than midnight of \_\_\_\_\_ (last day for rescission)**

Pursuant to this notice, I hereby cancel my Residence and Care Agreement

\_\_\_\_\_  
Date

\_\_\_\_\_  
Prospective Resident's Signature

\_\_\_\_\_  
Prospective Resident's Signature (if more than one Resident)

## **GLOSSARY**

The following terms used in this Agreement have the meanings set forth below, unless indicated otherwise.

**ADDITIONAL OCCUPANT:** An individual who, after the Resident takes Occupancy, applies and is accepted for Occupancy to the Community to occupy a Residence with a current Resident. These Residents may be referred to as Co-Residents.

**AMORTIZATION:** To provide for the gradual reduction in an amount over time on a scheduled periodic basis.

**APPROPRIATE PLACEMENT COMMITTEE:** The Committee, appointed by the Community, to monitor, among other things, the ability of the Resident to satisfy the Conditions of Occupancy of the Residence.

**AGREEMENT:** This Residence and Care Agreement.

**APPLICATION DEPOSIT:** Refundable down payment applied to Entrance Fee payment; this fee must be paid prior to being assigned a specific Residence. The deposit is credited towards the total Entrance Fee.

**ASSIGNMENT OF INSURANCE:** The granting of authority to the Community to apply for and collect insurance benefits from the Resident's insurance carrier(s) for services furnished to the Resident or on the Resident's behalf by the Community.

**AVERAGE ANNUAL COST OF PROVIDING CARE:** The Disclosure Statement providing this information is made available each July after the financial statement for June 30<sup>th</sup> are completed.

**CANCELLATION FEE:** The fee assessed by the Community for Termination of Agreement by Resident for reasons other than death, illness, injury or incapacity prior to Designated Occupancy Date but after the Rescission Period of seven (7) days. This fee is five percent (5%) of the total Entrance Fee.

**COMMUNITY:** The Highlands at Wyomissing.

**CONDITIONS OF OCCUPANCY:** The health, safety and related requirements for continued Occupancy of the Residence.

**CONTINUING CARE:** A continuum of services provided to Resident beginning at admission with a Residence, meals and other services, and continuing, as necessary, following satisfactory completion of the Transition Period, to personal care or nursing care services.

**CO-RESIDENT:** One of two persons who signs the Agreement as the Resident to occupy one Residence.

**DESIGNATED OCCUPANCY DATE:** The date specified in the Agreement on which the Resident must accept Occupancy of the Residence and on which the Monthly Service Fee becomes due and payable, not to exceed 75 days after signing the agreement.

**DOUBLE OCCUPANCY:** Two individuals occupying one Residence.

**ENTRANCE FEE:** The total upfront fee charged as a condition of Occupancy to the Community. The Resident shall pay this fee prior to Occupancy. It is separate and distinct from the non-refundable Processing Fee.

**FINANCIAL ASSISTANCE POLICY:** The potential discretionary use of designated funds to assist those Residents, who through no fault of their own are unable to meet the costs of care.

**LIVING ACCOMMODATION:** The Residence and any accommodation in Nursing Care or Personal Care provided by Community for Occupancy by Resident.

**MEDICAL DIRECTOR:** The licensed physician designated by the Community to oversee the medical affairs of the Community and to coordinate the provision of personal and health care services to the Residents.

**MONTHLY SERVICE FEE:** The monthly charge for occupancy of a Residence and the right to receive services.

**NORMAL WEAR AND TEAR:** Depreciation of value caused to the Residence from ordinary daily use.

**NURSING CARE:** The nursing center maintained by Community.

**OCCUPANCY:** The right to reside in the Residence.

**PERSONAL CARE SERVICES:** The provision of assistance with activities of daily living and/or instrumental activities of daily living within the Personal Care residence. The Community reserves the right to define the scope and level of personal care services provided, in accordance with applicable law.

**PERSONAL CARE:** The licensed personal care of Community.

**PROCESSING FEE:** The non-refundable amount paid for processing of the Residential Application to the Community.

**RESIDENCE:** The living space for which the Resident has the right of Occupancy. It may consist of a Gaelsong home, villa, apartment, Personal Care, or Nursing Care accommodation.

**RESIDENT:** A person who signs the Residence and Care Agreement with the intent to occupy a Residence.

**RESIDENT HANDBOOK:** A Community publication reflecting many of the rules, regulations, policies, and administrative procedures of the Community. The Handbook is reviewed by the Community on an ongoing basis and subject to change from time to time.

**RIGHT OF RESCISSION:** The unqualified right of the Resident to cancel, without penalty or forfeiture, this Agreement within the first seven (7) days after the execution of the Agreement.

**ROUTINE NURSING CARE SERVICES:** The level of nursing care services provided by Community in its nursing care. It does not include subacute or transitional care for certain high acuity conditions, including ventilator dependent care. The Community reserves the right to define the acuity level of the nursing care services it provides in exchange for the Monthly Service Fee. Certain higher acuity, subacute nursing care services, if available, shall be provided at an additional charge. If higher acuity, subacute nursing care services are not available, Community may transfer Resident to an appropriate outside facility for treatment and care and Resident shall be responsible to pay the charges for such care.

**SCHEDULE OF CHARGES:** A Community publication reflecting current charges for services rendered by the Community.

**SHORT-TERM TEMPORARY STAY:** A stay in either Nursing Care or Personal Care that does not result in the permanent vacating of an apartment or villa.

**SINGLE OCCUPANCY:** One individual occupying one Residence.

**SURRENDER:** To cease to occupy the Residence, to remove all possessions, and to turn in all keys.

**TERMINATION:** The end or cessation of this Agreement and the end of Resident's right of Occupancy in the Living Accommodation. Certain obligations, such as the obligation to pay charges or refunds, may exist beyond the termination of this Agreement.

**TRANSITION PERIOD:** The first ninety (90) days of Resident's actual physical occupancy in the Residence, except as indicated in Section 8 of this Agreement, during which Community evaluates Resident's ability to satisfy the health and related Conditions of Occupancy in a residential living setting. During this period, it is determined whether Resident's care needs exceed the capabilities of the Community.

**UNREASONABLE DEPLETION OF ASSETS:** The spending down or transferring of income and/or other assets for non-essential expenditures or other purposes to the detriment of Resident's ability to meet financial obligations to the Community.

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