

## **Signature Senior Lifestyle Dementia Residence Agreement**

Please be aware that this is a legal document. It contains the terms and obligations relating to your occupation of the Suite at the Home. You should read it carefully to ensure that it contains everything you want to form part of this Agreement and nothing that you are not prepared to agree to. If you do not understand this Agreement or anything in it or its effect, it is strongly recommended you ask for it to be explained to you before you sign it. You might consider consulting a solicitor, Citizens Advice Bureau or Housing Advice Centre. **Signing this Agreement will mean that you have agreed to abide by the provisions of it.**

### **The Agreement**

This Agreement is between the provider named below (the “**Provider**”) and any of the following who enter into it: the Resident(s) named below (the “**Resident**”); any “**Third Party Contributor**” named below; and any “**Guarantor**” named below.

This Agreement comprises the following Agreement Particulars, the attached Terms and Conditions and the attached Schedules.

Under the terms of this Agreement, and in return for payment of the Fees under it, the Provider will provide the Resident with a licence to occupy a suite at the Home and the following services:

- (i) the Residence Services set out in **Schedule 1**, as varied from time to time; and
- (ii) any Additional Services agreed between the Provider and the Resident, as varied from time to time.

Agreement Date	/ /
Resident’s surname	[Resident surname]
Resident’s first and middle names	[Resident forenames]
Resident’s title	[Mr/Mrs/Miss/Ms/Dr/Rev/Other]
Resident’s gender	[Male/Female]
Resident’s date of birth	[Date of birth]
Home’s name	HOME NAME

Home's Address	FULL SITE ADDRESS	
Provider's name	LEGAL ENTITY NAME	
Provider's company registration number	NUMBER	
Provider's registered office address	LEGAL ENTITY REGISTERED ADDRESS	
Planned Move In Date	[Move in date]	
Suite no.	[Number]	
Weekly Residence Fee per week from the Actual Move In Date until increased following reviews in accordance with the Terms and Conditions (payable by Direct Debit in advance on or about the 4th day of each month)  All payable by Resident unless stated otherwise*  (and in each case a daily proportion of this fee for any part of a week)	Total*	£0.00 per week
	Amount payable by Resident	£ per week
	Contribution payable by Third Party Contributor	£ per week
Responsibility for payment of Additional Fees for Additional Services	[Resident/Third Party Contributor]	
Reservation Deposit - payable <u>in full</u> before moving in  All payable by Resident unless stated otherwise*	Total*	£0.00
	Amount payable by Resident	£
	Contribution payable by Third Party Contributor	£
Property & Financial Affairs Attorney's/Court Deputy's surname (if applicable)	[PFA Attorney surname]	
Property & Financial Affairs Attorney's/Court Deputy's first and middle names (if applicable)	[PFA Attorney forenames]	
Property & Financial Affairs Attorney's/Court Deputy's address (if applicable)	[PFA Attorney address]	

Health & Welfare Attorney's/Court Deputy's surname (if applicable)	[HW Attorney surname]
Health & Welfare Attorney's/Court Deputy's first and middle names (if applicable)	[HW Attorney forenames]
Health & Welfare Attorney's/Court Deputy's address (if applicable)	[HW Attorney address]
Third Party Contributor's surname	[3 <sup>rd</sup> Party surname]
Third Party Contributor's first and middle names	[3 <sup>rd</sup> Party forenames]
Third Party Contributor's address	[3 <sup>rd</sup> Party address]
Guarantor's surname	[Guarantor surname]
Guarantor's first and middle names	[Guarantor forenames]
Guarantor's address	[Guarantor address]

**Important information about arrangements in the event of the Resident's death**

The following **paragraphs 1 to 8** identify important aspects of what this Agreement says is to happen if the Resident dies during the term of this Agreement. These paragraphs are meant to assist understanding, but are not a substitute for reading the relevant clauses of this Agreement.

1. It is the Resident's estate's responsibility to ensure that all the Resident's possessions are collected from the Home within 10 days after the date of the Resident's death (unless a longer period is agreed as referred to in **paragraph 3** below).
2. The Provider will charge (and the Resident's estate and/or Third Party Contributor, as applicable (the "**applicable payer**") will need to pay) the normal Weekly Residence Fees until the Resident's estate, family or other representatives collect the Resident's possessions from the Suite the Resident occupied, but subject to a limit of no more than 10 days after the date of the Resident's death being charged (unless a longer period is agreed as referred to in **paragraph 3** below).
3. For some families 10 days may not be long enough to clear the Suite the Resident occupied, so if the Provider is requested to do so, it may be possible for the Provider to extend the period by mutual agreement in writing (which may be by email). A request to extend the Suite clearance period should be made in writing (which may be by email) to the Home Manager and the Provider shall not

unreasonably withhold its consent to such an extension, but please note that the Provider will charge (and the applicable payer will need to pay) Weekly Residence Fees for the period of any agreed extension.

4. Within 28 days after the agreed period for collection of the Resident's possessions, the Provider will usually refund Weekly Residence Fees paid in advance for any period after the period for which Weekly Residence Fees are payable after death, but after deduction of any sums due to the Provider from the Resident or any other applicable payer.
5. If the Resident's possessions have not been collected within the agreed period, the Provider may remove any personal possessions from the Suite in order to allow for a new resident to occupy the Suite or for marketing the Suite, and the Provider is likely then to use third party packing, removal, off-site storage and insurance options. The Provider will give notice if that is to happen.
6. Any third party packing removal, off-site storage and insurance costs, and any third party cancellation costs, incurred by the Provider will need to be paid to the Provider by the applicable payer. The Provider will notify in advance how those costs will be calculated.
7. If the Resident's possessions still remain uncollected more than 28 days after the agreed period for collection, the Provider may give notice that if they are not collected within 7 days the Provider may arrange for sale or other disposal of such items.
8. Any money received by the Provider from the sale of any of the Resident's possessions will be reimbursed within 30 days after the sale to the Resident's estate, after the deduction of the Provider's reasonable costs of sale and any other sums due to the Provider from the Resident or any other applicable payer.

### **Contact After Death**

The following information about the Contact After Death chosen by the Resident must be completed when this Agreement is signed. The Resident or Resident's Attorney/Court Deputy should please notify the Home if the Resident wishes to change these details at any time.

Please note that under this Agreement the Contact After Death will have authority on behalf of the Resident's estate, any Third Party Contributor and any Guarantor:

- (a) to agree with the Provider certain obligations for the Resident's estate and/or any Third Party Contributor as the Relevant Payer to make payments for more days to collect the Resident's personal possessions; and

<p>(b) to receive notifications from the Provider,</p> <p>as described in <b>paragraph 3</b> of the "Agreement by the Resident" below, <b>paragraph 4</b> of the "Agreement by Third Party Contributor" below, <b>paragraph 3</b> of the "Agreement by the Guarantor" below and <b>clause 6</b> of the attached Terms and Conditions.</p>	
Contact After Death's surname	[CAD surname]
Contact After Death's first and middle names	[CAD first and middle names]
Contact After Death's email address	[CAD email address]
Contact After Death's telephone contact number	[CAD telephone number]
Contact After Death's Home address	[CAD address]

**Agreement by the Resident**

By the Resident named above or his or her Attorney/Court Deputy signing this Agreement, the Resident agrees:

1. to comply with the terms of this Agreement; and
2. to pay to the Provider the Fees, as stated in the Agreement Particulars above, and any increases to the Fees in accordance with the Terms and Conditions (with the exception of the Third Party Contributor contribution to the Fees as stated in the Agreement Particulars above); and
3. that the Contact After Death will have authority on behalf of the Resident's estate, any Guarantor and any Third Party Contributor in accordance with **clause 6** of the attached Terms and Conditions:
  - a. to request and make agreements with the Provider in relation to extending the number of days that are to be paid for by the Resident's estate and/or any Third Party Contributor after the Resident's death to allow more time than 10 days for the Resident's personal possessions to be collected from the Home; and
  - b. if the Resident's personal possessions are not collected from the Home within the required time, to receive notifications from the Provider about:
    - (i) any removal, packing, off-site storage, insurance and cancellation costs that the Resident's estate and/or any Third Party Contributor will need to

pay; and

(ii) any arrangements for sale or disposal of such personal possessions by the Provider; and

4. to comply with all instructions issued by the Provider or the Home from time to time for the safe, comfortable and efficient running of the Home and the Community; and
5. that all of the Resident's friends or family who visit the Resident at the Home will comply with all instructions issued by or on behalf of the Provider for the safe, comfortable and efficient running of the Home and the Community and that any such person who fails to comply with such instructions may be required to leave the Home immediately.

Signed by the Resident or on his or her behalf by an Attorney/Court Deputy: \_\_\_\_\_ Date: \_\_\_\_\_

Name of Resident:

\_\_\_\_\_

\_\_\_\_\_

Name of signatory if Attorney/Court Deputy:

\_\_\_\_\_

Signature of Witness: \_\_\_\_\_

Name of Witness: \_\_\_\_\_

Address of Witness: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Agreement by the Provider**

The Provider named above in the Agreement Particulars agrees to comply with the terms of this Agreement.

Signed on behalf of the Provider:

Date: \_\_\_\_\_

Name:

\_\_\_\_\_

Position:

\_\_\_\_\_

**Agreement by Third Party Contributor**

In consideration of the Provider entering into this Agreement and accepting the Resident (as named above) into the Home, as the Third Party Contributor named in this Agreement:

1. I confirm that I have received a copy of this Agreement (including the Agreement Particulars above and the Terms and Conditions and Schedules attached); and
2. I agree to pay to the Provider the Third Party Contributor contributions to the Fees, as stated in the Agreement Particulars above, and any increases to the Fees in accordance with the Terms and Conditions attached; and
3. I agree that, if the Resident (as named above) has not entered into this Agreement because he or she lacks capacity to do so and has not arranged for a duly appointed and empowered Attorney/Court Deputy to enter into this Agreement on his or her behalf:
  - a. in addition to paying the Third Party Contributor contributions to the Fees as provided in **paragraph 2** above, I shall pay to the Provider all other Fees payable under this Agreement from time to time, including any increases to such other Fees in accordance with the Terms and Conditions attached; and
  - b. I shall use my best endeavours to ensure that the Resident (as named above) complies with the terms of this Agreement as if he or she had entered into it.
4. I agree that the Contact After Death will have authority on behalf of the Resident's estate, any Guarantor and me as Third Party Contributor in accordance with **clause 6** of the attached Terms and Conditions:
  - a. to request and make agreements with the Provider in relation to extending the number of days that are to be paid for by me after the Resident's death to allow

more time than 10 days for the Resident's personal possessions to be collected from the Home; and

- b. if the Resident's personal possessions are not collected from the Home within the required time, to receive notifications from the Provider about:
  - (i) any removal, packing, off-site storage, insurance and cancellation costs that I will need to pay; and
  - (ii) any arrangements for sale or disposal of such personal possessions by the Provider.

Executed and delivered as a Deed by the Third Party Contributor named in this Agreement on the date stated below in the presence of a witness.

Signed as a Deed by Third Party Contributor:                      Date: \_\_\_\_\_

Name of Third Party Contributor:

\_\_\_\_\_

\_\_\_\_\_

Signature of Witness:

Name of Witness:

\_\_\_\_\_

\_\_\_\_\_

Address of Witness:

\_\_\_\_\_

### **Agreement by Guarantor**

I confirm that I have received a copy of the Agreement Particulars above and the attached Terms and Conditions and Schedules, which together form this Agreement.

1. In consideration of the Provider, entering into this Agreement and accepting the Resident (as named above) into the Home, I agree as principal obligor to be jointly and severally liable with such Resident (i.e. separately, in addition and to the same extent as such Resident) and with any other people (other than any Local Authority or the NHS) who have agreed to pay sums to the Provider for such Resident as a Third Party Contributor (i.e. also separately, in addition and to the same extent as any such Third Party Contributor) for the payment to the Provider of:
  - a. all the Fees, as amended from time to time in accordance with this Agreement; and



- b. all other sums due to the Provider under this Agreement that such Resident is liable to pay to the Provider at any time and all other sums due to the Provider under this Agreement that any such Third Party Contributor is liable to pay to the Provider at any time,

and that I will pay such sums to the Provider on demand by the Provider if they are overdue for payment by such Resident or such Third Party Contributor.

2. I agree that my obligations under this Agreement are not to be released by:
  - a. any delay by the Provider in enforcing the payment of the Fees or any other terms of this Agreement or any time allowed by the Provider for their payment; or
  - b. any legal limitation, immunity, disability, incapacity or other circumstances relating to the Resident, whether or not known to me; or
  - c. any variation of the terms of this Agreement; or
  - d. anything else which would have released me from my obligations under this Agreement whether by the variation of this Agreement or by the conduct of the parties.
3. I also agree that the Contact After Death will have authority on behalf of the Resident's estate, any Third Party Contributor and me as Guarantor in accordance with **clause 6** of the attached Terms and Conditions:
  - a. to request and make agreements with the Provider in relation to extending the number of days that are to be paid for that I will be guaranteeing and so may need to pay after the Resident's death to allow more time than 10 days for the Resident's personal possessions to be collected from the Home; and
  - b. if the Resident's personal possessions are not collected from the Home within the required time, to receive notifications from the Provider about:
    - (i) any removal, packing, off-site storage, insurance and cancellation costs that I will be guaranteeing and so may need to pay; and
    - (ii) any arrangements for sale or disposal of such personal possessions by the Provider.

Executed and delivered as a Deed by the Guarantor named in this Agreement on the date stated below in the presence of a witness.

Signed as a Deed by Guarantor:

Date: \_\_\_\_\_

Name of Guarantor:

\_\_\_\_\_

\_\_\_\_\_

Signature of Witness:

Name of Witness:

\_\_\_\_\_

\_\_\_\_\_

Address of Witness:

\_\_\_\_\_

## TERMS AND CONDITIONS

### 1. Definitions and Interpretation

- 1.1 References to clauses and schedules are references to clauses and schedules of this Agreement. The Schedules to this Agreement form part of this Agreement and shall be interpreted accordingly.
- 1.2 References to the Resident include his or her personal representatives following death.
- 1.3 Where two people are party to this Agreement as Resident, then obligations in this Agreement may be enforced against them jointly or against each of them individually.
- 1.4 In this Agreement, any words following the terms "**including**", "**include**", "**in particular**", "**for example**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders.
- 1.6 For the avoidance of doubt, references in this Agreement to the Resident's "personal possessions" include references to the Resident's furniture and the Resident's car or other vehicle (if any).
- 1.7 The following definitions apply in this Agreement.

<b>Actual Move In Date</b>	The date on which the Resident takes Occupation of the Suite
<b>Additional Fees</b>	The fees payable by the Payer to the Provider for the provision of Additional Services as varied from time to time
<b>Additional Services</b>	The provision of additional non-care services for the Resident (excluding the services covered by the Weekly Residence Fee) agreed between the Provider and the Resident, for example room service and guest meals
<b>Care Agreement</b>	A separate agreement for the provision of care to the Resident by the Provider and entered into by the parties to this Agreement, as amended from time to

time

**Common Areas**

All areas, ways, fixtures, facilities and amenities designated by the Provider from time to time for the common use and enjoyment of the residents or visitors at the Community, including stairs, lifts landings, entrance halls, communal gardens and parking areas

**Community**

The whole of the property including the building and grounds at the Home's Address

**Contact After Death**

The person identified as the Contact After Death for the Resident in this Agreement or such other person as from time to time is notified to the Provider, by or on behalf of the Resident, as being the Contact After Death

**Dementia Care Package Fee**

Has the meaning in the Care Agreement

**Fees**

The Weekly Residence Fee & the Additional Fees

**Home**

The Home identified in the Agreement Particulars

**Home's Address**

The address of the Home stated in the Agreement Particulars

**Month**

A calendar month

**Occupation**

The Resident is deemed to be in Occupation from the date upon which the Provider unconditionally releases the keys to the Resident

**Occupation Period**

The period from the Actual Move In Date up to and including the date this Agreement ends in accordance with the terms of this Agreement

**Payer**

- (a) the Resident where the Resident is paying all Fees due under this Agreement;
- (b) the Third Party Contributor where such Third Party Contributor has agreed to pay all the Fees due under this Agreement; and
- (c) the Resident and the Third Party Contributor where such Third Party Contributor has agreed to pay part of the Fees due under this Agreement and the Resident is to pay the rest of the Fees

due under this Agreement

<b>Planned Move In Date</b>	The Planned Move In Date stated in the Agreement Particulars
<b>Provider</b>	The Provider identified in the Agreement Particulars
<b>Regulations</b>	Any regulations set out in <b>Schedule 2</b> , as amended by the Provider from time to time
<b>Relevant Payer(s)</b>	(a) (To the extent the Resident is the Payer under this Agreement) the Resident's estate; and  (b) (To the extent any Third Party Contributor is the Payer under this Agreement) the Third Party Contributor.
<b>Reservation Deposit</b>	The Reservation Deposit identified in the Agreement Particulars
<b>Residence Services</b>	The services set out in <b>Schedule 1</b> as amended from time to time in accordance with this Agreement
<b>Resident</b>	The Resident identified in the Agreement Particulars
<b>Resident Representatives</b>	Has the meaning in <b>clause 14.2.4</b>
<b>Services</b>	The Residence Services and the Additional Services, in each case as amended from time to time in accordance with this Agreement
<b>Suite</b>	The suite at the Home identified in the Agreement Particulars or such other suite at the Home as is allocated to the Resident from time to time under the terms of this Agreement
<b>Third Party Contributor</b>	The Third Party Contributor identified in the Agreement Particulars
<b>Trial Period</b>	28 calendar days from and including the Actual Move In Date.
<b>Weekly Residence Fee</b>	The Weekly Residence Fee stated in the Agreement Particulars as varied in accordance with <b>clauses 2.2, 5.5</b> and/or <b>5.7</b> from time to time

2. **LICENCE OF SUITE**

- 2.1 In exchange for the Weekly Residence Fee, the Provider grants the Resident the right to use the Suite and to receive the Services agreed from time to time to be provided by the Provider to the Resident at the Home during the Occupation Period.
- 2.2 Without limiting the Provider's rights under **clauses 2.4.4, 5.5 and 5.7** the Resident's Suite can be changed at any time by an agreement in writing by the Provider and the Resident which identifies the change in Suite and any consequential change to the Weekly Residence Fee.
- 2.3 The Provider reserves the right for its own benefit to build on, alter, repair, maintain add to or develop any other part of the Community and to erect scaffolding outside the Suite.
- 2.4 The Resident acknowledges and agrees that:
- 2.4.1 The Resident shall occupy the Suite as a licensee and that no relationship of landlord and tenant is created between the Provider and the Resident;
- 2.4.2 The Provider retains control, possession and management of the Suite and the Resident has no right to exclude the Provider from the Suite;
- 2.4.3 The fact that the Resident chooses not to use the Services shall not change the Resident's status as a licensee;
- 2.4.4 Without prejudice to the Provider's rights under **clause 14**, following (where practicable) consultation with the Resident, the Provider may, if reasonable in the circumstances require, after giving the Resident written notice (which, where practicable, will be of not less than 28 days) move the Resident to a different suite at the Home and the Resident shall comply with such requirement. Where the Provider has required a change of suite under this **clause 2.4.4**, the Provider will not increase the Weekly Residence Fee as a result of the change of suite pursuant to this **clause 2.4.4**;
- 2.4.5 The provision of the Residence Services is not a separate arrangement from the provision of the Suite and Weekly Residence Fees will still be invoiced by, and payable to, the Provider in full for Residence Services without any refund if the Resident chooses not to use or receive some or all of them; and
- 2.4.6 The licence in respect of the Suite granted under this Agreement and the Resident's other rights under this Agreement are personal to the Resident and are not capable of being assigned to any other person.

- 2.5 The Resident shall not damage or deface the Suite or any other property of the Provider and shall make good or (if the Provider so requires) pay to the Provider the reasonable cost of making good any damage to, or defacing of, the Suite or the Provider's fixtures and fittings or any Common Areas or other parts of the Home which was caused by the Resident or any of the Resident's visitors, although fair wear and tear is excepted.

**3. RESIDENCE SERVICES AND ADDITIONAL SERVICES**

- 3.1 In exchange for the Weekly Residence Fee, the Provider will provide to the Resident the Residence Services (as varied from time to time in accordance with this Agreement) throughout the Occupation Period.
- 3.2 In exchange for the Additional Fees, the Provider will provide to the Resident the Additional Services agreed from time to time by the Resident and the Provider.
- 3.3 The Provider may add to, end the provision of, extend or make any alteration in the provision of Residence Services or the Additional Services if the Provider reasonably considers that it is beneficial to do so for the better enjoyment of the Residence Services or the Additional Services or the better management of the Community, the Common Areas or any other part of the Home. Where practicable, the Provider will give the Resident prior notice of any material changes to the Residence Services or the Additional Services and also, where practicable, the Provider will consult with the Resident prior to making any material changes to the Residence Services or the Additional Services.
- 3.4 After receiving notification of a change under **clause 3.3**, the Resident will have 28 days in which to terminate this Agreement by giving 28 days' written notice to the Provider and if the Resident gives such notice of termination and leaves the Home at the end of the period of such notice of termination, the relevant change notified under **clause 3.3** will not come into effect.

**4. CARE SERVICES**

- 4.1 It is a requirement of this Agreement that the parties to it have also entered into a Care Agreement.

**5. THE FEES AND OTHER PAYMENTS**

Reservation Deposit

- 5.1 The Reservation Deposit paid to the Provider will be used as follows:
- 5.1.1 After the Resident takes Occupation, the Reservation Deposit will be used by the Provider to pay an amount equal to the Reservation Deposit of the Weekly Residence Fees invoiced from the Actual Move in Date. The Payer shall pay the remaining balance of the invoiced amount for

any invoice period that the Reservation Deposit has been used to pay partially; and

5.1.2 If the Resident does not take Occupation on or before the Planned Move In Date, then this Agreement may be terminated:

- (a) by the Resident giving at any time written notice of termination to the Provider taking effect immediately; or
- (b) by the Provider giving written notice of termination to the Resident taking effect immediately if the Resident has still not taken Occupation at the end of 28 days after the Planned Move In Date,

and following any such termination of this Agreement, the Provider will refund the Reservation Deposit to the Payer who paid it within 28 days after such termination.

5.2 Please see **clauses 19.2** and **20** in the case of any complaint or dispute about the use or refunding of the Reservation Deposit.

Payment timing and method

5.3 From the Actual Move In Date, the Payer shall pay to the Provider the Weekly Residence Fees and Additional Fees by (unless another payment method is agreed with the Home Manager) direct debit payment, which shall be made on or around the 4<sup>th</sup> day of each Month. The first invoice would usually be for the period to the next month end billing date.

5.4 Each Month's Weekly Residence Fees shall be in respect of the Month after which the invoice is issued and Additional Fees shall be invoiced in arrears.

Standard annual increases to Fees

5.5 In addition to any Fee increases under **clause 2.2** and any non-annual Fee increases under **clause 5.7**, the Provider shall have the right, after giving to the Resident not less than 28 days' notice of its intention to do so, to review and increase the Weekly Residence Fee with effect on 1st of January in every year by 5% of the previous year's Weekly Residence Fee.

Separately, under and as described in the Care Agreement for the Resident, the Provider shall have the right, after giving to the Resident not less than 28 days' notice of its intention to do so, to review and increase the weekly Dementia Care Package Fee applicable to the Resident under that Care Agreement with effect on 1st of January in every year by a weekly amount that depends on which Dementia Care Package Band applies to the Resident under that Care Agreement from time to time as set out in the following table:



<b>Dementia Care Package Band</b>	<b>Fee increase each year on top of the previous year's weekly Dementia Care Package Fee</b>
Band A	£35 per week
Band B	£45 per week
Band C	£55 per week

Examples of standard annual Fee increases (using hypothetical initial fees)

As examples of the annual fee increases of the kinds described in **clause 5.5** above (but using hypothetical initial fees):

- (a) if the Weekly Residence Fee at the Resident's Actual Move In Date is £1,000 per week, as from the next 1st January the new Weekly Residence Fee will be £1,050 per week. This would mean an increase of approximately £2,600 for that year; and
- (b) if at the Resident's Actual Move In Date:
  - (A) the Resident is to receive care under Dementia Care Package Band A and the initial Dementia Care Package Fee is £665 per week, as from the next 1st January the new Dementia Care Package Fee for care under Dementia Care Package Band A will be £700 per week. This would mean an increase of approximately £1,820 for that year;
  - (B) the Resident is to receive care under Dementia Care Package Band B and the initial Dementia Care Package Fee is £855 per week, as from the next 1st January the new Dementia Care Package Fee for care under Dementia Care Package Band B will be £900 per week. This would mean an increase of approximately £2,340 for that year;
  - (C) the Resident is to receive care under Dementia Care Package Band C and the initial Dementia Care Package Fee is £1,045 per week, as from the next 1st January the new Dementia Care Package Fee for care under Dementia Care Package Band C will be £1,100 per week. This would mean an increase of approximately £2,860 for that year.

Further increases would apply in subsequent years calculated in accordance with **clause 5.5** for this Agreement and in accordance with the separate annual increase provision in the Care Agreement for the Resident.

**(Notes: (1))** Please note that the examples above are for illustration only and the amounts used in them are not intended to reflect the actual Weekly Residence Fees or Dementia Care Package Fees payable by the Resident or other Payer or

the annual increases to those actual fees. The actual Weekly Residence Fees payable by the Resident or other Payer, and consequently annual 5% increases to those actual fee amounts, are likely to be different. Similarly, the actual Dementia Care Package Fees payable by the Resident or other Payer, and consequently annual amounts of increases to those actual fee amounts using the table above, are likely to be different.

**(2)** If the Resident or any other Payer would like to have examples using the actual Weekly Residence Fees payable under this Agreement and the actual Dementia Care Package Fees payable under the Care Agreement for the Resident, then please contact the Home Manager.)

Termination after notification of standard annual Fee increases

- 5.6 During the period of any notification of a change in Weekly Residence Fees given under **clause 5.5**, the Resident will be entitled to terminate this Agreement by giving 28 days' written notice to the Provider and if the Resident gives such notice of termination and leaves the Home at the end of the period of such notice of termination, the relevant change in Fees under **clause 5.5** will not come into effect.

Non-annual Fee increases because of major changes in legislation or sector regulations during any year

- 5.7 In addition to any Fee increases under **clause 2.2** and the standard annual Fee increases under **clause 5.5**, if at any time any major changes in legislation or sector regulations (for example, where the care home sector regulator imposes new minimum staffing requirements for the provision of specific types of care) and any of those changes directly results in a significant and demonstrable increase in the Provider's costs of providing the Suite or services to the Resident under this Agreement, then to the extent that those cost increases are not already covered by the standard annual increase under **clause 5.5**, the Provider shall have the right, after giving to the Resident not less than 90 days' notice of its intention to do so, to review and increase the Weekly Residence Fee with effect at the end of such notice period.

Separately, under and as described in the Care Agreement for the Resident, the Provider shall have the right, after giving to the Resident not less than 90 days' notice of its intention to do so, to review and increase the weekly Dementia Care Package Fee applicable to the Resident under that Care Agreement with effect at the end of such notice period for equivalent reasons as those described above in this **clause 5.7**.

Termination after notification of non-annual Fee increases during any year

- 5.8 During the period of any notification of a change in Weekly Residence Fees given

under **clause 5.7**, the Resident will be entitled to terminate this Agreement by giving 28 days' written notice to the Provider and if the Resident gives such notice of termination and leaves the Home at the end of the period of such notice of termination, the relevant change in Fees under **clause 5.7** will not come into effect.

Alteration of Additional Fees and availability of details of Additional Fees

- 5.9 The Provider has the right from time to time to amend the Additional Fees as is reasonable in all the circumstances and will publish the changes at the Home.
- 5.10 The Additional Fees will be published from time to time by the Provider and will be available on request from the Home's reception.

Interest for late payment

- 5.11 If the Payer does not pay all the Fees or other sums payable to the Provider under this Agreement within 14 days of the date on which they should have been paid, the Payer shall pay to the Provider on written demand interest on the amount not paid at the base rate from time to time of Barclays Bank plus four percent calculated from the date on which payment should have been made to the date of actual payment, both dates inclusive.

Fees during absence from the Home

- 5.12 The Resident shall inform the Home Manager in writing in advance if the Resident expects to be absent from the Suite for a period exceeding 14 days.
- 5.13 During any time when the Resident is absent from the Suite and the Home, the Provider will continue charging, and the Payer shall continue paying, the Weekly Residence Fee for the entire period of such absence.

Local Authority Funding

- 5.14 If at any time the Resident's Local Authority has agreed to fund the Resident's residence in the Home but the Local Authority is proposing at any time to pay less than:

5.14.1 the Weekly Residence Fee for the Suite (and other items covered by the Weekly Residence Fee) that the Resident is occupying, or is going to occupy; plus

5.14.2 the Dementia Care Package Fee under the Care Agreement,

the Resident must ensure that a Third Party Contributor, or (where lawful) the Resident, enters into an agreement with the Local Authority to pay the difference as a third party top-up contribution (a "**Third Party Top-Up Contribution**").

- 5.15 If the Resident or any Third Party Contributor requires any assistance with arrangements relating to Third Party Top-Up Contributions, the Provider strongly advises the Resident and any Third Party Contributor to discuss with the Resident's allocated Local Authority Social Worker/Care Manager.

NHS Continuing Health Care

- 5.16 If:
- 5.16.1 on or following admission to the Home the Resident is assessed as eligible for NHS 'Continuing Health Care' ("**CHC**") funding from a Clinical Commissioning Group ("**CCG**") (or other NHS body) for care to be provided by the Provider; and
  - 5.16.2 in addition to such CCG (or other NHS body) agreeing to pay the Provider for such care (and to which the Care Agreement relates), such CCG (or other NHS body) agrees to pay for the accommodation of the Resident at the Home and in the Suite in amounts equal to the Weekly Residence Fees (as amended from time to time) ("**CHC Accommodation Funding**"); and
  - 5.16.3 the Resident agrees to accept that the weekly fees for accommodation of the Resident at the Home and in the Suite will be funded by the CCG (or other NHS body) paying the CHC Accommodation Funding to the Provider; and
  - 5.16.4 the Provider agrees with such CCG (or other NHS body) that the weekly fees for accommodation of the Resident at the Home and in the Suite will be funded by the CCG (or other NHS body) paying the CHC Accommodation Funding to the Provider,
- then for so long as such CCG (or other NHS body) pays such CHC Accommodation Funding to the Provider:
- 5.16.5 the only Residence Services that the Provider provides to the Resident shall be those that the Provider has agreed with such CCG (or other NHS body) as part of the accommodation to be funded by the CHC Accommodation Funding (the "**Agreed Residence Services**") except that the Provider shall also provide Additional Services agreed between the Resident and the Provider that do not fall within the services that are identified as the Agreed Residence Services; and
  - 5.16.6 the Payer shall not be required to pay the Weekly Residence Fees but shall be required to pay the Additional Fees for any Additional Services agreed between the Resident and the Provider that do not fall within the services that are identified as the Agreed Residence Services.

Cessation of Local Authority or CHC funding

- 5.17 If at any time before the Resident's death Local Authority or CHC Accommodation Funding for the Resident ceases (whether for past or future residence at the Home), the Payer will be liable for the entirety of the Fees, except for amounts that the Local Authority or CHC Accommodation Funding has paid.

Trial Period Fees and termination

- 5.18 During the Trial Period, Fees will accrue on a daily basis. In the event that the Resident wishes to terminate this Agreement during the Trial Period, the Resident may do so by giving written notice which shall have immediate effect. Following termination and the Resident leaving the Suite and the Home during the Trial Period, any balance of the Weekly Residence Fee relating, on a daily pro rata basis, to a period after the date the Resident leaves the Suite and the Home will be repaid by the Provider to the Payer.

Charges for telephone, satellite TV and other telecommunications services

- 5.19 The Resident may use the internal telephone system provided to the Suite subject to payment to the Provider in respect of all outgoing calls which shall be charged at the rate for outgoing calls published or made available from time to time in accordance with **clause 5.10** by the Provider.
- 5.20 The Payer shall pay direct to the relevant supplier all costs, charges and related taxes in respect of external telephone, satellite TV and other telecommunication services (including broadband) provided to the Suite which are in addition to the internal telephone system.

**6. ARRANGEMENTS ON DEATH**

Fees after death and removal of possessions after death

- 6.1 In the event of death of the Resident:
- 6.1.1 it is the Resident's estate's responsibility to ensure that all the Resident's personal possessions are collected from the Home within 10 days after the date of the Resident's death (unless a longer period is agreed as referred to in **clause 6.1.4**);
- 6.1.2 as soon as possible after death of the Resident, the Provider shall notify the Contact After Death (which notification may be, but need not be, by email) of the Resident's estate's responsibility to collect the Resident's personal possessions in accordance with this **clause 6.1**; and
- 6.1.3 the Provider will charge, and the Relevant Payer(s) shall pay, the daily proportion of the Weekly Residence Fees until the Resident's estate,

family or other representatives collect the Resident's personal possessions from the Suite the Resident occupied, but subject to a limit of no more than 10 days after the date of the Resident's death being charged and paid for (unless a longer period is agreed and has to be paid for as referred to in **clause 6.1.4**);

6.1.4 however, the Contact After Death may request in writing (which request may be, but need not be, by email) to the Provider that a longer number of days for the collection of the Resident's personal possessions from the Home is allowed. Following such a request the Contact After Death (who will be deemed to be acting on behalf of the Resident's estate, any Third Party Contributor and any Guarantor) and the Provider (who shall not unreasonably withhold its agreement to such an extension) may mutually agree in writing (which agreement may be, but need not be, by email):

- (a) an additional number of days for the collection of the Resident's personal possessions from the Home; and
- (b) an equal additional number of days-worth of Weekly Residence Fees to be charged by, and payable by the Relevant Payer(s) to, the Provider to cover such additional number of days for collection,

and if such an agreement is made, then:

- (c) for the agreed additional number of days or until such earlier time as the Resident's estate, family or other representatives collect the Resident's personal possessions from the Suite the Resident occupied, the Provider will charge, and the Relevant Payer(s) shall pay, the daily proportion of the Weekly Residence Fees; and
- (d) the Provider shall allow such agreed additional number of days for collection of the Resident's personal possessions from the Home;

6.1.5 no Weekly Residence Fees shall be charged for days after the relevant period(s) under **clause 6.1.3** and (if applicable) **clause 6.1.4(c)** applicable to the Resident. However, please see **clauses 6.4 and 6.5** for details about third party packing, removal, off-site storage and insurance costs that may be charged if the Resident's estate, family or other representatives do not collect the Resident's personal possessions within the time period(s) required by **clause 6.1.1** and (if applicable) **clause 6.1.4(d)**; and

6.1.6 where the Weekly Residence Fees for the Resident are being paid wholly

or partly by a Local Authority (see **clause 5.14**), Weekly Residence Fees (including any Third Party Top-Up Contribution) will only be charged for as long as the period of Local Authority payment following the Resident's death, and any Third Party Top-Up Contribution obligation on the Resident or the Third Party Contributor is likely to be governed by, and subject to, an agreement between such Local Authority and the Resident or the Third Party Contributor.

6.2 There shall be a refund of any advance payment of Weekly Residence Fees to the extent it covered a period after:

6.2.1 the relevant period under **clause 6.1.3**; or (as the case may be)

6.2.2 the relevant period under **clause 6.1.4(c)**,

except to the extent that there are sums due to the Provider from the Resident or other Payer. Any such refund payable will be paid to the Relevant Payer(s) within 28 days after the later of:

6.2.3 the last day of the relevant period under **clause 6.1.3** or (as the case may be) **clause 6.1.4(c)**; and

6.2.4 the day when the Provider has been given the necessary information about where to send the refund to.

Notification after failure to collect possessions within the required period

6.3 If:

6.3.1 the Resident's estate, family or other representatives do not collect all the Resident's personal possessions from the Home at least 3 days before the end of the time period required by **clause 6.1.1** or (as the case may be) **clause 6.1.4(d)**; and

6.3.2 the Provider wishes to prepare the Suite the Resident occupied for a new resident to occupy it or for marketing it to potential new residents,

then the Provider shall have the right to notify (which notification may be, but need not be, by email) the Contact After Death (who will be deemed to be acting on behalf of the Resident's Estate and any Third Party Contributor) that:

6.3.3 if the Resident's estate, family or other representatives do not collect all the Resident's personal possessions from the Home at or before the end of the time period required by **clause 6.1.1** or (as the case may be) **clause 6.1.4(d)**,

then in respect of the Resident's personal possessions that have not been

collected:

- 6.3.4 the Provider may exercise its rights to have them removed, packed, stored off site and insured under **clause 6.4**; and
- 6.3.5 the Provider may charge the Relevant Payer(s) for:
- (a) the packing, removal, off-site storage and insurance costs it incurs (and such notification shall set out the calculation of such costs so that the Contact After Death can see the daily cost payable and any one off costs payable); and
  - (b) any cancellation charge that the Provider incurs because, after the end of the time period for collection required by **clause 6.1.1** or (as the case may be) **clause 6.1.4(d)**, the Provider makes arrangements with a third party supplier for the packing, removal, off-site storage and insurance of the Resident's uncollected personal possessions, but they are then collected late by the Resident's estate, family or other representatives, so the third party supplier has to be cancelled (and such notification shall set out the calculation of such potential cancellation charges so that the Contact After Death can see it); and
- 6.3.6 the Provider may exercise its rights to dispose of them under **clause 6.6**.

Storage of possessions after failure to collect them within the required period notified

- 6.4 If:
- 6.4.1 the Resident's estate, family or other representatives do not collect all the Resident's personal possessions from the Home at or before the end of the time period required by **clause 6.1.1** or (as the case may be) **clause 6.1.4(d)**; and
  - 6.4.2 the Provider wishes to prepare the Suite the Resident occupied for a new resident to occupy it or for marketing it to potential new residents,
- then:
- 6.4.3 the Provider will have the right, but not the obligation, to make arrangements for clearance of that Suite and for the Resident's personal possessions that have not been collected, to be packed up, removed, stored off site and insured until either they are collected or, in accordance with **clause 6.6**, they are sold or otherwise disposed of,



and, if the Provider exercises its rights under **clause 6.4.3**, then:

6.4.4 the Provider shall be entitled to charge the Relevant Payer(s) for, and the Relevant Payer(s) shall pay to the Provider, any packing, removal, off-site storage, insurance costs or cancellation costs incurred by the Provider, as described in **clause 6.3.5**,

(except in the rare cases when the Resident's personal possessions only consist of a limited volume of clothes (which may only apply in the case of Residents who are at the Home for short "respite" periods) and the Home has space to store such limited volume of clothes at the Home, which it would do free of charge).

Charges for costs of removal, off-site storage and insurance of possessions

6.5 If, in accordance with **clause 6.4.3**, the Provider makes arrangements for packing, removal, off-site storage and insurance of the Resident's personal possessions, then the Provider shall have the right to charge the Relevant Payer(s) for costs equal to what the Provider is charged by third parties for:

6.5.1 packing, removal, off-site storage and insurance of the Resident's personal possessions that have not been collected until either:

(a) they are collected by the Resident's estate, family or other representatives; or

(b) in accordance with **clause 6.6**, they are sold or otherwise disposed of; and

6.5.2 any cancellation charges that the Provider incurs as described in **clause 6.3.5(b)**,

and the Relevant Payer(s) shall pay such packing, removal, off-site storage, insurance and cancellation charges to the Provider.

Disposal of possessions after failure to collect them within the required period

6.6 If the Resident's estate, family or other representatives do not collect all the Resident's personal possessions within the period of 28 days after the end of the time period for collection under **clause 6.1.1** or (as the case may be) **clause 6.1.4(d)**, then the Provider shall have the right to notify the Contact After Death (which notification may be, but need not be, by email) that:

6.6.1 if the Resident's estate, family or other representatives do not collect all the Resident's personal possessions within the period of 7 days after this further notification,

then the Provider will have the right, but not the obligation:

- 6.6.2 to sell, as agent for the Resident's estate, any of the Resident's personal possessions that have not been collected by the Resident's estate, family or other representatives, where the Provider is reasonably likely to obtain payment of a reasonable price from the sale of such personal possessions that would be reasonably likely to exceed the Provider's reasonable expenses of arranging their sale; and
  - 6.6.3 to dispose of any of the Resident's personal possessions that have not been collected by the Resident's estate, family or other representatives, without receiving any payment for them, where the Provider is not reasonably likely to obtain payment of a reasonable price from selling such personal possessions that would be reasonably likely to exceed the Provider's reasonable expenses of arranging their sale.
- 6.7 If the Provider does sell any of the Resident's personal possessions in accordance with **clause 6.6.2**, then within 30 days after such sale, the Provider shall pay to the Resident's estate the price received from such sale LESS:
- 6.7.1 the Provider's reasonable expenses of carrying out such sale and the Provider shall be entitled to keep the sum deducted for its reasonable expenses; and
  - 6.7.2 any sums due to the Provider from the Resident or other Payer.
7. **REGULATIONS**
- 7.1 The Resident shall comply with the Regulations and any other regulations which have been notified in writing, giving at least 28 days' notice, to the Resident by the Provider.
  - 7.2 After receiving notification of a change in the Regulations under **clause 7.1**, the Resident will have 28 days in which to terminate this Agreement by giving 28 days' written notice to the Provider and if the Resident gives such notice of termination and leaves the Home at the end of the period of such notice of termination, the relevant change in the Regulations will not come into effect in respect of the Resident.
  - 7.3 It is strongly recommended that the Resident should read and consider any amendment to the Regulations carefully and if the Resident is in doubt as to the amendment's meaning or effect the Resident should take advice from a solicitor, Citizens Advice Bureau or Housing Advice Centre as to its meaning or effect because non-compliance with the Regulations may allow the Provider to terminate this Agreement.
  - 7.4 A copy of the current Regulations is set out in **Schedule 2**.

## 8. VISITOR BEHAVIOUR

### 8.1 Where any of the Resident's visitors:

- 8.1.1 has abused or physically assaulted or threatened to assault any of the Home's residents, staff or other visitors; or
- 8.1.2 poses a real and significant danger to any of the Home's residents, staff or other visitors; or
- 8.1.3 has engaged in repetitive material misconduct or repetitive material adverse behaviour at the Home,

then, unless **clause 8.2** applies and is being used, the Provider may conduct a reasonable risk assessment and reasonable consultation with the individuals concerned (including the Resident and the Resident's relevant visitor whose behaviour is a concern). If after such reasonable risk assessment and reasonable consultation the Provider continues to have concerns about the Resident's relevant visitor having access to the Home, the Provider shall have the right to ban the Resident's relevant visitor from the Home or otherwise restrict such visitor's access to the Home. Any such restriction or ban will be kept under regular review by the Provider.

8.2 Where any of the Resident's visitors poses a significant risk of very serious harm to any of the Home's residents, staff or other visitors, or there are other extreme circumstances related to any of the Resident's visitors, then the Provider shall have the right to ban the Resident's relevant visitor from the Home, with such ban to take effect immediately and the Provider shall not need to carry out the risk assessment and consultation processes under **clause 8.1**. Any such ban will be kept under regular review by the Provider.

8.3 If the Resident or the Resident's relevant visitor wishes to appeal or otherwise dispute the Provider's decision to ban such visitor from the Home or otherwise restrict such visitor's access to the Home, then the Resident or such visitor can use the complaints procedures identified in **clause 19** or the alternative dispute procedure described in **clause 20**.

## 9. ELECTRICAL ITEMS AND FURNITURE

9.1 Electrical items must not be brought into the Home without being approved by the Provider in advance or (in the case of electrical items brought into the Home on admission of the Resident to the Home) either in advance of admission or within 7 days after admission. The Provider shall have the right to assess compliance of electrical items with relevant safety standards at any time and remove any non-compliant items; off-site storage or disposal of any such items will be discussed with the Resident.

9.2 Any items of furniture brought into the Home must comply with all relevant safety standards (for example, soft furnishings must be inherently fire retardant).

9.3 The Provider shall have the right to remove from the Resident any item of furniture which the Provider believes does not satisfy relevant safety standards or is a danger to the Resident or others in the Home; storage or disposal of any such items will be discussed with the Resident.

## 10. **INSURANCE**

10.1 The Resident shall not breach any requirements of the insurers in respect of the occupation of the Home's building that have been notified by the Provider to the Resident.

10.2 The Provider is not responsible for the insurance of the Resident's personal possessions; therefore, the Provider strongly recommends that the Resident should arrange his or her own insurance cover for them.

## 11. **PERSONAL FINANCES AND POSSESSIONS**

11.1 The Resident shall be responsible for the safe keeping of the Resident's cash, credit cards, cheques, certificates, bonds, deeds, documents, valuables or other personal possessions in the Suite and around the Home. The Provider shall not be responsible in any way for the Resident's cash, credit cards, cheques, certificates, bonds, deeds, documents, valuables or other personal possessions, except in the case of negligence or fraud or breach of this Agreement by the Provider or any of its agents or staff. This does not affect the Resident's statutory rights.

11.2 The Provider, its agents and staff will not advise the Resident in relation to the Resident's personal finances and accordingly the Provider does not accept responsibility for the Resident's personal finances.

11.3 The Provider shall have the right to remove from the Resident any personal possessions which the Provider believes does not satisfy relevant safety standards or is a danger to the Resident or others in the Home; storage or disposal of any such items will be discussed with the Resident.

## 12. **PARKING FACILITIES**

12.1 The parking facilities at the Home are not made available for, and must not be used for, the Resident to park a car or any other vehicle.

12.2 The parking facilities at the Home are not made available for, and must not be used for, family members or other visitors of the Resident to park their cars, or any other vehicle, otherwise than when they are actually visiting the Resident.

13. **LIABILITY**

- 13.1 Subject to **clause 13.7**, the Provider will not be liable to the Resident in respect of any loss or damage caused by any failure, interruption or delay in the provision of the Services arising either from any cause or circumstance beyond the reasonable control of the Provider including mechanical breakdown, failure, malfunction, shortages of fuel or materials or labour disputes or from any necessary maintenance, repair, replacement, renewal, servicing, inspection or testing of the systems used to provide the Services.
- 13.2 The Provider will use reasonable endeavours to minimise the period of failure interruption or delay in the provision of the Services where the reason for the failure interruption or delay is beyond its reasonable control.
- 13.3 The Provider shall provide the Services with reasonable skill and care, including the appointment of such service suppliers as it reasonably considers competent to perform the Services.
- 13.4 Subject to **clause 13.7**, the liability of the Provider to the Resident in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever under or in connection with this Agreement shall be limited to £5,000,000 in the aggregate or such greater sum as the Provider may notify the Resident from time to time
- 13.5 If the Provider fails to comply with this Agreement, the Provider is responsible for loss or damage the Resident suffers that is a foreseeable result of the Provider breaking this Agreement or the Provider failing to use reasonable care and skill but, subject to **clause 13.7**, the Provider is not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time this Agreement was made, both the Provider and the Resident knew it might happen, for example, if the Resident discussed it with the Provider before this Agreement was entered into.
- 13.6 Subject to **clause 13.7**, the Provider will have no liability to the Resident for any claim relating directly to any failure to provide the Services unless the Resident gives the Provider written notice of the claim promptly and in any event within 12 months after the Resident becomes aware (or should reasonably have become aware) of the circumstances giving rise to the claim and gives the Provider such period as is reasonable in the circumstances, but at least 28 days (or such longer period as is agreed between the Provider and the Resident), following such notification in which to remedy the Services concerned.
- 13.7 Nothing in this Agreement will operate to exclude or restrict the Provider's liability (if any) for:
- 13.7.1 death or personal injury resulting from negligence by the Provider or by

the Provider's agents or staff; or

13.7.2 any breach of the obligations implied by section 17 of the Consumer Rights Act 2015 (*Trader to have right to supply the goods etc*); or

13.7.3 any breach of the obligations implied by section 49 of the Consumer Rights Act 2015 (*Service to be performed with reasonable skill and care*); or

13.7.4 losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or

13.7.5 fraud or fraudulent misrepresentation; or

13.7.6 any other matter for which it would be illegal or unlawful to limit or exclude, or attempt to limit or exclude, the Provider's liability.

#### 14. **TERMINATION OF AGREEMENT**

##### Resident's rights to terminate a permanent stay after the Trial Period

14.1 The Resident shall have the right to terminate this Agreement at any time after the end of the Trial Period:

14.1.1 by giving at least 28 days' written notice of termination to the Provider without needing any reason; or

14.1.2 by giving at least 14 days' written notice of termination to the Provider after a material breach of this Agreement by the Provider has continued for at least 28 days after the Resident has notified the Provider in writing of the breach and required the Provider to remedy it.

(The Resident's right to terminate this Agreement during the Trial Period is in **clause 5.18.**)

##### Provider's right to terminate because of changes to the Resident's care needs

14.2 If at any time the Provider believes that because of the Resident's physical and/or mental healthcare needs:

14.2.1 the Resident needs to move to accommodation that can better meet the Resident's care needs even though the Provider has sought to make reasonable adjustments to try to meet those needs; or

14.2.2 the Resident needs extra care or supported accommodation that are not provided by the Provider by the provision alone of the Care Services under the Care Agreement that the Provider offers (and the Resident is able to receive); or

14.2.3 the Resident needs to go into hospital where the absence is not temporary and it is anticipated that the Resident is likely to be unable to return to the Home in the foreseeable future,

and as a result the Provider believes that this Agreement and the Resident's stay at the Home may need to end, the Provider will:

14.2.4 give to the Resident and (if the Resident has any) the Resident's representatives (including any statutory advocate acting for or assisting the Resident) ("**Resident Representatives**") disclosure, so far as is reasonably practicable, of the reasons why the Provider believes the Resident may need to leave the Home and this Agreement may need to be terminated (e.g. if the Provider is able to disclose them, advice in a doctor's report or serious incident reports); and

14.2.5 consult with the Resident, any Resident Representatives and other relevant independent parties (including relevant independent professionals (e.g. a multidisciplinary team, which may include the Resident's own doctor and consultant specialist) and, where applicable, the placing Local Authority or NHS body, the Resident's social care worker or occupational therapist) at an early stage in good time before a final decision is made so that they can be properly involved in the decision-making process.

14.3 After consultation as described in **clause 14.2.5**, if the Provider and the Resident or any Resident Representatives who have the power to decide for the Resident agree (and agreement by the Provider and the Resident or any such Resident Representatives must not be unreasonably withheld or delayed) that this Agreement should terminate because of the Resident's care needs or because it is not possible for the Resident to return from hospital, then the Provider shall have the right to terminate this Agreement by giving at least 28 days' written notice of termination to the Resident.

Provider's right to terminate because of the Resident's conduct or behaviour

14.4 The Provider shall have the right to terminate this Agreement at any time by giving at least 28 days' written notice of termination to the Resident:

14.4.1 if there is a significant risk of serious harm to the Provider's staff or other residents at the Home from the Resident's conduct or behaviour if the Resident remains in the Home; or

14.4.2 if there is a significant risk of serious harm to the Resident from the Resident's conduct or behaviour if the Resident remains in the Home; or

14.4.3 if there has been repetitive material misconduct or repetitive material

adverse behaviour by the Resident at the Home.

- 14.5 Before giving notice of termination under **clause 14.4**, the Provider will consult with the Resident, any Resident Representatives and other relevant independent parties (including relevant independent professionals (e.g. a multidisciplinary team, which may include the Resident's own doctor and consultant specialist) and, where applicable, the placing Local Authority or NHS body, the Resident's social care worker or occupational therapist) at an early stage in good time before a final decision is made so that they can be properly involved in the decision-making process and there is a reasonable opportunity to address the Resident's detrimental or behaviour.

Steps in extreme circumstances

- 14.6 In the event of extreme circumstances (for example, where the Resident is violent and poses a significant risk of serious physical harm to staff or other residents or if the Resident's health rapidly deteriorates) the Provider may need to take immediate action to safeguard residents and staff at the Home or the Resident. In these circumstances, the Provider may terminate this Agreement by giving written notice of termination to the Resident taking effect immediately if doing so is in accordance with advice received from the relevant Local Authority or any other relevant authority or professional adviser.

Provider's right to terminate because of non-payment of fees

- 14.7 In **clauses 14.7, 14.8 and 14.9**, "**Relevant Overdue Amount**" means an amount which exceeds the total of:

14.7.1 28 days' Weekly Residence Fees;

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14.7.2 28 days' Dementia Care Package Fees payable under the Care Agreement,

which is overdue for payment to the Provider by more than 28 days, where sums that comprise the Relevant Overdue Amount that is overdue for payment to the Provider may be all or any of the following:

14.7.3 Weekly Residence Fees or other sums payable under this Agreement; and/or

14.7.4 Dementia Care Package Fees or other sums payable under the Care Agreement; and/or

14.7.5 any other sums otherwise agreed for payment to the Provider in respect of you, for example amounts of public funding; and/or



- 14.7.6 any shortfall in payments to the Provider because no agreement for a “Third Party Top-Up Contribution” has been put in place as required by **clause 5.14** or any such agreement has not been complied with.
- 14.8 If at any time there is a Relevant Overdue Amount, the Provider shall have the right to give a notice to the Resident and any other Payer:
- 14.8.1 notifying the Resident and any other Payer that there is a Relevant Overdue Amount, the amount of it and who should have paid it; and
- 14.8.2 requesting that in the period of 14 days after the notice is given the Resident and any other Payer consult with the Provider about the reasons for non-payment and proposals from the Resident or any other Payer to pay the Relevant Overdue Amount to the Provider; and
- 14.8.3 notifying the Resident and any other Payer that if at the end of the period of 14 days referred to in **clause 14.8.2**, there remains a Relevant Overdue Amount and no other payment plan has been agreed with the Provider for paying such Relevant Overdue Amount to the Provider, the Provider shall have the right to terminate this Agreement by giving at least 28 days’ written notice of termination to the Resident.
- 14.9 If at the end of the period of 14 days referred to in **clause 14.8.2**:
- 14.9.1 there remains a Relevant Overdue Amount; and
- 14.9.2 no other payment plan has been agreed with the Provider for paying such Relevant Overdue Amount to the Provider,
- the Provider shall have the right to terminate this Agreement by giving at least 28 days’ written notice of termination to the Resident.
- Provider’s right to terminate because the Home is to close
- 14.10 If the Provider is proposing a planned closure of all or part of its business, including the Home:
- 14.10.1 the Provider will give the Resident and any Resident’s Representatives notice in writing that closure of the Home is proposed at least 90 days before the proposed closure date;
- 14.10.2 the Provider will consult about the proposed closure with the Resident and any Resident Representatives for at least 30 days before the proposed closure date; and
- 14.10.3 following the consultation, the Provider shall have the right to terminate this Agreement by giving at least 28 days’ written notice of

termination to the Resident.

14.11 In the event of an unplanned closure of all or part of the Provider's business, including the Home:

14.11.1 the Provider will give the Resident and any Resident's Representatives notice that closure of the Home is proposed as soon as the Provider is reasonably able to;

14.11.2 the Provider will consult about the proposed closure with the Resident and any Resident Representatives for as long as the Provider is reasonably able to; and

14.11.3 following the consultation, the Provider shall have the right to terminate this Agreement by giving written notice of termination to the Resident which shall have effect on whatever date is stated in such notice.

Provider's right to terminate because of ending of Care Agreement or agreement for public funding

14.12 The Provider shall have the right to terminate this Agreement by written notice to the Resident with immediate effect if the Resident ceases to receive care provided by the Provider under the Care Agreement or any agreement between the Provider and any Clinical Commissioning Group (CCG), Local Authority or other public body.

Parties' rights to terminate under other clauses of this Agreement

14.13 The rights to terminate this Agreement in this **clause 14** are in addition to and do not limit the parties' other rights to terminate this Agreement in **clauses 3.4, 5.1.2, 5.6, 5.8, 5.18** and **7.2**.

Assistance with obtaining alternative accommodation

14.14 In the case of any termination of this Agreement by the Provider or any proposal by the Provider to terminate this Agreement, the Provider will seek to provide the Resident and any Resident Representatives with support and assistance to help them find suitable alternative accommodation for the Resident (either temporary or permanent), including if appropriate contacting any relevant Clinical Commissioning Group (CCG), Local Authority or other public body.

Complaints about termination decisions and dispute resolution

14.15 If at any time the Resident or any Resident Representative wishes to appeal or otherwise dispute any decision by the Provider in connection with termination of this Agreement, or any proposal for such termination, then the Resident or any Resident Representative can use the complaints procedures identified in **clause**

**19** or the alternative disputes procedure described in **clause 20**.

**15. LEAVING THE HOME, FEES AND REFUNDS FOLLOWING TERMINATION**

**15.1** If this Agreement is terminated whether under any provision of this Agreement or otherwise:

**15.1.1** on or before the termination date:

- (a) the Resident must hand to the Provider all keys to the Suite and leave the Home; and
- (b) the Resident must ensure that the Suite is clean and tidy and in the condition required by this Agreement; and
- (c) the Resident must terminate all third party provider agreements and the Resident must take full responsibility for any final account settlements; and
- (d) all sums due to the Provider, whether under this Agreement, the Care Agreement or otherwise, which have not been paid must be paid to the Provider; and

**15.1.2** the Resident and any Third Party Contributor will be charged, and must pay, any costs arising because of the Resident's failure to leave the Home and Weekly Residence Fees for continuing to occupy the Suite; and

**15.1.3** in addition to the Weekly Residence Fees payable in respect of any termination notice period, if the Resident does not clear the Resident's Suite at or before the end of the termination notice period, the Payer will be charged Weekly Residence Fees for the Resident's Suite from the end of such notice period until the Suite is fully cleared:

- (a) by or on behalf of the Resident; or
- (b) as a result of the Provider exercising its rights under **clause 15.3**,

but then only for a maximum of 28 days after the end of such notice period (or such longer period as is agreed in writing between the Resident and the Home Manager); and

**15.1.4** all monies paid in advance which relate to the period after termination will be repaid to the Resident (or the Third Party Contributor to the extent the Third Party Contributor was the relevant Payer) after deduction of any monies properly owing to the Provider, whether under

this Agreement, the Care Agreement or otherwise; and

- 15.1.5 if the Resident or a Third Party Contributor has paid Weekly Residence Fees for a period in advance which extends beyond the date when the notice of termination expires, provided that the Resident has left the Home and the Resident's Suite is cleared, the Resident, or such Third Party Contributor (as the case may be), shall be entitled to a pro-rata refund for the period from when charging ceases (including any applicable period of charging under **clause 15.1.3**) until the end of the period paid for in advance less any sums otherwise due to the Provider, whether under this Agreement, the Care Agreement or otherwise.

Notification after failure to collect possessions within the required period

- 15.2 During the termination notice period or at any time after the termination notice period, the Provider shall have the right to notify (which notification(s) may be, but need not be, by email):

- 15.2.1 the Resident; and
- 15.2.2 any Third Party Contributor; and
- 15.2.3 any Guarantor,

that if:

- 15.2.4 all the Resident's personal possessions are not collected from the Home at or before the end of the termination notice period (or such later time as is agreed in writing between the Resident and the Home Manager); and
- 15.2.5 the Provider wishes to prepare the Suite the Resident occupied for a new resident to occupy it or for marketing it to potential new residents,

then in respect of the Resident's personal possessions that have not been collected:

- 15.2.6 the Provider may exercise its rights to have them removed, packed, stored off site and insured under **clause 15.3**; and
- 15.2.7 the Provider may charge the Payer for:
- (a) the packing, removal, off-site storage and insurance costs it incurs (and such notification shall set out the calculation of such costs so that the Payer and any Guarantor can see the daily cost payable and any one off costs payable); and

- (b) any cancellation charge that the Provider incurs because, after the end of the time period for collection referred to in **clause 15.2.4**, the Provider makes arrangements with a third party supplier for the packing, removal, off-site storage and insurance of the Resident's uncollected personal possessions, but they are then collected late by or on behalf of the Resident, so the third party supplier has to be cancelled (and such notification shall set out the calculation of such potential cancellation charges so that the Payer and any Guarantor can see it); and

15.2.8 the Provider may exercise its rights to dispose of them under **clause 15.5**.

Storage of possessions after failure to collect them within the required period notified

15.3 If:

15.3.1 the Resident's personal possessions are not all collected from the Home by or on behalf of the Resident at or before the end of the time period referred to in **clause 15.2.4**; and

15.3.2 the Provider wishes to prepare the Suite the Resident occupied for a new resident to occupy it or for marketing it to potential new residents,

then:

15.3.3 the Provider will have the right, but not the obligation, to make arrangements for clearance of that Suite and for the Resident's personal possessions that have not been collected, to be packed up, removed, stored off site and insured until either they are collected or, in accordance with **clause 15.5**, they are sold or otherwise disposed of,

and, if the Provider exercises its rights under **clause 15.3.3**, then:

15.3.4 the Provider shall be entitled to charge the Payer for, and the Payer shall pay to the Provider, any packing, removal, off-site storage, insurance costs or cancellation costs incurred by the Provider, as described in **clause 15.2.7**,

(except in the rare cases when the Resident's personal possessions only consist of a limited volume of clothes (which may only apply in the case of Residents who are at the Home for short "respite" periods) and the Home has space to store such limited volume of clothes at the Home, which it would do free of charge).

Charges for costs of removal, off-site storage and insurance of possessions

15.4 If, in accordance with **clause 15.3.3**, the Provider makes arrangements for packing, removal, off-site storage and insurance of the Resident's personal possessions, then the Provider shall have the right to charge the Payer for costs equal to what the Provider is charged by third parties for:

15.4.1 packing, removal, off-site storage and insurance of the Resident's personal possessions that have not been collected until either:

- (a) they are collected by or on behalf of the Resident; or
- (b) in accordance with **clause 15.5**, they are sold or otherwise disposed of; and

15.4.2 any cancellation charges that the Provider incurs as described in **clause 15.2.7(b)**,

and the Payer shall pay such packing, removal, off-site storage, insurance and cancellation charges to the Provider.

Disposal of possessions after failure to collect them within the required period

15.5 If the Resident's personal possessions are not all collected by or on behalf of the Resident within the period of 28 days after the end of the time period for collection referred to in **clause 15.2.4**, then the Provider shall have the right to notify the Resident that:

15.5.1 if the Resident's personal possessions are not collected by or on behalf of the Resident within the period of 7 days after this further notification,

then the Provider will have the right, but not the obligation:

15.5.2 to sell, as agent for the Resident, any of the Resident's personal possessions that have not been collected by or on behalf of the Resident, where the Provider is reasonably likely to obtain payment of a reasonable price from the sale of such personal possessions that would be reasonably likely to exceed the Provider's reasonable expenses of arranging their sale; and

15.5.3 to dispose of any of the Resident's personal possessions that have not been collected by or on behalf of the Resident, without receiving any payment for them, where the Provider is not reasonably likely to obtain payment of a reasonable price from selling such personal possessions that would be reasonably likely to exceed the Provider's reasonable expenses of arranging their sale.

15.6 If the Provider does sell any of the Resident's personal possessions in accordance with **clause 15.5.2**, then within 30 days after such sale, the Provider shall pay to the Resident the price received from such sale LESS:

15.6.1 the Provider's reasonable expenses of carrying out such sale and the Provider shall be entitled to keep the sum deducted for its reasonable expenses; and

15.6.2 any sums due to the Provider from the Resident or other Payer.

Continuation of terms after termination of this Agreement

15.7 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

16. **POWERS OF ATTORNEY**

16.1 The Resident shall promptly notify the Provider in writing of any Power of Attorney granted at any time in relation to the Resident.

17. **NEXT OF KIN**

17.1 The Provider asks that the Resident shall notify the Provider of the Resident's next of kin and review and update those details on a regular basis.

18. **GIFTS AND SIGNING OF LEGAL DOCUMENTS**

18.1 Neither the Provider nor any of its staff are permitted to accept gifts from any residents. However, where gifts are given to the Home generally or to the Home's staff on a group basis, these should be handed to the Home Manager and will be recorded.

18.2 The Provider's staff are not authorised to sign as a witness to any wills or other legal documentation (other than this Agreement) which relates to the Resident or any other person.

19. **REGULATOR AND COMPLAINTS**

19.1 The Home is registered as a Care Home with the Care Quality Commission (CQC).

19.2 If the Resident, any Third Party Contributor, any Guarantor, the Contact After Death, any Resident Representative, the Resident's estate or any visitor affected by **clause 8** has a complaint, the Provider has a complaints policy and procedure, which will be given to Resident when he or she takes up residence at the Home. If the Resident or other complainant is not satisfied with the Provider's response to a complaint or a complaint is not resolved to the Resident's or such other

complainant's satisfaction by the Provider:

19.2.1 if the Resident or a Third Party Contributor pays all or part of the Fees, the Resident or such other complainant may refer his or her complaint to the Local Government Ombudsman (<http://www.lgo.org.uk/>); and

19.2.2 if a Local Authority pays all or part of the Fees, the Resident or such other complainant may refer his or her complaint to that Local Authority and, if the Resident is unhappy with the outcome of a complaint, the Resident may refer it to the Local Government Ombudsman (<http://www.lgo.org.uk/>).

## 20. **ALTERNATIVE DISPUTE RESOLUTION BY MEDIATION**

20.1 Alternative dispute resolution using mediation is a method for parties to a dispute to work together towards a negotiated settlement of their dispute.

20.2 If:

20.2.1 the Resident, any Third Party Contributor, any Guarantor, the Contact After Death, any Resident Representative, the Resident's estate or any visitor affected by **clause 8** wishes to refer any complaint to alternative dispute resolution by mediation under this **clause 20**; or

20.2.2 there is any other dispute in connection with this Agreement,

the parties to the dispute agree to enter into mediation in good faith to settle such a dispute and will do so in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure. To initiate the mediation a party to the dispute must give notice in writing (an "**ADR Notice**") to the other party or parties to the dispute, referring the dispute to mediation. A copy of the ADR Notice should be sent to CEDR.

20.3 Unless otherwise agreed between the parties to the dispute within 14 days after an ADR Notice is received or given by the Provider, the mediator will be nominated by CEDR.

20.4 If there is any point on the logistical arrangements of the mediation, other than nomination of the mediator, upon which the parties to the dispute do not agree within 14 days after the date of the ADR Notice, where appropriate, in conjunction with the mediator, CEDR will be requested to decide that point for the parties to the dispute, having consulted with them.

20.5 Unless otherwise agreed by the parties to the dispute, the mediation will start not later than 28 days after the date of the ADR Notice.

20.6 This **clause 20** and the commencement of a mediation will not prevent any of the



parties commencing or continuing court proceedings.

**21. NOTICES**

21.1 Any notice to the Resident will be validly given if sent by post or hand delivered to the Resident. Notices sent by post will be deemed to be received forty-eight (48) hours after posting.

21.2 Any copy of a notice sent for information to (as applicable) any Guarantor or any Third Party Contributor, and any other correspondence to any such person, may be sent by first class post or hand delivered and, if posted, will be deemed to be received forty-eight (48) hours after posting.

**22. OTHER IMPORTANT TERMS**

22.1 If any part of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Agreement is to be unaffected.

22.2 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

22.3 No failure or delay in exercising any of party's rights shall constitute a waiver of the same or any other of its rights by such party.

22.4 All sums due to from one party to another under this Agreement shall be paid without any legal or equitable set off, counter-claim or deduction except as required by law or expressly permitted under this Agreement.

22.5 All provisions of this Agreement shall be binding upon and shall enure for the benefit of the parties to this Agreement and their respective personal representatives and other successors in title.

22.6 Except as expressly set out in this Agreement, no remedy conferred by any provision of this Agreement is intended to be exclusive of any other remedy and each and every remedy will be cumulative and will be in addition to every other remedy given under this Agreement or existing at law or in equity, by statute or otherwise.

**23. GOVERNING LAW AND JURISDICTION**

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the English Courts.



## SCHEDULE 1

### Residence Services

- All:
  - meals;
  - non-branded non-alcoholic drinks; and
  - light snacksprovided to the Resident (but not visitors) throughout the day
- Licensed restaurant (but, for the avoidance of doubt, the Weekly Residence Fee does not cover meals for the Resident's visitors)
- Receptionist service from 8am to 8pm daily
- Use of communal facilities and gardens
- Housekeeping services in relation to the Suite, which will comprise 1 hour per suite per week allocated to include weekly changing of linen and towels and provision of related cleaning materials
- Laundry services, which will comprise weekly cleaning of bed linen and personal clothing (but, for the avoidance of doubt, does not include dry cleaning) on a weekly basis
- External and internal window cleaning when reasonably deemed by the Provider to be required.
- Payment of all the utilities other than charges for telephone, satellite TV and other telecommunication services (including broadband) (see **clauses 5.19** and **5.20**)

## **SCHEDULE 2**

### **Regulations**

The Resident:

1. shall not carry on any business or allow any business to be carried on at the Suite or at the Home;
2. shall take possession of the Suite on the Planned Move In Date in accordance with the terms of this Agreement and not part with, or assign or sublet, or share possession of the Suite either in whole or part(s);
3. shall be responsible for any taxes payable by the Resident as a consequence of the Resident entering into this Agreement;
4. shall be responsible for the behaviour of every person (including children) visiting the Suite and shall be responsible for them in the Suite and elsewhere in the Home, including on surrounding land, in Common Areas (for example, stairs, lifts, landings, entrance halls, communal gardens and parking areas) and in the wider locality around the Home;
5. shall not do or threaten to do anything which may cause or may be likely to cause a nuisance or annoyance or disturbance to other persons in the Community or any of the Provider's staff or people in the wider neighbourhood. Examples of behaviour which may cause nuisance annoyance or disturbance include: loud music, arguing and door slamming, drunkenness, drug abuse, rubbish dumping and obstructing Common Areas;
6. shall not, and shall ensure that the Resident's visitors do not, commit, or threaten to commit, any form of harassment on the grounds of race, colour, religion (or similar belief), nationality, sex, sexual orientation or disability which may interfere with the peace and comfort of or cause offence to other persons in the Community or wider neighbourhood or any employee or contractor of the Provider or which is likely to do so. Examples of harassment include: racist behaviour or language, using, or threatening to use, violence, using abusive or insulting words or behaviour, damaging or threatening to damage another person's possessions;
7. shall not interfere with security and safety equipment in the Suite, the Common Areas or elsewhere in or surrounding the Home;
8. shall not keep or use bottled gas, paraffin, petrol or any other dangerous material in the Suite or in Common Areas;
9. shall not keep or leave rubbish or belongings in any of the Common Areas (including, stairs, lifts, landings, entrance halls, communal gardens or parking areas) or allow rubbish or belongings to accumulate in the Suite or Common Areas;

10. shall not play any radio, television, computer, tablet, phone, audio equipment or musical instrument so loudly that it results in disturbance and complaints from other residents;
11. shall not use the emergency call service unless it is appropriate to do so for an emergency;
12. shall not keep or bring into the Suite or any Common Areas or any other part of the Home any animal that in the Home Manager's reasonable opinion is unsuitable. Animals belonging to or under the Resident's control or any of the Resident's visitors must not annoy frighten or cause nuisance to other people or be likely to do so;
13. shall keep the interior of the Suite in a clean and tidy condition;
14. shall report to the Provider promptly any disrepair or defect in the Suite, the Common Areas or elsewhere in the Home or its surroundings;
15. shall not obstruct the Provider's employees, or contractors acting on the Provider's behalf, when gaining access to the Suite to provide Services or to provide Care Services under the Care Agreement, to inspect the condition of the Suite or to carry out repairs or other works to the Suite or adjoining property;
16. shall not permit any person to enter the Suite unless such person is a member of the Provider's staff or such person is personally known to the Resident or the Provider and has signed the visitors log at the Home's reception;
17. shall not make any improvements, alterations or additions to the Suite; and
18. shall not park any commercial vehicle, caravan, boat, trailer or other vehicle anywhere on the Provider's property.