



Admission agreement for self funded residents (or part self funded)

The acceptance of a person to stay in a care home involves a special relationship of intimate care. You are assured that we take the nursing and care of our residents very seriously. However, to do so we have to maintain an extensive establishment at a substantial financial cost and therefore we have to define this relationship in business terms.

This document is very important and forms the Agreement that applies to our Residents. You should read this document carefully before signing because this Agreement is legally binding. Please ask for an explanation of any areas within this document that you do not understand.

We strongly recommend that you obtain independent legal advice before entering into this type of agreement.

Part 1- Admission Request

Please read the Residence Terms in Part 2 below carefully before signing this Agreement.
Please ask for an explanation of any areas that you do not understand.

The following details, together with the Residence Terms in Part 2, form the Admission Agreement which applies to the admission of the Resident named below as a Resident of the Home.

Resident's Name and Property Address:

Home Name:

Date of Admission: / /

Details of Resident's Attorney under a Lasting Power of Attorney or Court of Protection Appointed Deputy (if any)

Date of Birth:

Method of payment:

Direct Debit []

After 4 weeks the Resident and any Third Party Contributor must have a direct debit in place for payment.

Interest is charged on late payments at the rate of 4% above HSBC Bank's base rate from time to time.

Postcode:

Telephone No:

Email address:

<u>Residential Fees (gross weekly)</u>	£
Liability for funding/sources (weekly) for Residential Fees	
Resident	£
Third Party Liability	£
OR	
Local Authority/other Public Funding <i>(including any contributions to Local Authority Funding - see clause 5 below)</i>	£
<u>Enhanced Room Fees (gross weekly)</u>	£
Liability for funding/sources (weekly) for Enhanced Room Fees	
Resident	£
Third Party Liability	£
<u>Total gross weekly fee (being Resident Fees plus Enhanced Room Fees (if any))</u>	£
Deposit <i>(2 x total gross weekly fee)</i>	£
Advance Fee <i>(4 x total gross weekly fee)</i>	£

Name and Address of Guarantor *(The person jointly and severally responsible for fees)*

Postcode:

Telephone No:

Email address:

Name and Address of Third Party

Contributor *(The person responsible for any Third Party Liability for payment of Fees)*

Postcode:

Telephone No:

Email address:

Additional chargeable items - These will be invoiced monthly and are payable by the Resident and/or the Guarantor and any Third Party Contributor on presentation of the invoice

Normal annual fee rate change: 1st April

AGREEMENT BY RESIDENT

I confirm that I have received a copy of the duly completed Admission Request and the attached Residence Terms (called together this “**Admission Agreement**”).

I confirm the contents of the Admission Request. I agree and shall observe the Admission Agreement.

I also agree to pay the sums due to Care UK Community Partnerships Ltd on the due date.

I confirm that I understand that deposits/fees paid under this Agreement may be non-refundable.

Signature (Resident or duly appointed Attorney for Resident under a Lasting Power of Attorney or Court of Protection Appointed Deputy (if any))

.....

Full Name:

Address:

Postcode:

Tel. No:

Witness’s signature:

.....

Witness’s Full Name

Witness’s Address:

Postcode:

AGREEMENT BY GUARANTOR

I confirm that I have received a copy of the Admission Agreement.

In consideration of you, Care UK Community Partnerships Ltd, entering into this Admission Agreement and accepting the Resident named above (the “**Resident**”) into your Home, I agree, so far as its terms apply to me, to the Admission Agreement and to observe such terms on a joint and several liability basis for all monies owing under the Admission Agreement.

Executed and delivered as a Deed by the Guarantor in the presence of a witness.

Signature of Guarantor

Witness Signature

Full Name & Address:

Full Name & Address:

Postcode:

Postcode:

AGREEMENT BY THIRD PARTY CONTRIBUTOR

I confirm that I have received a copy of the Admission Agreement.

In consideration of you, Care UK Community Partnerships Ltd, entering into this Admission Agreement and accepting the Resident into your Home, I agree, so far as its terms apply to me, to the Admission Agreement and to observe such terms.

I also agree to pay to you:

- 1. the Third Party Liability stated in the Admission Request above;
- 2. the additional Fees in accordance with clauses 7, 9, 11 and 12; and
- 3. any increase in the Fees or other sums payable to you under this Agreement at any time which are not agreed to be paid to you by the Resident or any Local Authority or other public funder.

Executed and delivered as a Deed by the Third Party Contributor in the presence of a witness.

Third Party Contributor's Signature:

Witness's Signature:

.....
Third Party Contributor's Full Name:

.....
Witness's Full Name:

Third Party Contributor's Address:

Witness's Address:

Postcode:

Postcode:

AGREEMENT BY CARE UK COMMUNITY PARTNERSHIPS LTD

Signature

Name:

Position:

Date of Agreement: / /

Part 2 – Residence Terms

1 Interpretation

1.1 In these Residence Terms, the following terms have the following meanings:

“**Admission Request**” means Part 1 of this Agreement.

“**Applicable Data Protection Law**” means the GDPR and shall include all requirements from time to time in force of the Data Protection Act 1998 and the Access to Health Records Act 1990 and all other extant or successor statute, regulations and codes mandatorily applicable to Personal Data.

“**Agreement**” has the meaning in clause 2 of these Residence Terms.

“**CCG**” means a Clinical Commissioning Group.

“**Enhanced Room Fees**” has the meaning in clause 9.1.1.

“**Fees**” includes all and any fees, costs or charges payable to us under this Agreement.

“**FNC**” means a funded nursing care contribution from any CCG or other authority, and which is paid irrespective of your means and for which we give credit upon its receipt.

“**GDPR**” means the General Data Protection Regulation ((EU) 2016/679).

“**Guaranteed Amounts**” means all monies due from you to us under this Agreement.

“**Guarantor**” means the person identified in the Admission Request who has agreed to act as guarantor for you in respect of all Guaranteed Amounts.

“**Home**” means the home identified in the Admission Request.

“**Local Authority Funding**” means the amount that any Local Authority, NHS body or other public body has agreed to pay towards our Fees for your residence at the Home and nursing or other services provided by us, as revised from time to time.

“**Personal Care Plan**” has the meaning in clause 17 of these Residence Terms.

“**Personal Data**” means any personal data we receive about you and/or any Guarantor and/or Third Party Contributor and/or any attorney appointed by you under a Power of Attorney and/or any deputy appointed by the Court of Protection.

“**Post-death Fees**” mean:

- (a) your (and, if applicable, the Guarantor’s) liability for Residential Fees and Enhanced Room Fees chargeable from the day after your death; and, if applicable,
- (b) where you are not eligible for Local Authority Funding, any Third Party Liability any such Third Party Contributor pays towards our Residential Fees and Enhanced Room Fees chargeable from the day after your death.

“**Residential Fees**” has the meaning in clause 4.1 of these Residence Terms.

“**Third Party Liability**” means:

- (a) the Third Party Liability stated in the Admission Request above;
- (b) the additional Fees in accordance with clauses 9, 11 and 12; and

- (c) any increase in the Fees or other sums payable to us under this Agreement at any time which is not agreed to be paid to us by you or any Local Authority or other public funder.

“**Third Party Contributor**” means:

- (a) the person identified in the Admission Request who has agreed to pay the Third Party Liability; and
- (b) any other person, other than a Local Authority or other public funder who from time to time agrees to pay all or any part of the Fees or other sums payable to us under this Agreement.

“**we**” and “**us**” mean **Care UK Community Partnerships Ltd** (Company Number 2644862) whose registered office is at Connaught House, 850 The Crescent, Colchester Business Park, Colchester, Essex CO4 9QB.

“**you**” means the resident named in the Admission Request (and as the context may require your duly appointed attorney or deputy).

1.2 In these Residence Terms, the following terms rules of interpretation shall apply:

- 1.2.1 references to a “**Local Authority**” include references to other relevant public bodies;
- 1.2.2 the words “**for example**”, “**include**”, “**includes**” and “**including**” are to be construed as if they were immediately followed by the words “**without limitation**”;
- 1.2.3 the headings are for convenience only and shall not affect the meaning of these Residence Terms and use of the singular includes the plural and vice versa; and
- 1.2.4 references to numbered clauses are to numbered clauses in these Residence Terms.

2 Agreement

The Residence Terms in this Part 2 together with the Admission Request completed by you, us and any Guarantor and/or Third Party Contributor form the agreement for provision to you of accommodation and certain services in the Home (this “**Agreement**”) between you, us and any Guarantor and/or Third Party Contributor.

3 Financial Means

- 3.1 Unless waived in writing by us, you hereby confirm to us that you have cash and liquid assets that are sufficient to pay at least two (2) years of our Residential Fees, in accordance with this Agreement. We may in our absolute discretion and only in exceptional circumstances waive this requirement under clause 3.1. Any such waiver by us shall not prejudice our rights under clause 3.3.
- 3.2 If at any time there is any change to the information you have provided to us (for example, changes to the value of your assets or income), or your financial means change in any other way that affects, or may affect:
 - 3.2.1 your ability to pay our Fees; or
 - 3.2.2 the amount of any Local Authority Payment (whether for the future, or for past residence at the Home),

you must notify us of that change in writing promptly and in any event within seven (7) days after the change happens.

(Example of change of circumstances affecting payments)

(Note: The room price and Local Authority figures in this example are hypothetical to illustrate the process and are not intended to reflect the financial circumstances or room price of the Resident to whom this Agreement relates, or the funding level of his or her relevant Local Authority, or the timing of any approval by that Local Authority.)

When entering one of our homes, a hypothetical resident (“**Resident A**”) has assets and cash of sufficient value that mean he or she does not qualify for Local Authority funding and so Resident A pays the full price for his or her room at £1,000 per week.

Over time, Resident A’s assets and cash reduce in value to a level where he or she can qualify for Local Authority funding.

Resident A applies for Local Authority on 1 February 2018.

Resident A’s relevant Local Authority agrees to pay £650 per week on 28 March 2018 and agrees to backdate that funding to 1 February 2018.

Resident A will need to arrange for any Guarantor and Third Party Contributor (if any) to enter into a Local Authority Contribution Agreement (see clauses 5.1 to 5.7) to pay the balance of £350 or, if clause 5.4 applies, himself or herself enter into a Local Authority Contribution Agreement to pay the balance of £350, in each case as from 1 February 2018.

In respect of the 8 weeks 1 February 2018 to 28 March 2018 we will refund to Resident A an amount equal to the amount we actually receive from the Local Authority, so if we receive from the Local Authority £1,000 x 8 weeks (comprising £650 per week of the Local Authority’s own funding and the £350 per week contributed to the Local Authority by a Third Party Contributor/ Resident A/ Guarantor), we would refund the full £1,000 per week room price previously paid for those 8 weeks.)

- 3.3 Should we determine that your financial means have deteriorated materially we shall have the option to:
- 3.3.1 (if applicable) require you to transfer to a lower standard of room as soon as practicable;
 - 3.3.2 require you, any Guarantor and/or a Third Party Contributor to enter into a Local Authority Contribution Agreement pursuant to clause 5.2; and/or
 - 3.3.3 terminate this Agreement and require you to leave the Home upon giving you twenty eight (28) days’ notice in writing
- 3.4 In relation to any Local Authority Funding relating to you, you consent to us:
- 3.4.1 liaising with the relevant Local Authority;
 - 3.4.2 disclosing information about you to the relevant Local Authority; and
 - 3.4.3 receiving and using information about you from the relevant Local Authority, including using that information in connection with this Agreement and in relation to our Fees.

4 Residential Fees

- 4.1 In return for our Residential Fees set out in the Admission Request as amended from time to time in accordance with these Residence Terms (the “**Residential Fees**”), we agree to provide food, heat, light, accommodation, laundry and all reasonable personal care as would normally be required by a resident of a care home for older people. Residential Fees are calculated on a weekly basis.
- 4.2 The monthly payment of Residential Fees is calculated by taking the weekly fee and dividing it by seven (7) (i.e. the number of days in a week) and multiplying the resulting total by the

number of days in the month being invoiced. Any part of the day of arrival or departure counts as one (1) full day's residence.

- 4.3 The weekly Residential Fees for you are payable by you, any Guarantor, Third Party Contributor or any Local Authority or other public body that has agreed to contribute to or pay them for you. The amount of weekly Residential Fees applicable as at the date of admission and the proportions for which each payer is responsible as at the date of admission are stated in the Admission Request. These proportions will change as our Residential Fees increase or otherwise change from time to time.
- 4.4 Residential Fees are stated exclusive of VAT, but if they become subject to VAT, VAT will be added to them and payable to us in addition by the relevant payer of the Residential Fees.

5 Obligations in relation to Local Authority Funding and Top-ups

Contributions to Local Authority Funding

- 5.1 Please note that the Top-up amounts referred to in this clause 5 are entirely separate and subject to different terms to the Enhanced Resident Fees referred to in clause 9.1.1. This clause 5 is designed to cover any shortfall between Local Authority Funding and the Residential Fees. If you, any Guarantor or any Third Party Contributor do not wish to make any contributions under this clause 5, you must speak to the Local Authority to find an alternative, cheaper Home and you will not be able to stay at the Home.
- 5.2 If at any time a Local Authority is funding, or proposing to fund, your residence in the Home but, whether at the beginning of any Local Authority Funding or at any time thereafter for whatever reason, the amount, or proposed amount, of the Local Authority Funding is less than our Residential Fees (and other items covered by our Residential Fees) that you are occupying, or you are going to occupy, we shall be entitled to require that:
 - 5.2.1 any Guarantor and any Third Party Contributor; and/or
 - 5.2.2 in the circumstances referred to in clause 5.4, you,

enter into an agreement with such Local Authority (a "**Local Authority Contribution Agreement**") in which such Guarantor, Third Party Contributor or you (as the case may be) agrees to pay the difference between the amount, or proposed amount, of the Local Authority Funding and such Residential Fees.
- 5.3 Unless waived in writing by us, you agree that at all times you, a Guarantor and/or a Third Party Contributor will have a valid agreement between such Local Authority for the difference between our Residential Fees and the amount of the Local Authority Funding. So if at any time the difference between our Residential Fees and the amount of the Local Authority Funding changes (either because of changes in our Residential Fees or the amount of the Local Authority Funding or both) and the difference is not provided for in the Local Authority Contribution Agreement:
 - 5.3.1 any Guarantor and any Third Party Contributor; and/or
 - 5.3.2 in the circumstances referred to in clause 5.4, you,

shall accordingly enter into a new Local Authority Contribution Agreement with such Local Authority in which such Guarantor, Third Party Contributor or you (as the case may be) agrees to pay the revised difference between the amount of the Local Authority Funding and such Residential Fees.
- 5.4 The circumstances in which we may require you under clause 5.2.2 or 5.3.2 to enter into a Local Authority Contribution Agreement will be those circumstances in which, from time to time, it is legally permissible for you to do so.

- 5.5 On 1 June 2015 the circumstances referred to in clause 5.4 were as follows (but they may change in the future, in which case we shall notify you when requiring you to enter into a Local Authority Contribution Agreement):
- 5.5.1 during the first twelve (12) weeks of permanent residence at the Home when a property is being disregarded by your Local Authority in determining your eligibility for Local Authority funding for you; or
 - 5.5.2 where there is a “deferred payment agreement” in place (usually an agreement between you and your Local Authority) but subject to the terms of the “deferred payment agreement”; or
 - 5.5.3 where you are receiving accommodation from us under section 117 of the Mental Health Act 1983.
- 5.6 If a Local Authority Contribution Agreement required under clause 5.1 or clause 5.3 is not entered into by a Guarantor, a Third Party Contributor and/or (in the circumstances referred to in clause 5.4) you within twenty-eight (28) days after we give any Guarantor, Third Party Contributor and/or you notice of such requirement then (in addition and without prejudice to our other rights and remedies) we may in our absolute discretion:
- 5.6.1 terminate this Agreement by giving you no less than twenty-eight (28) days’ notice in writing and (if applicable) require you to leave the Home on expiry of such notice; or
 - 5.6.2 if you have a higher standard of room than the standard of room at the Home that any Local Authority Funding covers, change your room at the Home to one of a standard where our Residential Fees for that room are not more than the amount, or proposed amount, of the Local Authority Funding.
- 5.7 If any of the Local Authority Funding covers any period for which you, any Guarantor and any Third Party Contributor have already paid in full then, except to the extent (if any) that we are legally required to refund more, we will refund to you (or your Guarantor and/or Third Party Contributor, as the case may be) an amount equal to the amount that the Local Authority pays us for that period, but not any more than the Local Authority actually pays us. Please see the Example in clause 3.2.
- 5.8 Our normal practice is for the Local Authority to collect any amounts owed by you, any Guarantor and any Third Party Contributor under this clause 5, however we reserve the right to collect such amounts ourselves (if so agreed with the Local Authority).

General

- 5.9 If we know the amount of the Local Authority Funding when this Agreement is signed, that amount should be stated in the Admission Request.
- 5.10 If at any time the Local Authority Funding changes (whether for the future, or for past residence at the Home) you must notify us of that change in writing promptly and in any event within seven (7) days after the change happens.
- 5.11 If at any time the Local Authority Funding ceases (whether for the future, or for past residence at the Home), you, any Guarantor and any Third Party Contributor will be liable for the entirety of our Residential Fees except for amounts that the Local Authority has paid.

6 Annual Increase of Residential Fees and Enhanced Room Fees

- 6.1 We shall be entitled to increase the Residential Fees and Enhanced Room Fees annually, usually in April each year.

- 6.2 Any annual increase will be to take into account an increase of our running costs and/or the provision of extra care and/or inflation.
- 6.3 We will give you, any Guarantor and any Third Party Contributor, at least six (6) weeks' advance notice in writing of the amount of the annual increase. The notice will state the date that the increase will take effect, together with a statement of the reasons for the increase.
- 6.4 The annual increase will take effect on the date stated in the notice of increase unless, before the date the increase is to take effect, you give to us (and do not withdraw) one (1) months' notice in writing to terminate this Agreement and your residence with us.

7 Changes to Fees owing to changes in Care or other Needs

- 7.1 In addition to the annual Residential Fee and Enhanced Room Fee increases referred to in clause 6 of these Residence Terms, we shall have the right to increase our Residential Fees and other Fees immediately if, in our opinion, your care or other needs have changed materially from those previously assessed.
- 7.2 As soon as reasonably practicable after your care needs have changed, we shall notify you (and any Guarantor and/or Third Party Contributor and/or Local Authority) of the change in needs, any risk factors taken into account, the steps being taken to meet such needs change (e.g. one-to-one care at particular times of day/continuously or where nursing care becomes necessary or the level of required nursing care changes), our monitoring and review process in relation to such change, and actual and/or (where appropriate) expected additional costs of such change.

8 Deposit and Advance Payment

- 8.1 If your residence at the Home is not funded by a Local Authority or other public funding, at the commencement of this Agreement, we require the following payments to us. These pre-admission payments are as follows:
- 8.1.1 four (4) weeks' Residential Fees in advance (the "**Advance Residential Fee**"); and
- 8.1.2 a deposit for us to use, at our discretion at any time and in accordance with clause 8.3, against any sums owed to us in respect of you; this is to be an amount equal to two (2) weeks' Residential Fees (the "**Deposit**").
- 8.2 If, for any reason, the amount paid to us at the commencement of this Agreement is less than the total of the Advance Residential Fee and the Deposit, the amount that is paid will first be used towards satisfying the obligation to pay us the Deposit. Only then will any excess pre-admission payment be received by us be used towards satisfying the obligation to pay us the Advance Residential Fee.
- 8.3 The Deposit will be held by us for the duration of your residence at the Home. At the end of your residence at the Home, the Deposit will be used first to pay any sums due to us and any remainder will be repaid to you or your estate. We will not pay any interest on the Deposit.

9 Lifestyle Charges

- 9.1 In addition to the Residential Fees, we shall have the right to charge you, any Guarantor and any Third Party Contributor:
- 9.1.1 our additional Fees for providing you at any time with a higher standard of room than the standard/basic room which we offer at the Home ("**Enhanced Room Fees**"), and
- 9.1.2 any additional costs (together with any applicable VAT) incurred in providing additional care or services to you beyond those normally provided by us to

residents of the Home that are covered by the Residential Fees as described in clauses 4.1 and 11.1. For example, these additional Fees could include the costs of:

- 9.1.2.1 hairdressing;
- 9.1.2.2 chiropody;
- 9.1.2.3 newspapers;
- 9.1.2.4 dental requirements (non-NHS);
- 9.1.2.5 optical requirements (non-NHS);
- 9.1.2.6 medicines (to the extent not free to the Resident under the NHS);
- 9.1.2.7 physiotherapy (non-NHS);
- 9.1.2.8 personal dry cleaning;
- 9.1.2.9 clothing;
- 9.1.2.10 staff escorts to hospital and elsewhere;
- 9.1.2.11 taxis and other transport;
- 9.1.2.12 personal toiletries; and
- 9.1.2.13 other items of a personal nature.

- 9.2 Further details of such chargeable items and related additional Fees referred to in clause 9.1.2 can be found in our 'Service User Guide'.
- 9.3 The monthly payment of Enhanced Room Fees is calculated by taking the weekly Enhanced Room Fee and dividing it by seven (7) (i.e. the number of days in a week) and multiplying the resulting total by the number of days in the month being invoiced. Any part of the day of arrival or departure counts as one (1) full day's residence.
- 9.4 The amount of weekly Enhanced Room Fees applicable as at the date of admission and the proportions for which each payer is responsible as at the date of admission are stated in the Admission Request. These proportions will change as our Enhanced Room Fees increase or otherwise change from time to time.
- 9.5 Enhanced Room Fees are stated exclusive of VAT, but if they become subject to VAT, VAT will be added to them and payable to us in addition by the relevant payer of the Enhanced Room Fees.

10 Invoicing and Payment Timing

- 10.1 We will issue an invoice each month for:
 - 10.1.1 our Residential Fees: these are payable in advance on a calendar monthly basis;
 - 10.1.2 any Enhanced Room Fees: these are payable in advance on a calendar monthly basis; and
 - 10.1.3 for any other Fees payable to us that have accrued during the month before.
- 10.2 Residential Fees and any other Fees payable to us are payable immediately upon issue of our invoice, except that where invoices are submitted to a Guarantor and/or Third Party

Contributor, the Fees payable by them are payable within seven (7) days of issue of the invoice. However:

- 10.2.1 the process of collecting a varying amount by direct debit means that we shall collect your payment, any Guarantor payment and any Third Party Contributor payment on the last working day of the month, to which the relevant invoices relate; and
 - 10.2.2 for as long as a direct debit remains in place, direct debit payment in this way will not be treated as a “late payment” on which interest is charged.
- 10.3 Where practicable, we will give at least four (4) weeks’ written notice to you if the method of payment needs amending. If it is not practicable to give you at least four (4) weeks’ prior notice, you will be notified as soon as it is practicable.
- 10.4 For payment of all Fees other than the Advance Residential Fee and Deposit, you and any Third Party Contributor must have a direct debit in place.

11 Accommodation

- 11.1 In return for the Residential Fees payable under this Agreement, we agree to provide:
- 11.1.1 such food as is normally required by a resident of a care home (in addition we may agree particular meal times and types of food with you from time to time);
 - 11.1.2 reasonable heat and light; and
 - 11.1.3 personal care that is reasonably considered necessary for you. The personal care provided shall include the personal care that is identified in your Personal Care Plan.
- 11.2 If we agree with you to provide any personal care in addition to what is in your Personal Care Plan, we will notify you in advance of the additional charges (and any applicable VAT) that will be payable by you, any Guarantor and any Third Party Contributor for the additional personal care.

12 Nursing Care

- 12.1 This clause 12 applies when your Residential Fees are not met by Local Authority Funding.
- 12.2 Where nursing care is to be provided as a part of your package of care, we will arrange for it to be provided as far as it is practicable, but on the following terms about cost:
- 12.2.1 you or, if a Guarantor and/or Third Party Contributor has agreed to pay our Fees for nursing care instead of you, such Guarantor and/or Third Party Contributor, will be invoiced our Fees for nursing care in full, monthly, and you or any such Guarantor and/or Third Party Contributor shall pay these Fees (together with any applicable VAT) which will be included as part of the Residential Fees;
 - 12.2.2 we will apply a credit note on your Fees account for any FNC that we recover for your nursing care from any CCG or other authority. You or any such Guarantor and/or Third Party Contributor shall only bear the balance of the nursing care charges in excess of any FNC we recover for your nursing care;
 - 12.2.3 we will, where practicable, inform you or any such Guarantor and/or Third Party Contributor as soon as is reasonably practicable, of any FNC to be paid by any CCG or other authority that we are aware of; and

- 12.2.4 any liability you or any such Guarantor and/or Third Party Contributor have to pay for nursing care and any FNCs that we may be able to recover may change over time and we shall notify you or any such Guarantor and/or Third Party Contributor of any changes as soon as reasonably practicable.

13 Your Absence from the Home

- 13.1 When you are away from the Home for any reason (for example, if you are in hospital) and you or your family do not inform us that you have left the Home on a permanent basis or it is not clear to us that it is impossible for you to return to the Home:

13.1.1 subject to clause 19, we shall keep the room you occupied available for you to return to the Home for the first six (6) weeks of such absence and for any longer period that you or any Guarantor and/or Third Party Contributor continue to pay for it; and

13.1.2 you, any Guarantor and any Third Party Contributor will continue to be liable to pay Residential Fees (including, for the avoidance of doubt, nursing care fees (if applicable) pursuant to clause 12.2.1) and any Enhanced Room Fees in full during your absence for the first six (6) weeks of such absence and for any longer period that we decide to keep a room available for you to return to the Home.

14 Refunds of Residential Fees and Enhanced Room Fees paid in advance

Where this Agreement terminates, for whatever reason, if you have paid Residential Fees or Enhanced Room Fees for a month in advance and the room you occupied is cleared before the end of that month, you shall be entitled to a pro-rata refund of Residential Fees or Enhanced Room Fees paid in advance for the period from when the room you occupied is cleared until the end of that month, but the refund will not include any of the Post-death Fees referred to in clause 22.1.4.

15 Interest

We shall have the right to charge interest at the rate of 4% per annum above the base rate of HSBC Bank plc from time to time on sums still outstanding thirty (30) days after the invoice date, such interest to be calculated on a day to day basis from the invoice date.

16 Complaints

- 16.1 If a complaint or query arises, you should refer to the Home's written procedure for dealing with complaints. We will be pleased to help. If you are not satisfied with the way we have handled your complaint you can refer it to the Care Quality Commission ("CQC") or contact the Local Government Ombudsman, who provides a free independent service, and ask for a review. Contact details are available on request from the Home's manager and are also set out in the Home's written complaints procedure. In addition or in the alternative, if at any time you have concerns about abuse or alleged abuse, you may report these either to us and/or directly to the Local Authority safeguarding team.

- 16.2 This clause 16 is in addition to your legal rights in relation to any services which are not carried out with reasonable skill and care or which otherwise do not conform to this Agreement. Advice about your legal rights is also available from your local Citizens' Advice Bureau or Trading Standards Office.

17 Needs Assessment

- 17.1 Before your admission to the Home, we shall carry out with you an assessment of your needs using the assessment scheme we have chosen to use (a "**Personal Care Plan**"). Your Personal Care Plan will be reported to the Home.

- 17.2 Admission to the Home will only be permitted if we can meet your assessed needs.

18 Medication

- 18.1 All of your drugs and medication must be handed to the senior nurse on duty or person in charge at the time of your admission.
- 18.2 If you wish, and in our opinion are able, to manage your own medication administration, you will be assisted to continue to do so. However, in that case:
- 18.2.1 we cannot be held responsible for the safekeeping and dispensing of the medication; and
- 18.2.2 the lockable drawer provided in the room you occupy must be used to store the medication and you must ensure it remains locked whenever you are not in the room.

19 Change of Room at the Home

- 19.1 The room you will occupy will be allocated on admission. Residence in the Home does not constitute a tenancy. You will occupy the room as a licensee only.
- 19.2 We reserve the right to relocate you at any time to another room, though in practice we do not expect to use the right to relocate residents regularly. There will be discussion with you before any such relocation takes place and you will be given notice in writing of any proposed change and the reason for the proposed change. The period of notice we give you will be at least five (5) days except in cases where we believe there is an urgent need to make the change sooner.
- 19.3 You agree that we shall have, and we need, full, free unrestricted access to the room you occupy in order (amongst other matters) to provide the agreed services.

20 Trial Period

- 20.1 The first four (4) weeks following your admission to the Home shall be a trial period for the benefit of you and us.
- 20.2 Either we or you may terminate this Agreement upon at least seven (7) days' written notice to be served on the other at any point during the trial period. After any such termination, to the extent that any payment of Residential Fees or Enhanced Room Fees you have made to us in advance relates to the period when the accommodation you occupied has been cleared after you leave the Home, it will be refunded to you.

21 Termination (other than on death)

- 21.1 You may terminate this Agreement:-
- 21.1.1 by giving to us at least one (1) month's prior written notice of termination for any reason; or
- 21.1.2 by giving to us prior written notice taking effect immediately, or of such length as you state in your notice, following material breach of this Agreement by us if such material breach continues for thirty (30) days after a request in writing from you to us asking for the breach to be remedied; or
- 21.1.3 in accordance with clause 6.4 or clause 20.2,

and you shall leave the Home at the end of any such period of notice or such other date as is agreed between you and us.

21.2 If you leave the Home without giving the period of notice required above, then you, any Guarantor and any Third Party Contributor will continue to be liable to pay Residential Fees and any Enhanced Room Fees for as long as they would have been payable if you had given the correct period of notice. Please see clause 13 for the circumstances in which we may keep your room available for you.

21.3 We may terminate this Agreement and require you to leave the Home in the following circumstances:-

21.3.1 by giving to you at least one (1) month's prior written notice of termination for any reason; or

21.3.2 by giving to you not less than twenty eight (28) days' written notice at any time for non-payment of Fees if such non-payment continues for thirty (30) days after a request in writing from us to you (and, where relevant, any Guarantor and/or any Third Party Contributor) for the necessary payment to be made; or

21.3.3 by giving to you not less than twenty-eight (28) days' written notice at any time if you, any Guarantor or any Third Party Contributor become bankrupt or take advantage of any statute for the time being in force providing for relief of insolvent debtors; or

21.3.4 by giving to you prior written notice taking effect after twenty-eight (28) days, or of such longer length as we state in our notice, following material breach by you if such material breach continues for thirty (30) days after a request in writing from us to you asking for the breach to be remedied and stating that termination may be a consequence of failure to remedy the breach; or

21.3.5 by giving to you not less than twenty-eight (28) days' written notice if, having consulted you and taken advice from the appropriate members of the relevant "Primary Health Care Team" (i.e. general practitioner, community nurse or social worker) concerning your present and future care needs, we no longer believe we are able to meet your needs; or

21.3.6 by giving to you written notice effective immediately, or of such length as we state in our notice, where there are circumstances or behaviour, which we feel (taking account of the type of care we have contracted to provide) may be seriously detrimental to the Home or the welfare of the other residents and such circumstances or behaviour are/is ongoing notwithstanding reasonable efforts to manage such circumstances or behaviour; or

21.3.7 in accordance with clauses, 3.3.3, 5.6.1 or 20.2,

and you shall be required to leave the Home at the end of any such period of notice. We may send a copy of such notice to any Guarantor.

21.4 On termination, it is your responsibility to remove all your belongings from the Home within three (3) days of the date of termination and we shall have no responsibility for their removal, transportation and insurance. For the avoidance of doubt, all Fees under this Agreement will remain payable during this three (3)-day period until you remove all your belongings from the Home. Failure to remove your belongings within this three (3)-day period will result in the following:

21.4.1 we will remove your belongings from your room and, where possible, store them at the Home. However, where your belongings include large bulky items (e.g. furniture), we may need to arrange for off-site storage. We shall have the right to charge you our reasonable costs for removal and storage of the belongings where such costs are reasonably incurred. Costs of storage will be calculated on the basis of the daily rate of a reputable storage firm; and

- 21.4.2 if after twenty-eight (28) days of the date of termination, any of your belongings remain in the Home or in off-site storage, we shall have the right to give you at least fourteen (14) days' written notice before we dispose or sell your belongings. We are likely to decide to sell your belongings where we consider they are of material financial value (e.g. jewellery). Where we sell an item, we will try to obtain a reasonable price for it, and if any monies are received from the sale, we shall refund you an equivalent amount (less our reasonable expenses for arranging the sale) within thirty (30) days following the sale.
- 21.5 Termination of this Agreement, in whatever way it occurs, shall not affect rights and obligations that arise out of anything done or omitted before termination or in respect of the period prior to such termination and any outstanding Fees due and payable to us, together with any interest due and arising thereon, shall continue to be payable by the relevant payers under this Agreement.

22 In the event of your death

22.1 In the event of your death:

22.1.1 this Agreement shall terminate, except for terms that are intended to continue afterwards;

22.1.2 any outstanding Fees due and payable by you to us, together with any interest due thereon, shall be charged to your estate;

22.1.3 any Guarantor will remain liable to pay us any Guaranteed Amounts;

22.1.4 Post-death Fees will be charged as follows:

22.1.4.1 Post-death Fees will be charged for three (3) days starting from the day after your death, and will then cease provided your personal belongings are removed from your room by someone with apparent power to act on your behalf and/or your estate and no extended period has been agreed under clause 22.1.4.3. If your room is reoccupied within this three (3)-day period, Post-death Fees will only be charged up to and including the day before reoccupation.

22.1.4.2 In the event your personal belongings are not removed within the three (3)-day period after your death, Post-death Fees will continue to be charged until your personal belongings have been removed either by someone with apparent power to act on your behalf and/or your estate or by us where we need to prepare the room for subsequent occupation, subject to a maximum payment period of ten (10) days starting from the day after your death, at which point Post-death Fees will cease, subject to an extended period being agreed under clause 22.1.4.3.

22.1.4.3 If someone with apparent power to act on your behalf and/or your estate (or, if applicable, any Guarantor and/or Third Party Contributor) requests in writing to delay the clearing of your room for a period which is beyond the three (3) days and/or the maximum ten (10)-day payment period following your death, we will not unreasonably withhold consent to such a request, and Post-death Fees will continue to be charged until the room is cleared.

22.1.5 any Third Party Contributor liable to pay a contribution towards any Local Authority Funding will remain liable for:

22.1.5.1 that Third Party Liability owing to us at the time of your death; and

- 22.1.5.2 any contribution to any liability that the Local Authority has to us for the period up to and including the day upon which Local Authority Funding ceases.
- 22.1.6 any Third Party Contributor, who prior to your death was liable to pay a contribution towards your Fees where you were not eligible for Local Authority Funding, will remain liable for:
- 22.1.6.1 that Third Party Liability owing to us at the time of your death; and
- 22.1.6.2 any part of the Post-death Fees (see clause 22.1.4) in relation to and for which the Third Party Contributor is liable.
- 22.1.7 for the avoidance of doubt, where we recovered any FNC for your nursing care prior to your death (see clause 12.2.2), your estate, any Guarantor and/or Third Party Contributor will only bear the balance of any Post-death Fees (see clause 22.1.4) in excess of that FNC irrespective of whether or not we continue to recover any FNC on your behalf after your death.
- 22.2 Subject to any extended period agreed under clause 22.1.4.3, in the event of your death it is the responsibility of someone with apparent power to act on your behalf and/or your estate to remove all your personal belongings from your room within three (3) days from the day after your death. We will take reasonable steps to contact someone with apparent power to act on your behalf and/or your estate before we remove your belongings from your room. Where we need to prepare the room for subsequent occupation after this three (3)-day period:
- 22.2.1 we will remove your belongings from your room and, where possible, store them at the Home. However, where your belongings include large bulky items (e.g. furniture), we may need to arrange for off-site storage. We shall have the right to charge your estate our reasonable costs for removal and storage of your belongings. Costs of storage will be calculated on the basis of the daily rate of a reputable storage firm; and
- 22.2.2 if after twenty-eight (28) days from the day after your death, any of your belongings remain in the Home or in off-site storage, we shall have the right to give someone with apparent power to act on your behalf and/or your estate at least fourteen (14) days' written notice before we dispose or sell your belongings. We are likely to decide to sell your belongings where we consider they are of material financial value (e.g. jewellery). Where we sell an item, we will try to obtain a reasonable price for it, and if any monies are received from the sale, we shall refund you an equivalent amount (less our reasonable expenses for arranging the sale) within thirty (30) days following the sale.
- 22.3 If we hold any cash for you if you die, or if you are due a refund in respect of any care fees paid in advance, we shall only be required to transfer such amounts to your executors or other legal personal representatives.

23 Notices

- 23.1 Any notice of annual increase under clause 6.3, change of needs and fees under clause 7, change of method of payment under clause 10.3, notification of additional charges for additional care under clause 11.2 or change of room under clause 19.2 may be given by us by email as permitted by clause 33.6.
- 23.2 Except as provided by clause 23.1, any notice under this Agreement to you, any Guarantor or any Third Party Contributor will be validly given if sent by first class post or hand delivered to the intended recipient.
- 23.3 Notices sent by post will be deemed to be received forty-eight (48) hours after posting.

24 Personal Finances

Subject to clause 26.2, we do not accept responsibility for your personal finances.

25 Personal Belongings

- 25.1 Small items of personal furniture may be brought into the Home with the prior agreement of the Home's manager. It is your responsibility to ensure that such items are clearly marked with your name. Please see clause 26 in relation to your obligations to insure your belongings.
- 25.2 You must not bring into the Home soft furnishings which are not certified as being fire retardant.
- 25.3 All your personal clothing must be clearly labelled and documented on admission and during your stay in the Home. This is your responsibility and is a simple precaution that will reduce the risk of your clothing being mislaid or lost. A member of staff should be informed of and shown any clothing or articles brought into the Home for you at any time, for the purpose of documenting and/or labelling.
- 25.4 We agree to provide a laundry service for your clothing that are machine washable at a minimum temperature of 40 degrees and are able to be tumble dried (but our laundry service does not include professional dry cleaning or hand washing of any item).
- 25.5 The Home shall not be responsible in any way for damage or loss to your furniture, clothes or other personal belongings unless the Home has been negligent, fraudulent or breached this Agreement in respect of your furniture, clothes or other personal belongings, in which case the limitations in clause 29 will apply.

26 Insurance of Personal Belongings and Cash

- 26.1 You are responsible for insuring to full replacement value all personal belongings, including furniture, brought into the Home. For the avoidance of doubt, this responsibility to insure continues in any period of absence from the Home and after your death, until all your belongings have been removed from the Home.
- 26.2 Our existing insurance policy covers residents' cash up to a maximum of £100 per resident on condition that the cash is held securely in the Home's safe. We will not be held liable for any loss of your personal money that is not deposited in the Home's safe unless the Home has been negligent, fraudulent or breached this Agreement in respect of your cash.
- 26.3 If at any time:
- 26.3.1 you wish to hold any additional cash at the Home above that amount; or
 - 26.3.2 you wish to or hold cash either in your room or personally; or
 - 26.3.3 we change our policy about holding of cash so that we no longer agree to hold cash for you,
- you must make your own independent insurance arrangements in relation to your cash.

27 Electrical Items

You must make available to us promptly for inspection all electrical items you bring into the Home at any time, and must not use such items if they have not been inspected or fail the inspection.

28 **Variations**

- 28.1 In addition to the provisions in this Agreement relating to changes in Fees, we shall have the right to make variations to the terms of this Agreement from time to time if, in our opinion, it is necessary or appropriate because of:
- 28.1.1 the introduction of new or amended legislation; and/or
 - 28.1.2 to meet the changing needs of our residents; and/or
 - 28.1.3 to improve our service.
- 28.2 Variations will be notified at least one (1) month in advance and will take effect from the date stated in the notice, which shall be the expiry date of such notice or a later date stated in the notice.

29 **Liability**

- 29.1 Nothing in this Agreement shall exclude or limit liability for:
- 29.1.1 death or personal injury resulting from negligence by us or by our agents or employees; or
 - 29.1.2 any breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or;
 - 29.1.3 losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
 - 29.1.4 fraud, fraudulent misrepresentation; or
 - 29.1.5 any other matter for which it would be illegal or unlawful for us to exclude or attempt to exclude our liability.
- 29.2 Subject to clause 29.1, we shall not be responsible or liable to you or any other person for any losses (including any indirect, economic or consequential loss or special damages) that you suffer as a result of our failure to comply with this Agreement or otherwise arising out of or in connection with your stay at the Home, except for those losses which we could reasonably foresee would result from a failure to comply with this Agreement or breach of duty to you.
- 29.3 Subject to clauses 29.1 and 29.2, our total liability to you in respect of any loss of, or damage to your belongings shall be limited to £1,000 per incident and to £10,000 in total for all claims.
- 29.4 Subject to clauses 29.1, 29.2 and 29.3, our total liability to you or any other person under this Agreement or otherwise arising out of or in connection with your stay at the Home shall in no event exceed £1,000,000 however such claim arises including breach of contract or in tort (negligence or other tort), misrepresentation or breach of statutory duty.

30 **Equal Opportunities**

We support the principle of equal opportunities and oppose all forms of unlawful or unfair discrimination on the grounds of colour, race, nationality, ethnic or national origin, sex, marital status, religion or similar belief, sexual orientation, age or disability.

31 **Data Protection**

- 31.1 We shall comply with all Applicable Data Protection Law in relation to Personal Data.

- 31.2 We gather information relating to you to allow us to process any registration or any booking which is made and for the purpose of issuing invoices and generally for the purpose of your stay at the Home and better ensuring that we meet your needs.
- 31.3 It is also used to communicate with you and others on matters relating to the arrangements concerning your stay, including (i) for medical purposes, and for the purpose of communication with general practitioners, and other health and multi-disciplinary professionals who are bound by the duty of confidentiality; and (ii) in relation to financial aspects, our dealings with any Guarantor, Third Party Contributors or Local Authority about funding or payment for your stay.
- 31.4 If any of the information that you or your representative provides to us changes, please inform us within seven days of such change.
- 31.5 If our business is to be sold or integrated in whole or in part with another business, details about you and any other relevant person may be disclosed to our advisers and any prospective purchasers and their advisers and will be passed on to the new owners of the business.

32 Guarantee

- 32.1 The Guarantor agrees, as principal obligor, to be jointly and severally liable with you for the payment of all Guaranteed Amounts to us as they fall due.
- 32.2 The Guarantor as principal obligor and as a separate and independent obligation and liability from its obligations under clause 32.1 agrees to indemnify us and keep us indemnified in full and on demand from and against all and any losses, costs and expenses suffered or incurred by us arising out of, or in connection with, any failure by you and/or the Guarantor to pay the Guaranteed Amounts.
- 32.3 If the obligation to pay the Guaranteed Amounts is, or becomes, unenforceable, invalid or illegal, the Guarantor agrees to indemnify and keep us indemnified on demand against all and any losses, costs and expenses suffered or incurred by us arising out of, or in connection with, any failure by you to pay the Guaranteed Amounts.
- 32.4 This guarantee is a continuing security and shall cover the ultimate balance of all monies payable by you under this Agreement, irrespective of any intermediate payment in full or in part of the Guaranteed Amounts.
- 32.5 The liability of the Guarantor under this guarantee shall not be reduced, discharged or otherwise adversely affected by any act or omission except an express written release by deed of the Guarantor by us.
- 32.6 The Guarantor waives any right it may have to require us to proceed against or enforce any other right or claim for payment against any person before claiming from the Guarantor under this Agreement.

33 General

- 33.1 All terms and provisions of this Agreement shall be binding upon and shall continue for the benefit of the parties to this Agreement and their respective personal representatives and other successors in title.
- 33.2 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision pursuant to this clause 33.2 shall not affect the validity and enforceability of the rest of this Agreement.

- 33.3 Each of you, a Guarantor and/or any Third Party Contributor shall not be able to set-off any amounts owed by us (or alleged to be owed by us) to you from any fees or other monies payable by you to us under this Agreement. For the avoidance of doubt, all fees shall be payable under this Agreement regardless of any complaints you have or claims or actions you make or start in respect of our service.
- 33.4 If we receive a payment that is insufficient to discharge all the amounts then due and payable by you, a Guarantor and/or a Third Party Contributor under this Agreement, we shall apply that payment in settlement of the respective party's obligations in the order determined by us in our absolute discretion. The provisions of this clause 33.4 shall override any appropriation made by you, a Guarantor and/or a Third Party Contributor.
- 33.5 Each of you, any Guarantor and/or any Third Party Contributor shall promptly on demand pay to or reimburse us on a full indemnity basis all costs, court fees and other expenses of any kind (including without limitation legal costs and expenses incurred by us in connection with actual or threatened County or High Court proceedings, bankruptcy processes or proceedings, or enforcement steps or proceedings) incurred by us in pursuit of monies owing to us by, as the case may be, you and/or any Guarantor and/or any Third Party Contributor.
- 33.6 If you (i.e. the Resident and/or the Attorney for and/or the Deputy of the Resident) or any Third Party Contributor or Guarantor have provided or do provide in the future an email address, we shall be entitled to send invoices, credit notes, statements, notices under clauses 6.3, 7, 10.3, 11.2 and 19.2 and other standard communications we issue to Residents and those involved in their care to such email address, which shall be deemed safely delivered to the recipient addressee at the time of transmission. The reasons for our using such method of communication will be environmental, reliability and speed of delivery, and cost.
- 33.6.1 For the avoidance of doubt, except as prescribed at clause 33.6, and always subject to clause 33.6.2, any party to this Agreement who wishes to serve notice under its terms shall comply with the notice service requirements set out at clause 23.2.
- 33.6.2 Any addressee of email communications shall be entitled to have us desist from such method of communication and require us to send such communications in hard copy provided they confirm a physical address at which they currently reside.
- 33.7 No relaxation, forbearance or delay by us in enforcing our rights under this Agreement shall affect our rights under this Agreement neither shall any waiver by us of any breach by you operate as a waiver or otherwise affect our rights under this Agreement in relation to any subsequent or continuing breach.
- 33.8 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

34 Governing Law

This Agreement shall be governed by and construed in accordance with English law and the parties submit to the jurisdiction of the English courts.