



## **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**

**Detailed Residence Terms are in Part 2 below. A summary of the key Residence Terms is provided on page 5 of this Part 1. Please read the Residence Terms carefully before signing this Agreement and ask for an explanation of any areas that you do not understand.**

This Part 1 and the Residence Terms in Part 2 form the Agreement which applies to the admission of the Resident named below as a Resident of the Home.



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

I confirm the contents of the Admission Request (on page 2) and the Summary of Key Terms (on page 5) has been explained to me. I agree and shall observe the 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 not be refunded.

**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 Agreement and have noted clause 31 in particular.

In consideration of you, Care UK Community Partnerships Ltd, entering into this Agreement and accepting the Resident named above (the “**Resident**”) into your Home, I agree, so far as its terms apply to me, to the Agreement and to have a joint responsibility with the Resident and my own separate, personal responsibility to pay you all monies owing to you under the 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 Agreement.

In consideration of you, Care UK Community Partnerships Ltd, entering into this Agreement and accepting the Resident into your Home, I agree, so far as its terms apply to me, to the 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 6, 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:**    /    /

**Summary of Key Terms - THIS IS ONLY A SUMMARY – WE STRONGLY RECOMMEND YOU READ ALL OF THE RESIDENCE TERMS IN PART 2 BELOW**

You are promising you have ready access to 2 years of our fees and that you will let us know if your financial position changes (Clause 3).

Annual fee increases will be fixed at 5% to cover predictable cost increases and apply on 1 April. If there are significant unpredictable cost increases as a result of a change(s) to legislation or sector regulation, we reserve the right to supplement this increase by a fair and reasonable sum to reflect the impact of that change to our costs, and will give you 12 weeks' notice of any such proposed additional increase (Clause 6).

Changes in your care or other needs – your Personal Care Plan sets out your care package, i.e. the services we provide to you in relation to your needs. Changes to your care package may result in adjustments to your fees (Clause 7).

We require payment of six weeks' fees in advance of admission. Four weeks of this are residential fees which are applied to the first 28 days of residence. Two weeks are a refundable deposit to secure fees and other charges (any sums remaining to be returned at the end of your stay) (Clause 8).

Enhanced room fees (for a higher standard of room) may be payable if you are entitled to CHC or some Local Authority Funding. There are also a range of extras available at 'Additional Cost' e.g. hairdressing, chiropody (Clause 9).

Payments (which ought to be made by Direct Debit) must be paid in advance of the month in which the care is to be provided (e.g. fees for August must be paid by the last working day in July). Additional Costs must be paid as soon as they are incurred (Clauses 10 and 25.5-25.7).

FNC – You will pay the full cost of care (gross fees) until such time as we receive confirmation of FNC eligibility, at which time we will adjust your account and commence invoicing 'net' of any assessed FNC contributions (Clause 12).

If you are absent from the Home, your fees will continue to be payable in full for first seven days of absence, after which we will apply a 10% discount to your fees. In the course of the first 6 weeks of any absence, we shall endeavour to consult with you to seek agreement on retaining your room (Clause 13).

Your first 28 days is a trial period for you and us. Within those 28 days you can terminate the agreement for any reason on serving us 7 days' notice, and we can terminate the Agreement on giving you 7 days' notice if we have good reason, e.g. we cannot meet your care needs (Clause 19).

It is our policy that all residents at the Home have been vaccinated against COVID-19. We apply this policy to protect you and other residents and staff at the Home. Prior to or as soon as practicable after your admission to the Home you must provide evidence that you have had the full course of such vaccination.

You can terminate the agreement on giving us 28 days' notice. We can terminate the agreement on giving you 28 days' notice in certain circumstances. In certain serious instances, for example behaviour that cannot be safely managed in the Home or if you are unable to provide evidence that you have been vaccinated against COVID-19, termination can be quicker, but normally we try to resolve any problems with you before serving a termination notice (Clause 20).

Following any termination failure to remove belongings from the Home within 10 days may result in us charging reasonable costs for removal and storage of your belongings (Clause 20.4).

Residential fees will continue to be charged for a minimum of 3 days post death (starting the day after death). If personal possessions are not cleared from the room within 3 days fees will continue to be charged, subject to a backstop period of 10 days (Clause 21.1.4).

You may bring small items of furniture as well as your belongings with you. However, we will not insure any items. Insuring items is your sole responsibility (Clause 24).

A guarantor (where applicable) is personally liable for any amounts due under the contract as they fall due. This obligation runs parallel to but is independent of your payment liabilities (Clause 31).

**Part 2 – Residence Terms**

## 1. Interpretation

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

“**Additional Costs**” has the meaning in clause 9.1.2 of this Agreement.

“**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 this Agreement.

“**Authority Funding**” means the amount that any Local Authority, NHS body (including a CCG) 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 and “**Local Authority Funding**” shall be specifically used in reference to contributions towards our fees by a Local Authority.

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

“**CHC**” means any Continuing Healthcare funding provided by the NHS.

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

“**Fees**” includes all and any fees, costs or charges payable to us under this Agreement including Residential Fees, Enhanced Room Fees, Top-ups and Post-death Fees, but does not include Additional Costs.

“**FNC**” means a funded nursing care contribution from any CCG or other authority, and which is paid irrespective of your means.

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

“**Guaranteed Amounts**” means all Residential Fees, any Enhanced Room Fees and any Post-death Fees due from you to us under this Agreement unless any part of them are covered by Authority Funding (see clause 31 generally and 31.5 in particular).

“**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 in Part 1 of this Agreement.

“**Personal Care Plan**” means the document provided to you by the Home which provides a detailed assessment of your care needs and your care package.

“**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 any 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.

**“Representative”** shall mean your duly appointed attorney and/or deputy and may include any Guarantor and/or Third Party Contributor and anyone else who in the exercise of our reasonable discretion we may communicate with or notify about you and your residency, including an Authority, a close family member or a close friend.

**“Residential Fees”** has the meaning in clause 4.1 of this Agreement.

**“Third Party Liability”** means:

- (a) the Third Party Liability stated in the Admission Request above;
- (b) the additional Fees in accordance with clauses 5, 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 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 an Authority who from time to time agrees to pay all or any part of the Fees or other sums payable to us under this Agreement.

**“Top-up”** refers to the Third Party Liability stated in the Agreement and shall include Third Party Contributor contributions to Local Authority Funding where the weekly fee offered by a Local Authority is insufficient to meet our Residential Fees.

**“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 rules of interpretation shall apply:

- 1.2.1. references to an **“Authority”** include references to a Local Authority and any other relevant public body;
- 1.2.2. the words or abbreviations **“for example”**, **“e.g.”**, **“include”**, **“includes”** and **“including”** are to be construed as if they were immediately followed by the words **“without limitation”**;
- 1.2.3. nothing in the Summary of Key Terms on page 5 shall affect the meaning and effect of these Residence Terms, and, if there is a conflict between them, these Residence Terms shall prevail.
- 1.2.4. 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
- 1.2.5. 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 (in Part 1 above) 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 and promise to us that you have cash and assets which will be readily realisable and are sufficient to pay at least two (2) years of our Residential Fees, in accordance with this Agreement. This confirmation and promise is a significant factor in our agreeing to admit you to the Home. 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 Authority Funding (whether for the future, or for past residence at the Home),

you must notify us in writing as quickly as possible in advance of that change.

#### **A brief commentary on Local Authority Funding**

**(Note: This is not advice from us to you: you should take your own advice on financial matters.)**

In 2018 the financial threshold in England for Local Authority Funding was £23,250. The means test which a Local Authority carries out for its threshold assessment is complicated. It should be explained to you by the Local Authority. You can seek independent advice about it.

We strongly recommend that you initiate the assessment process in good time and co-operate with the Local Authority during it. The process can take several months.

There then ought to be discussions between you, the Local Authority and us about whether you will be able to stay at the Home and if so on what payment and other terms.

We suggest that as soon as your readily available assets fall below £45,000 you consider contacting your Local Authority and tell us.

#### **An illustration of change of circumstances affecting payments**

**(Note: The room price and Local Authority figures in this illustration are hypothetical to illustrate the process and are not intended to reflect your financial circumstances or room price or the funding level that might be provided by your Local Authority or the timing of its assessment decision).**

When entering one of our homes, a hypothetical resident (“**Resident A**”) has assets and cash substantially above the financial threshold, therefore does not qualify for Local Authority Funding and so Resident A pays the full fee of £1,300 per week.

Over time, Resident A’s assets and cash reduce in value to a level where they might qualify for Local Authority Funding.

Resident A applies for Local Authority Funding on 1 February 2021.

On 28 March 2021 the Local Authority agrees to pay £750 per week and agrees to backdate that funding to 1 February 2021. This leaves a shortfall of £550 per week.

Resident A would 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 5.8) to pay the balance of £550 per week or, if clause 5.4 applies, Resident A enters into a Local Authority Contribution Agreement to pay the balance of £550 per week, in each case as from 1 February 2021.

If agreement was reached between the Local Authority, us and Resident A ( and their Guarantor or Third Party Contributor), in respect of the 8 weeks from 1 February 2021 to 28 March 2021 we would refund Resident A an amount equal to the amount we actually receive from the Local Authority, so if we received from the Local Authority £1,300 x 8 weeks (comprising £750 per week of the Local Authority's own funding and the £550 per week contributed to the Local Authority by a Third Party Contributor/ Resident A/ Guarantor), we would refund the full £1,300 per week room price previously paid for those 8 weeks. However if we only received payment covering £750 per week from the Local Authority then £750 per week rather than £1300 per week would be the sum credited to you.

This illustration also shows the good sense for not delaying the start of an application for Local Authority Funding.

- 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. We shall endeavour to consult and discuss with you and/or your Representative in reaching such a determination, and also endeavour to agree which of the above 3 options is appropriate to employ.
- 3.5. In relation to any Local Authority Funding relating to you, you consent to us:
- 3.5.1. liaising with the relevant Local Authority;
  - 3.5.2. disclosing information about you to the relevant Local Authority; and
  - 3.5.3. 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 amount of Residential Fees charged each month 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 that month. 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 Room Fees referred to in clause 9.1.1 (which relate to providing you a higher standard of room). 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 request 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) agree to pay the difference between the amount, or proposed amount, of the Local Authority Funding and such Residential Fees (i.e. a Top-up agreement). If you (or, if applicable, any Guarantor or Third Party Contributor) fail to comply with our request within fourteen (14) days of our making it, we may terminate this Agreement and require you to leave the Home by giving to you at least twenty eight (28) days’ prior written notice of termination (see clause 21.3.1).
- 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 (i.e. a Top-up agreement).
- 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 5.2 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.

We shall endeavour to consult and discuss with you and/or your Representative prior to the exercise of such discretion.

- 5.7. If 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**

#### Standard annual increase of 5%

- 6.1. On 1 April of each year, provided there are no changes to your needs or the services you require (see clause 7 below) and subject to the additional increase proviso in clause 6.6 below, our gross Residential Fees (including any FNC) and any Enhanced Room Fees (see top figure of “total gross weekly fee” box in the Admission Request on page 2) shall increase by 5%, save for two exceptions:
  - 6.1.1. Part self-funded resident (paying a Top-up with Local Authority Funding) – where you receive Local Authority Funding and you or a Third Party Contributor are required under clause 5 above to pay a Top-up between the Local Authority

Funding and our Residential Fees, only that Top-up (see figure(s) next to “Resident” and/or “Third Party Liability” in the “Residential Fees (gross weekly)” box in the Admission Request on page 2) shall increase by 5%;

- 6.1.2. CHC funded resident (paying Enhanced Room Fees) – where you are CHC funded and pay Enhanced Room Fees (because you are staying in a higher standard of room), only our Enhanced Room Fees (see top figure of “Enhanced Room Fees (gross weekly)” in the Admission Request on page 2) shall increase by 5%.
- 6.2. This standard annual increase is intended to cover readily predictable increases to our cost base, including:
  - 6.2.1. increases in staff (and agency staff) costs, including foreseeable increases to pension contributions and the National Living and Minimum Wage; and
  - 6.2.2. increases in our other running costs, including rent, maintenance of the home, insurance, equipment, medical supplies, food, heating, and rates and other utilities.
- 6.3. If you are admitted between 1 April and 30 September, your first annual fee increase of 5% will be on the first 1 April following your admission (e.g., if you were admitted on 1 June 2020 at a weekly fee of £1,800, your first annual fee increase of 5% would be on 1 April 2021 when your weekly fee would increase to £1,885.50). Subsequent increases of 5% will take place on 1 April each following year.
- 6.4. If you are admitted between 1 October and 31 March, your first annual fee increase of 5% will be on the second 1 April following your admission (e.g., if you were admitted on 1 January 2020 at a weekly fee of £1,800, your first annual fee increase of 5% would not take place until 1 April 2021 when your weekly fee would increase to £1,885.50). Subsequent increases of 5% will take place on 1 April each following year.
- 6.5. We stress that you have the right to terminate this Agreement for any reason by giving notice to us under clause 20.1.1 at any time. Therefore, if you were not willing to pay the first annual increase of 5% (or any subsequent annual increase of 5%), you would need to terminate this Agreement under clause 20.1.1 by giving the home manager at the Home at least twenty-eight (28) days’ written notice before 1 April in any particular year, and provided you left the Home by 1 April in that particular year, you would not be charged the 5% increase (but you would be if you are still in the Home on 1 April of that particular year).

Additional increase proviso

- 6.6. If central government or local authority or other state or quasi state entities or agencies take steps or cause steps to be taken which have a significant and obvious impact on our costs (including taxes or other charges raised by the state or agencies of the state ), we reserve the right to increase your Residential Fees and any Enhanced Room Fees by a fair and reasonable amount above the standard annual increase of 5% to reflect that impact (“**additional increase**”). This additional increase is intended to cover significant increases to our costs base which are not readily predictable, including unforeseeable changes to government legislation which require us:
  - 6.6.1. to increase staff to resident ratios or staff qualification, that may have a significant impact on our staff (and agency) costs beyond the amount which was readily predictable; or
  - 6.6.2. to increase the National Living Wage or National Minimum Wage beyond the amount which was readily predictable.
- 6.7. We shall give you not less than twelve (12) weeks’ prior written notice before any such additional increase takes effect, including the reasons for that additional increase. If you were not willing to pay any such additional increase, you would need to terminate this Agreement under clause 20.1.1 by giving the home manager at the Home twenty-eight (28) days’ written notice, and provided you left the Home by the end of our twelve (12)-week notice period, you

would not be charged the additional increase (but you would be if you are still in the Home on the date the additional increase takes effect).

- 6.8. The annual fee increase of 5% (and any additional increase) is separate to any fee change caused by a change in your individual care needs (see clause 7 below).

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

- 7.1. Before your admission to the Home, we shall (except in urgent admissions) carry out with you an assessment of your needs using the assessment scheme we have chosen to use to determine whether we can meet your needs at the Home. Admission to the Home will only be permitted if our initial assessment we can meet your assessed needs.
- 7.2. If we can meet your needs, the Home will design a bespoke Personal Care Plan which will be provided to you and/or your Representative.
- 7.3. It is important to understand that most residents will require more help and assistance day-to-day during their stay at the Home. For example, you may need to move to another room or require more staff assistance to carry out the tasks you were previously able to do yourself.
- 7.4. Where we consider (in our evidence-based judgement) that your needs have changed materially from those previously assessed and set out in your Personal Care Plan, we shall notify you (and any Guarantor and/or Third Party Contributor and/or Local Authority) as soon as reasonably practical 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 or reduced costs of such change. Any additional costs shall be reasonable and reflected in any fee adjustments. For the avoidance of doubt, any fee adjustment would be separate to the Residential Fee and Enhanced Room Fee increases referred to in clause 6 above.
- 7.5. Where you receive financial assistance from a Local Authority or a CCG, we will also notify them as it may be appropriate for them to arrange their own assessments.

*Notice of adjustment to Residential Fees or other Fees*

- 7.6. We will endeavour to give you at least twenty-eight (28) days' notice in advance of any changes to our care services provided under your Personal Care Plan and we will charge the revised Residential Fees and other Fees from the date we change your care package.
- 7.7. In cases of urgent needs changes (e.g., serious behavioural problems which place your or other residents' safety or welfare at significant, immediate risk) we reserve the right, on giving you immediate notice, to change our care services provided under your Personal Care Plan and charge for the revised Residential Fees and other Fees from the date we change your care package..
- 7.8. If, during the twenty-eight (28) day notice period referred to in clause 7.6 or within twenty-eight (28) days of changing your care package in accordance with clause 7.7, you and/or your Representative raise a complaint about our assessment of your needs (e.g. about the start date of such care or other needs changes or the extent of those changes), you are welcome to instruct (and we reserve the right to instruct) an independent healthcare professional (e.g. a GP) to determine whether they agree with our assessment. Where an independent healthcare professional is instructed, we will maintain the original fee (or revert to the original fee where this had been increased due to urgent needs changes) until the outcome of the professional's review (provided that review is completed within twenty-eight (28) days of our proposed change). We shall abide by the professional's opinion (provided we have the means and ability to do so). If that opinion agrees with the findings of our assessment, you will pay the revised fee from the date we changed your care package. If that opinion rejects the findings of our assessment, we will withdraw the proposed changes and (where applicable) immediately refund any increase to your Residential Fees or other Fees applied before you raised the complaint.

- 7.9. In the event the professional agrees with our assessment and you (and/or your Representative) continue to object to the increase to your Residential Fees or other Fees:
- 7.9.1. you will remain liable for any increase to your Residential Fees or other Fees from the date we changed your care package, but you can terminate this Agreement by giving the home manager at the Home twenty-eight (28) days' prior written notice under clause 20.1.1 (note that you have the right to give notice under clause 20.1.1 at any time during your residency for any reason); and
- 7.9.2. if you object to paying the increased Residential Fees or other Fees, you will remain liable to pay these increased fees from the date we changed your care package, and we shall be entitled to terminate this Agreement by giving you twenty-eight (28) days' prior written notice under clause 20.3.5.2 and, if necessary, initiate court protocol compliant pre-action steps.

## **8. Deposit and Advance Payment**

- 8.1. If your residence at the Home is not funded by Authority Funding (e.g. a Local Authority or CCG), at the commencement of this Agreement, we require you to make the following pre-admission payments to us:
- 8.1.1. four (4) weeks' Residential Fees in advance (the "**Advance Residential Fee**") which shall be applied to the first twenty-eight (28) days of your residence; and
- 8.1.2. a deposit equal to two (2) weeks' Residential Fees (the "**Deposit**") which, subject to clause 8.3 below, is refundable at the end of this Agreement. We will ensure that the Deposit is safeguarded in the event of our insolvency but will not pay any interest on 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 we use any excess pre-admission payment received by us towards satisfying the obligation to pay us the Advance Residential Fee.

### Deposit: deductions and return

- 8.3. We reserve the right to use the Deposit:
- 8.3.1. against any sums you owe to us where those remain outstanding for more than twenty eight (28) days at any time during the term of this Agreement; and / or
- 8.3.2. to reimburse us for any damage you cause (or anyone who visits you causes) to the Home including our equipment at any time during the term of this Agreement.

Otherwise the Deposit will be held by us for the duration of this Agreement.

- 8.4. On termination of this Agreement, the Deposit will be used first to pay any sums due to us (e.g. any unpaid Residential Fees) and any remainder will be repaid to you or your estate. In the event of your death, any Post-death Fees (calculated in accordance with clause 21) will also be deducted from the Deposit. When returning your deposit, we will provide you with a breakdown of any deductions.
- 8.5. The amount of the Deposit due to you will be repaid within twenty-eight (28) days of your leaving the Home or your death unless such repayment requires a grant of representation in which event your estate will be reimbursed as soon as reasonably practicable after we are notified of such grant.
- 8.6. Where there is disagreement between you (and/or your Representative) and us about the amount of the Deposit to be returned, this may be appealed to our Complaints Co-ordinator in

line with our complaints process. The Complaints Co-ordinator may be contacted at [complaintscoordinator@careuk.com](mailto:complaintscoordinator@careuk.com).

## **9. Lifestyle Charges and Additional Costs**

- 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. enhanced Fees for providing you (at your request) 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 or goods 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 (“**Additional Costs**”). For example, Additional Costs 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 (for which we charge £20 per hour);
    - 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 examples and details of such Additional Costs can be found in our ‘Service User Guide’ and you are also referred to clauses 25.5, 25.6 and 25.7.
- 9.3. The amount of Enhanced Room Fees charged for each month 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 that month. 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. Payments and their Timing**

- 10.1. Fees (including any Third Party Liability, Top-ups and Enhanced Room Fees, as well as Residential Fees) fall due and must be paid before the start of the calendar month to which they relate. By the date of your Admission you (and any Guarantor and/or Third Party Contributor) shall have paid the Advance Residential Fee for 28 days residence (see clause 8.1.1) and must have set up and thereafter must maintain a direct debit. Payments by direct debit are made in advance for the following month's care and shall be made by the last working day of the preceding month, e.g. if you move into the home on 1 May, on the last working day of May payment will be made, having taken into account the Advance Residential Fee which covered 1 – 28 May, for the three days shortfall in May (29 – 31 May) and for all of June.
- 10.2. Additional Costs are payable to us immediately upon our incurring such Additional Costs, or where such Additional Costs involve the provision of services or goods by a third party supplier, our receipt of an invoice or other demand for payment from that third party supplier. Details of how we shall record and administer Additional Costs are set out at clauses 25.5 to 25.7. We shall maintain and have available for inspection or to be sent to you (and/or any Third Party Contributor and/or any Guarantor who may have a liability for them) written records relating to Additional Costs and any funds we hold for you on account of Additional Costs. Where we consider it appropriate, we shall request and you shall provide immediately a reasonable sufficiency of funds on account of future Additional Costs, and where appropriate we shall also raise and send invoices in respect of Additional Costs.
- 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. We confirm that for as long as direct debit arrangements remain in place which cover all sums due, direct debit payments will not be treated as a "late payment" on which interest is charged.

## **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.

## **12. Nursing Care**

- 12.1. This clause 12 applies when your Residential Fees are not met by Local Authority Funding.
- 12.2. Where prior to admission FNC has been agreed with an Authority (e.g. your local CCG), FNC details ought to have been included in the Admission Request. So long as FNC eligibility is confirmed prior to admission by an Authority, we shall only charge Fees (as amended from time to time in accordance with these Residence Terms) net of the assessed FNC rate.
- 12.3. Where nursing care is to be provided as part of your package of care but FNC eligibility has not been confirmed by an Authority, we will arrange for it to be provided as far as it is practicable, and our fees for nursing care will be charged in full, monthly to you (and/or a Guarantor and/or Third Party who may have agreed to pay them) and you and/or they shall pay those Fees (together with any applicable VAT) which will be included as part of the Residential Fees.

- 12.4. Where FNC eligibility is established post Admission and upon receipt of FNC payments from an Authority;
- 12.4.1. we will adjust your Fees account for any FNC that we receive 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 receive for your nursing care;
- 12.4.2. 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
- 12.4.3. we shall, as soon as reasonably practicable, notify you or any such Guarantor and/or Third Party Contributor of any changes to any liability you or any such Guarantor and/or Third Party Contributor have to pay for nursing care and any FNCs that we may receive and whether those changes might increase or decrease your Residential Fees liability.
- 12.5. CHC is provided by the NHS. It is not means tested. If you are offered CHC, that offer may be at a fee rate which is unacceptable to us, but it may be unlawful for you or any Third Party Contributor to agree to pay the difference between the rate offered by the NHS and a fee rate which is acceptable to us. In that event, and at our entire discretion, we reserve the right to refuse the CHC rate offered by the NHS, which may result in our terminating this Agreement on giving you twenty-eight (28) days' written notice where you are not content to continue paying our full Residential Fees.

### **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 18 (where it may be necessary to assign you to a different room), we shall keep the room you occupied available for you to return to the Home for the first six (6) weeks of such absence;
- 13.1.2. during the first six (6) weeks of absence, we shall endeavour to consult with you, any Guarantor and any Third Party Contributor to seek agreement regarding further retention of your room after the first six (6) weeks; and
- 13.1.3. in terms of fee liability during your absence, you, any Guarantor and any Third Party Contributor shall continue to be liable to pay our Residential Fees and any Enhanced Room Fees as follows:
- 13.1.3.1. in full for the first seven (7) days of such absence from the day after you left the Home; and
- 13.1.3.2. after the first seven (7) days, at a discount of 10%. This 10% reduction broadly represents any savings we are likely to make as a result of your absence, for example in relation to reduced food, heating and lighting costs.

For the avoidance of doubt, we will not charge you if and to the extent that FNC is reduced or withdrawn during the period you are away from the Home.

### **14. Refunds of Residential Fees and Enhanced Room Fees paid in advance**

- 14.1. Where this Agreement terminates, for whatever reason, if you have paid Residential Fees or Enhanced Room Fees in advance and the room you occupied is cleared and (except as provided for in clause 14.2 below) reoccupied before the end of the period for which the payment in advance has been made, you shall be entitled to a pro-rata refund of such Fees

paid in advance for the period from the day after the room you occupied is cleared and reoccupied.

- 14.2. Where we terminate this Agreement under clause 20.3.5.1 (i.e. where we can no longer meet your care needs) you will be entitled to such pro-rata refund from the day after the room you occupied is cleared. Therefore, in this circumstance, a pro-rata refund is not also conditional on the room being reoccupied.

## **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 due date, such interest to be calculated on a day to day basis from the due date. Such interest shall be applied to our loss of use of those outstanding sums.

## **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. Medication**

- 17.1. 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.
- 17.2. 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:
- 17.2.1. we cannot be held responsible for the safekeeping and dispensing of the medication; and
  - 17.2.2. 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.

## **18. Change of Room at the Home**

- 18.1. 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.
- 18.2. 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. In the event of an emergency which necessitates your being relocated, after the emergency has ended, you shall be returned to your former room if you so request and it is practical and safe for us to let you do so.
- 18.3. A particular circumstance in which it may be appropriate for you to move to another room is where you cease being self funded and we agree such a move with you and the local

Authority or NHS body which is providing entire or partial Authority Funding for your continued residency at the Home.

- 18.4. 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.

**19. Trial Period**

- 19.1. The first twenty-eight (28) days following your admission to the Home shall be a trial period for the benefit of you and us.

- 19.2. Either we or you may terminate this Agreement upon at least seven (7) days' written notice to be served on the other (your notice should be given to the home manager at the Home) at any point during the trial period. Any such notice given by us shall have a good reason for termination, e.g. we cannot meet your care or nursing needs or your behaviour is such as to be significantly disruptive or puts you, other residents or our staff at material risk. After any such termination, to the extent that any payment of Fees made to us in advance relates to the period when the accommodation you occupied has been reoccupied after you leave the Home, it will be refunded.

**20. Termination (other than on death)**

- 20.1. You may terminate this Agreement:

20.1.1. by giving to the home manager at the Home at least twenty-eight (28) days' prior written notice of termination for any reason; or

20.1.2. by giving to the home manager at the Home 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 twenty eight (28) days after a request in writing from you to us asking for the breach to be remedied; or

20.1.3. in accordance with clause 6.5 and 6.7 (where you do not wish to pay our Residential Fees following a standard annual increase or an additional increase) or clause 19.2 (where you wish to terminate during the initial twenty-eight (28) days of your residency (trial period) for any reason),

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.

- 20.2. 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 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.

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

20.3.1. by giving to you at least twenty-eight (28) days' prior written notice of termination if within fourteen (14) days of our making a request under clause 5.2 for you, a Guarantor or a Third Party Contributor to enter into a Local Authority Contribution Agreement no such agreement has been entered into; or

20.3.2. by giving to you not less than twenty-eight (28) days' written notice at any time for non-payment of Fees if within 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, no such payment is made and we have been offered no realistic proposals for the arrears and the further fees that will have accrued during the notice period will be paid in full by the end of the notice period; or

- 20.3.3. 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
- 20.3.4. 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 twenty-eight (28) days despite consulting with you and/or your Representative and providing you and/or your Representative with a written request asking for the breach to be remedied and stating that termination may be a consequence of failure to remedy the breach; or
- 20.3.5. by giving to you not less than twenty-eight (28) days' written notice if:
  - 20.3.5.1. having consulted with you and taken advice from the appropriate members of the relevant external "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
  - 20.3.5.2. there is no agreement about changes in our Fees owing to changes in your care or other needs (see clause 7); or
- 20.3.6. 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 despite reasonable efforts to consult with you and/or your Representatives and manage such circumstances or behaviour;
- 20.3.7. by giving to you written notice effective immediately, or of such length as we state in our notice, if you are not vaccinated against COVID-19 (including any appropriate booster vaccinations) using a COVID-19 vaccine approved by the UK's Medical and Healthcare Products Regulatory Authority or you do not provide evidence to our reasonable satisfaction that you have received the full course of such a vaccination (including, as appropriate, any booster vaccinations), unless you are medically exempt from such a vaccination and despite our reasonable efforts to consult with you and/or your Representatives as to having such a vaccination; or
- 20.3.8. in accordance with clauses 3.3.3 (material deterioration in your financial means), , 5.6.1 (failure to enter into a new Local Authority Contribution Agreement), 12.5 (where you become eligible for CHC, but the CCG offers us inadequate funding and there is no agreement to pay our full Residential Fees) or 19.2 (where we terminate your residency during the initial twenty-eight (28) days of your residency (trial period) for any good reason),

You shall be required to leave the Home at the end of any such period of notice.

- 20.4. We may send a copy of any such notice referred to in this clause 20.3 to any Third Party Contributor and/or Guarantor and/or Authority and/or other Representative who may have in interest in or be concerned by such termination notice.
- 20.5. You and/or your Representative may appeal any decision to issue a termination notice to our Regional Director (the person to whom the home manager of the Home reports and whose details will be available from the Home's administration office) within seven (7) days of you receiving our termination notice. The Regional Director may uphold your appeal subject to conditions, for example, that you abide by specified standards of behaviour. If the notice is not appealed or where the termination notice decision is upheld by the Regional Director your placement at the Home will terminate on expiry of our termination notice.

- 20.6. 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:
- 20.6.1. 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
- 20.6.2. 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.
- 20.7. 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 or Additional Costs 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.

## **21. In the event of your death**

- 21.1. In the event of your death:
- 21.1.1. this Agreement shall terminate, except for terms that are intended to continue afterwards;
- 21.1.2. any outstanding Fees and Additional Costs due and payable by you to us, together with any interest due thereon, shall be charged to your estate;
- 21.1.3. any Guarantor will remain liable to pay us any Guaranteed Amounts;
- 21.1.4. Post-death Fees will be charged as follows:
- 21.1.4.1. 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 21.1.4.3. 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.
- 21.1.4.2. 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 21.1.4.3.
- 21.1.4.3. 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.

- 21.1.5. any Third Party Contributor liable to pay a contribution towards any Local Authority Funding will remain liable for:
  - 21.1.5.1. that Third Party Liability owing to us at the time of your death; and
  - 21.1.5.2. 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.
- 21.1.6. 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:
  - 21.1.6.1. that Third Party Liability owing to us at the time of your death; and
  - 21.1.6.2. any part of the Post-death Fees (see clause 21.1.4) in relation to and for which the Third Party Contributor is liable.
- 21.1.7. for the avoidance of doubt, where we recover any FNC (see clause 12) for your nursing care prior to your death, your estate, any Guarantor and/or Third Party Contributor will only bear the balance of any Post-death Fees (see clause 21.1.4) in excess of that FNC irrespective of whether or not we continue to recover any FNC on your behalf after your death.
- 21.2. Subject to any extended period agreed under clause 21.1.4.3, 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:
  - 21.2.1. 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
  - 21.2.2. 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.
- 21.3. 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.

## **22. Notices and Correspondence**

- 22.1. Subject to clause 22.2, if you (and/or your Representative) have provided or do provide to us in the future an email address, we shall be entitled to send the following information to that email address:
- 22.1.1. invoices, credit notes, statements, notices and communications under clauses 6.7, 7, 10.2, 10.3, 12.4.2, 12.4.3, 18.2, 20.6.2 and 21.2.2; and
  - 22.1.2. other standard communications we issue to Residents and those involved in their care.

Such email shall be deemed safely delivered to the recipient addressee at the time of transmission. The reasons for sending information by email will be environmental, reliability and speed of delivery, and cost.

- 22.2. Any addressee (whether you or your Representative) of email communications shall be entitled to have us stop using such method of communication and (with the exception of Additional Costs statements which shall be available for inspection at the Home) require us to provide such communications in hard copy provided they confirm a physical address at which they currently reside.
- 22.3. In addition to having the right to provide you relevant information by email under clause 22.1, we shall be entitled to give any notice under this Agreement to you, any Guarantor, or any Third Party Contributor, or any person with apparent authority to act on behalf of your estate if that notice is sent by first class post or hand delivered to the intended recipient.
- 22.4. Any notice you or your Representative send to us will be validly served if sent by first class post or hand delivered to the home manager at the Home.
- 22.5. Notices sent by first class post will be deemed to be received forty-eight (48) hours after posting.

## **23. Personal Finances**

Subject to clauses 25.2 and 25.4 - 25.7, we do not accept responsibility for your personal finances.

## **24. Personal Belongings**

- 24.1. 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 25 in relation to your obligations to insure your belongings.
- 24.2. You must not bring into the Home soft furnishings which are not certified as being fire retardant.
- 24.3. 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.
- 24.4. We agree to provide a laundry service for your clothing that are machine washable at a minimum temperature of 40 degrees Celsius and are able to be tumble dried (but our laundry service does not include professional dry cleaning or hand washing of any item).
- 24.5. 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 288 will apply.

**25. Insurance of Personal Belongings, Cash and our Administration of Additional Costs**

- 25.1. 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.
- 25.2. Residents having cash on their person or in their room risks loss or theft of that cash and potential issues with other residents and our staff. Our strong preference and recommendation is that any cash is held securely by us. We will not be held liable for any loss of your personal money that is not deposited with us unless the Home has been negligent, fraudulent or breached this Agreement in respect of your cash.
- 25.3. If at any time you wish to hold cash in your room or personally you must make your own independent insurance arrangements in relation to your cash.
- 25.4. We do not pay interest on any monies, whether cash or other, that we hold for you.
- 25.5. Any Additional Costs ought to be covered by monies we hold on account for you, whether by receipt of and application of your personal allowance, or the provision of other funds. Monies we hold on account of Additional Costs should be maintained by you or on your behalf at a reasonable level to pay your Additional Costs: we recommend eight (8) weeks of anticipated personal spend should be maintained at any one time. Where we require further monies on account for future Additional Costs (which are likely to be incurred), or to meet Additional Costs which we have incurred for which we do not hold funds, you (and/or your Representative) must comply within five (5) days of any request from us for those monies, failing which we shall have the right at the end of such five (5) day period to stop supplying or arranging for the supply of any further such additional services or goods.
- 25.6. Each month we shall produce a statement which records all Additional Costs and the application of monies we hold for you covering the preceding month, and will describe for that month each transaction, its date and its cost.
- 25.7. We will have such Additional Costs statement available for inspection at the Home, will leave you a copy in your room if you so wish, or email it to you or anyone else you may designate and, where appropriate, to any Third Party Contributor and/or Guarantor: but we shall not be bound to post the statement or deliver it in any manner other than by email. Where any of the Additional Costs comprise goods or services provided by a third party supplier, we shall try to obtain an invoice or other written record for that supply, and shall keep such record available for inspection at the Home for twelve (12) months from the date of supply.

**26. 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.

**27. Variations**

- 27.1. 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:
  - 27.1.1. the introduction of new or amended legislation; and/or
  - 27.1.2. to meet the changing needs of our residents; and/or
  - 27.1.3. to improve our service.
- 27.2. Variations will be notified at least twenty-eight (28) days 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.

## **28. Liability**

- 28.1. Nothing in this Agreement shall exclude or limit liability for:
- 28.1.1. death or personal injury resulting from negligence by us or by our agents or employees; or
  - 28.1.2. any breach of statutory obligations imposed on us in providing you with goods and/or services; or
  - 28.1.3. our statutory responsibility for any defective products; or
  - 28.1.4. fraud, fraudulent misrepresentation; or
  - 28.1.5. any other matter for which it would be illegal or unlawful for us to exclude or attempt to exclude our liability.
- 28.2. Subject to clause 28.1, 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.
- 28.3. Subject to clauses 28.1 and 28.2, 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.
- 28.4. Subject to clauses 28.1, 28.2 and 28.3, 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.
- 28.5. Subject to clauses 28.1, 28.2, 28.3 and 28.4, we shall not be liable to you or any other person under this Agreement or otherwise arising out of or in connection with your stay at the Home to the extent that you are not vaccinated against COVID-19 (including any appropriate booster vaccinations) using a COVID-19 vaccine approved by the UK's Medical and Healthcare Products Regulatory Authority.

## **29. 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.

## **30. Data Protection**

- 30.1. We shall comply with all Applicable Data Protection Law in relation to Personal Data.
- 30.2. 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.
- 30.3. 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.
- 30.4. If any of the information that you or your representative provides to us changes, please inform us within seven days of such change.

- 30.5. 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.

### **31. Guarantee**

- 31.1. The Guarantor agrees to be jointly and personally liable for the payment of all Guaranteed Amounts due to us as they fall due.
- 31.2. In addition to guaranteeing the Guaranteed Amounts as set out at clause 31.1, the Guarantor agrees at all times to compensate and/or protect us in full and keep us compensated and/or protected in full in respect of 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.
- 31.3. 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.
- 31.4. 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.
- 31.5. 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 (save in respect of Authority Funding in relation to which we obtain legal advice giving us a realistic prospect of success of recovering payment of such Authority Funding) before claiming from the Guarantor under this Agreement.
- 31.6. We shall use reasonable endeavours to contact the Guarantor if there are circumstances which suggest we may make a demand or claim against the Guarantor for Guaranteed Amounts, e.g. where a monthly direct debit payment is rejected or for non-payment of substantial Additional Costs without satisfactory explanation and resolution. We shall try to resolve matters with the Guarantor within the fourteen (14) days following the day on which we attempt to make contact with the Guarantor (assuming we still have the means to contact the Guarantor and the Guarantor responds to us) but if matters are not resolved by then, we shall have the immediate right to commence court proceedings against the Guarantor, as well as give you twenty-eight (28) days' written notice of termination under clause 20.

### **32. General**

- 32.1. 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.
- 32.2. 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 32.2 shall not affect the validity and enforceability of the rest of this Agreement.
- 32.3. In addition to our obligations to look after you and your welfare, we have similar obligations to other residents, their visitors and our staff. If we have reasonable grounds for believing that any visitor poses an immediate, significant risk to any resident, another visitor or staff (e.g. the visitor is physically abusive or verbally threatened to be so), we reserve the right to exclude them from the Home immediately and shall involve the police and other authorities as appropriate. Where the risk is not immediate and significant, having undertaken an assessment and discussed the incident or behavior of the visitor with them, we shall notify that visitor and the resident whom they are visiting of any warnings as to future conduct or any conditions or limitations for future visits, and in cases of significant risk to residents, other visitors or staff, that they are not permitted to visit the Home. Any such steps will be

reviewed if the visitor or the resident the visitor is visiting requests a review and those steps and the outcome of any review can be challenged by invoking our complaints procedure.

- 32.4. 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 32.4 shall override any appropriation made by you, a Guarantor and/or a Third Party Contributor.
- 32.5. Each of you, any Guarantor and/or any Third Party Contributor shall promptly on demand pay or reimburse us in full our reasonable 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.
- 32.6. 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.
- 32.7. 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.

### **33. Governing Law**

- 33.1 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.
- 33.2 Each party irrevocably agrees that the courts of England and Wales shall have jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.