

**RIVERSPRING HEALTH SENIOR LIVING, INC.  
D/B/A RIVER'S EDGE**

**80% REFUNDABLE  
RESIDENCY AGREEMENT**

As approved by the  
New York State Continuing Care Retirement Community  
Council and  
New York State Department of Financial Services  
\_\_\_\_\_ (date of COA approval)

**This matter involves a substantial financial investment and a legally binding contract. In evaluating the disclosure statement and the contract prior to any commitment, River's Edge recommends that you consult with an attorney and financial advisor of your choice who can review these documents with you.**

RIVERSPRING HEALTH SENIOR LIVING, INC. D/B/A RIVER'S EDGE

RESIDENCY AGREEMENT

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**RIVERSPRING HEALTH SENIOR LIVING, INC.  
D/B/A RIVER'S EDGE  
RESIDENCY AGREEMENT**

**TERMS OF OCCUPANCY**

This Residency Agreement (“Agreement”) is entered into by \_\_\_\_\_ (the “Resident,” and referred to herein by the words “you” and “your,” and if two persons are parties hereto, the words “Resident,” “you,” and “your” shall refer to both residents, as applicable) and RiverSpring Health Senior Living, Inc. d/b/a River’s Edge (the “Sponsor” or the “Community”), a New York not-for-profit corporation. The terms “Sponsor”, “we” and “our” are used throughout this Agreement to denote the continuing care retirement community operated by River’s Edge.

The Sponsor seeks to provide quality residential housing for retirement age men and women along with an array of personal services and amenities outlined in this Agreement, including certain assisted living and nursing home services that will be available at The Hebrew Home for the Aged at Riverdale (“Hebrew Home”), an affiliate of Sponsor located adjacent to the Community. Subject to the conditions contained in this Agreement, we agree to make available to you an unfurnished independent living unit (“Residence”) in the Community and provide you with general services and amenities described in this Agreement. The Residence is identified as follows:

RESIDENCE NUMBER: \_\_\_\_\_

RESIDENCE STYLE: \_\_\_\_\_

You may cancel this Agreement at any time prior to midnight of the third (3rd) day after the date on which you sign this Agreement (the “Rescission Period” as defined in Section 6.1 of this Agreement). If you elect to cancel this Agreement, you must do so by written notice in accordance with Section 7.15 of this Agreement and will be entitled to receive a refund of all assets transferred, with interest earned, subject to the terms and conditions contained herein, other than any charges applicable to your intended occupancy of the Residence pursuant to Section 1.7.

**1. GENERAL SERVICES AND FACILITIES**

- 1.1 Basic Agreement.** In consideration of payment of an Entrance Fee in the amount stated in Section 4.2 and payment of the applicable Monthly Service Fee, initially in the amount stated in Section 4.3, and upon acceptance of such Entrance Fee and Monthly Service Fee by Sponsor, and agreement to the terms of this Agreement as evidenced by execution of this Agreement by all parties, you will be entitled to occupy the Residence indicated above and to receive the services and use the facilities described in this Agreement according to the provisions of this Agreement.

Your right to occupy the Residence or such other care accommodations to which you may be transferred in accordance with this Agreement shall continue for your lifetime unless sooner terminated as provided herein.

The right to occupy the Residence and receive services under this Agreement shall apply exclusively to the named Resident hereunder, and to no other individual(s). No person other than the Resident entering into this Agreement shall be permitted to occupy the Residence without the express written permission of Sponsor as hereinafter provided.

- 12 Residence Furnishings.** The Residence will be furnished at our expense with carpeting, window blinds, self-defrosting refrigerator and freezer with ice maker, range and oven, dishwasher, garbage disposal, microwave oven, washer/dryer and an emergency call system.
- 13 Community Common Areas.** You will have use of the Community's common areas in accordance with the policies and procedures of the Sponsor, as modified and amended from time to time. Community common areas are non-smoking.
- 14 Included General Services.** So long as this Agreement is in effect and you are occupying your Residence, we will provide you with the following services covered by the Monthly Service Fee and Entrance Fee:
  - a Dining Service.** You are entitled to one meal credit per Resident for each day of the month (for example, 30 meal credits for June and 31 meal credits for July). You may purchase guest meals or use accumulated meal credits for guests at any time during the month. Accumulated meal credits may not be assigned to other residents, nor may they be pooled or shared between residents or applied to private functions catered by the Community. Any unused meal credits for any month will be forfeited and may not be applied as a credit against meal charges for any other period. If you are absent from the Community for more than fourteen (14) consecutive days, you will receive a meal credit allowance in conformance with our meal credit policy, provided you give Sponsor written notice of your intended absence at least ten (10) days in advance. For health-related absences, evidenced by a letter from a licensed provider of health services, no prior notice is required. Additional meals are available upon request for an additional fee. Tray service will be provided when medically necessary.
  - b Housekeeping.** Housekeeping of the Residence, including vacuuming, routine housekeeping (as described in the Resident Handbook, defined below) and changing of personal bed linens, occurs on a weekly scheduled basis.
  - c Utilities.** The costs of sewer, water, waste disposal, electricity, heat and air-conditioning and basic cable television service are included in the Monthly Service Fee. The Residence will be centrally wired for cable television and telephone service, as well as a data communications port. You will be responsible for all telephone, premium cable television and internet service provider charges.

- d Security.** Each Residence will be equipped with smoke detectors and a sprinkler system. A twenty-four (24) hour reception desk will be located at the first floor entrance as well as twenty-four (24) hour television monitoring and on-site security personnel.
- e Emergency Alert System.** An emergency alert system will be installed in all Residence and common areas.
- f Maintenance.** Sponsor will maintain all buildings, grounds and common areas. Sponsor will be responsible for providing repair, maintenance and replacement of equipment and furnishings supplied by Sponsor, provided that Resident notifies Sponsor of the need for repair of furnishings within the Residence and such repairs are the result of normal wear and tear. You are responsible for maintenance of your personal property and are encouraged to purchase a renter's insurance policy covering your personal property and personal liability.
- g Mail.** An internal mailbox will be provided to you for receipt of mail from the United States Postal Service.
- h Transportation.** The Community will provide scheduled group transportation to designated medical facilities, shopping centers, local events, and other local destinations based on residents' interest.
- i Social and Recreational Programs.** A full-time Social Director will coordinate a variety of social, recreational, educational and cultural programs for those residents wishing to participate. Specific programs will be based on residents' interest.
- j Property Taxes and Insurance.** Any real property tax assessments, or payments in lieu of taxes ("PILOT"), applicable to the Community will be included as part of your Monthly Service Fee. You will be responsible for those taxes assessed on your personal property. Sponsor will obtain property and casualty insurance coverage on the buildings and grounds. Such coverage will not insure against loss or damage to your personal property or damage or injury to others caused by you or your invitees. As set forth above, Sponsor recommends that you purchase appropriate comprehensive insurance typically referred to as renter's insurance.
- k Wellness Programming.** Sponsor will offer educational and screening programs promoting wellness and preventive health maintenance. The wellness program is geared toward successful aging and is intended to provide an array of physical, social, intellectual and spiritual opportunities for growth. Access to the Fitness Center and Health Spa is included in the Monthly Service Fee. Additional services are available for an additional fee. Participation in the wellness program is voluntary.
- l Storage.** An individual storage locker will be assigned and available for Resident use.
- m Medical Director.** Sponsor will retain the services of a qualified licensed physician ("Medical Director") to be responsible for the medical oversight of the Community.

**15 Additional Services.** The following Additional Services are available to Residents on a fee-for-service basis:

- a. Guest meals
- b. Catering for special occasions
- c. Barber and beauty services
- d. Tray service, if not medically necessary
- e. Additional resident meals
- f. Garage Parking, subject to availability
- g. Additional housekeeping services not set forth in the Resident Handbook
- h. Laundry services for personal items
- i. Personalized transportation
- j. Clinic services

Charges for these Additional Services and others that may be offered will be incurred by Resident in accordance with the Resident Handbook then in effect and will be billed to you monthly.

**16 Life Care Benefit.** The life care benefit is designed to provide residents with access to and care in the appropriate level of care at the normal Monthly Service Fee. We will provide you with assisted living or skilled nursing care at an adjacent, affiliated community, Hebrew Home, as described below, subject to applicable law. Sponsor and Hebrew Home entered into an agreement dated [ date ] for the provision of care for residents in the assisted living center (“Assisted Living”) or nursing center (“Health Center”). If it is determined that you require assisted living services or skilled nursing care in the future, you will receive priority access to Assisted Living or the Health Center for your lifetime, subject to applicable law.

- a. **Admission.** When a determination is made by your physician and approved by the Medical Director that you need assisted living or skilled nursing care, or that you be transferred as provided in Section 3, we will admit you to Assisted Living or the Health Center, or, under the conditions set forth in the following paragraph, to another facility.

In the unlikely event that space for you, for any reason, is not available in Assisted Living or the Health Center upon determination that a Permanent or Temporary Transfer (as defined in Section 3.3) is required, Sponsor will arrange and pay for your care in your Residence by a Certified Home Health Care Agency or Licensed Home Care Services Agency, if reasonably possible, until space becomes available in Assisted Living or the Health Center. If home health care is not medically possible or available at a reasonable cost, Sponsor will arrange and pay for your care in another facility of Sponsor’s choice that can provide similar care that would otherwise have been provided by Sponsor until space becomes available. Sponsor will pay for care in another facility to the same extent as if it were provided by Sponsor. Sponsor will provide and pay for transportation as appropriate. Once space becomes available in

Assisted Living or the Health Center and Resident elects not to move in to Assisted Living or the Health Center, Resident will be responsible for the cost of care provided by the home health agency or may elect to terminate this Agreement in accordance with the terms of Section 6

- b. Assisted Living.** In addition to those services set forth in Section 1.4, we will provide to you, in a standard private assisted living unit, services designed to assist with the activities of daily living in accordance with applicable laws. Services may include assistance with dressing, eating, bathing, toileting and ambulation.
- c. Nursing Facility.** We will provide to you, in a standard private or semi-private nursing room or a private nursing room with shower, as available, skilled nursing care services approved by your physician and our Medical Director. The care provided will cover services included in the basic private nursing home published daily rate then in effect. You will be responsible for charges for any supplies and services above those included in the basic published daily rate.
- d. Fees and Charges.** The Life Care Benefit takes effect upon Temporary or Permanent Transfer, as defined in Section 3.3, to the appropriate level of care required by the Resident. The fees paid for the appropriate level of care depend upon whether the transferring resident is a single occupant or a double occupant of the Residence. A detailed description of costs is described below:

**Effect on Monthly Service Fee.**

**i. Temporary Transfers.**

- 1. Single Occupancy.** Should you have a temporary need for assisted living or skilled nursing services while you are still occupying your Residence, you will continue to pay the then current Monthly Service Fee for your Residence. No additional fee is required. By “temporary”, we mean a Temporary Transfer as defined in Section 3.3.
- 2. Double Occupancy.** Should one or both Residents have a temporary need for assisted living or skilled nursing services while you are still occupying the Residence, you will continue to pay the then current Monthly Service Fee for your Residence. No additional fee is required. By “temporary”, we mean a Temporary Transfer as defined in Section 3.3.

**ii. Permanent Transfers.**

- 1. Single Occupancy.** Should a single occupant in a Residence have a permanent need for assisted living or skilled nursing services, you will be required to release your Residence as provided under Section 3.3. You will continue to pay the then current Monthly Service Fee for your Residence. No additional fee is required. By “permanent”, we mean a

Permanent Transfer as defined in Section 3.3.

**2 Double Occupancy-Single Transfer.** Should one Resident of a double occupancy Residence have a permanent need for assisted living or skilled nursing services, you will continue to pay the then current Monthly Service Fee for your Residence. No additional fee is required.

**3 Double Occupancy-Double Transfer.** Should both Residents have a permanent need for assisted living or skilled nursing services or any combination thereof, the Residents will be required to release the Residence as provided under Section 3.3. You will continue to pay the Monthly Service Fee for your Residence. No additional fee is required. By “permanent” we mean a Permanent Transfer as defined in Section 3.3.

**e. Additional Charges.** Residents will be responsible for all costs and charges associated with Assisted Living or the Health Center which are not covered by the basic published market rates for such care then in effect as described in Section 1.6(b), (c) and (d). Such costs and charges may include, but are not limited to, the following: beauty salon charges, telephone costs, premium cable television, therapy cost and pharmacy charges.

**17 Alteration to Residence.** You may make alterations to your Residence at your cost, subject to the Community’s policies and with Sponsor’s prior written approval as outlined on the Schedule attached to this Agreement. Any approved alteration will be performed by our maintenance staff or by a contractor we approve in writing. Upon termination of this Agreement, you may, at our sole discretion, be required to return your Residence to the original design at your cost. In addition, Sponsor reserves the right to charge you a reasonable refurbishment fee. Any alterations of a permanent nature become the property of Sponsor in its sole discretion. For your safety, you agree not to replace or add any locking devices to your Residence.

**18 Advance Notice for Changes in Scope of Services.** Sponsor will provide at least sixty (60) days’ advance notice before any change in the scope of care or services becomes effective. This includes notification of any changes in charges for Additional Services. Sponsor agrees not to unreasonably reduce the scope of care or services without cause. Substantive changes in the scope of care or services must be reviewed and approved by the Commissioner of Health prior to notification to residents. Reductions in the scope of care or services resulting from changes in law are considered, without limitation, reasonable cause.

**19 Reassignment.** In the event of a Temporary Transfer, as defined in Section 3.3(a), you shall retain possession of your Residence for the purpose of resuming residency in the Residence. However, in the event of a Permanent Transfer, we will have the right to take possession of and reassign your Residence to a new resident in accordance with Section 3.3(b) of this Agreement.

**110 Priority Access.** As a continuing care retirement contract holder, priority for access to available adult care facility or nursing facility beds will be given to a continuing care retirement contract holder.

## **2. RESIDENT'S OBLIGATIONS**

**21 Residents Jointly and Severally Liable.** When the parties under this Agreement consist of more than one (1) Resident, the rights and obligations apply to each Resident individually and jointly. Each person who is designated as a Resident in this Agreement is jointly and severally liable for the payment of the Monthly Service Fee, fees for additional services, and all other amounts required to be paid pursuant to this Agreement. If it is necessary for Sponsor to institute legal action or other proceedings to recover amounts due under this Agreement, Sponsor also will be entitled to recover reasonable legal fees and all costs incurred in connection with all such proceedings. This provision will survive any termination of this Agreement.

**22 Health Insurance.** Sponsor will provide you with the services described in this Agreement, as appropriate. During the term of this Agreement, if you are eligible, you shall obtain and maintain in force Medicare Parts A and B and any future program that may be required by Public Health Law, including undertaking efforts to appeal any denial of coverage or eligibility. Residents who are transferred to the Health Center and denied Medicare coverage must file an appeal. You shall also maintain in effect Medicare Supplemental Insurance coverage at least equivalent in benefits to those established by the Superintendent of the New York State Department of Financial Services (the "Superintendent") as minimum benefits for Medicare Supplemental Insurance policies, and furnish evidence of Medicare Supplemental Insurance coverage upon our request. If you fail to maintain the equivalent of Medicare coverage and Medicare Supplemental Insurance coverage, Sponsor has the right to purchase such coverage on your behalf and at your expense. Sponsor will add the cost of such coverage to your Monthly Service Fee.

If Sponsor is unable to purchase Medicare coverage and Medicare Supplemental Insurance coverage or the equivalent, we may require you to pay a higher Monthly Service Fee, subject to the approval of the Superintendent, to fund the additional risk to the Community.

If you fail to purchase or maintain Medicare coverage and Medicare Supplemental Insurance coverage or the equivalent, Sponsor may be responsible for any expenses which would have been covered by Medicare and Medicare Supplemental Insurance coverage, in which case Sponsor will add the amount of such expenses to your Monthly Service Fee.

You agree to provide evidence of all such insurance to Sponsor upon request and to notify Sponsor in writing, in advance (to the extent possible) of any changes to, or termination of, such coverage. You also agree to execute all necessary forms to

obtain payment of benefits which are or may be payable in the future for health care services provided hereunder to you.

You agree to assign to us your right to benefits under Medicare and the Medicare Supplemental Insurance coverage you are required by this Agreement to maintain for covered services that we provide to you as part of this Agreement. If for any reason you do not effectively assign such benefits to us, we shall have the right to bill you in the amount of the benefit we would have received had you effectively assigned such benefit to us.

You will be responsible for paying separately for all health care services that are not covered by Sponsor, Medicare (or an equivalent substitute policy approved by Sponsor), or Medicare Supplemental Insurance. If you have any questions about such coverage, Sponsor will assist you in obtaining answers.

- 23 Power of Attorney, Guardianship.** You acknowledge that, at some future time, you may be unable by reason of mental or physical incapacity to properly handle your own affairs and that it may be in your best interest to have an attorney in fact or a guardian appointed to handle your affairs. Therefore, you agree to designate in writing, prior to or at the time of entrance, person(s) who will have authority to act on your behalf in the event you should at any time become unable to properly handle your own affairs. If you should thereafter become either physically or mentally unable to properly administer your own affairs, this designated person shall either commence handling your affairs pursuant to the terms of a durable power of attorney or file a petition in a court of competent jurisdiction to have a guardian or conservator appointed to handle your affairs. If the designated person(s) are unable or unwilling to file such a petition, we are hereby empowered to do so at your expense.
- 24 Home Health Care Services.** Sponsor can make arrangements for the provision of home health care services, as defined by and to the extent reimbursable under the Medicare program, in a Residence. Such services are intermittent and short-term in nature, typically rendered following an acute care illness and prescribed by a physician. Such services shall not include care for chronic illness since a Resident needing such care typically would transfer to Assisted Living or the Health Center. However, if a Resident decides to have long-term home health care services in his or her Residence, rather than transfer to Assisted Living or the Health Center, and if Sponsor approves the provision of such services, the Resident shall be responsible for paying the full cost of such long-term home health care services. The Resident has the right to select the home health agency that will provide such services and Sponsor will not be liable for the acts or omissions of such home health agency.
- 25 Health Care Costs.** You acknowledge and agree that any and all expenses or charges which may be incurred by or on behalf of you for costs not covered by this Agreement, including, but not limited to, physicians, home health services not covered by Medicare, therapists, podiatrists, diagnostic services, mental health, over-the-counter medicines, prescription drugs, medical supplies, eyeglasses, hearing

aides, vitamins, crutches, braces, walkers, wheelchairs, special duty nursing, hospitalization, emergency medical services, ambulances, ambulettes, care and treatment of eyes, ears and teeth, and any and all other personal medical expenses shall be your sole and exclusive responsibility. You shall be entitled to treatment by the physician of your choice at your expense. Some of these services may be covered by your health insurance.

- 26 Condition of Premises upon Surrender.** Upon termination of this Agreement, the Resident must vacate and surrender to Sponsor, within thirty (30) days, the Residence broom-clean, in good order, and in the same condition as it was at the time the Resident first occupied the Residence, except for ordinary wear and tear. The Resident agrees to pay Sponsor all costs and expenses of removal of the Resident's abandoned property and for restoration of the Residence due to any damage or condition, or changes or additions made by the Resident in the Residence.
- 27 Resident Negligence or Misconduct.** You agree to pay or reimburse Sponsor for any claim, loss, damage, injury, or expense suffered by the Community, its officers, directors, employees, and representatives as the result of your failure to comply with the Policies of the Community (as defined below) or your negligence, misconduct, or willful acts or the failure of your invitees or guests to comply with the Policies of the Community or as a result of their negligence, misconduct, or willful acts. You agree to indemnify, protect, and hold the Sponsor, its officers, directors, employees, and representatives, and the management company and its officers, directors and employees harmless for any claim, loss, liability, cost or damage, including attorneys' fees, costs and expenses, resulting from any and all acts or omissions of Resident or any invitee of Resident, which indemnity will survive the termination of this Agreement. You shall at all times occupy and use the Residence in compliance with the Policies of the Community and shall at no time conduct, perform, or allow to be conducted or performed any illegal activity on the Community's premises.
- 28 Residential Purposes Only.** You acknowledge and agree that your Residence is for residential purposes only and not for business purposes or the practice of any profession without the prior written consent of Sponsor.
- 29 Residents' Council.** Residents of the Community shall organize a Residents' Council to draft bylaws, elect officers, and hold such meetings to carry out those purposes for which they are organized. Any such Resident's Council shall have the opportunity to meet with representatives of the management of the Community at least four times per year to facilitate the free discussion of subjects, including, but not limited to, the financial position of the Community, existing and proposed changes in Policies, programs or services, and the exchange of ideas for betterment of the Community. Additionally, the management of the Community shall hold a general meeting with all Residents once a year.
- 210 Pets.** You agree that you may keep a pet only upon the prior written approval of Sponsor and under the terms set forth in the Resident Handbook.

- 211 Guests.** The use of the Community’s facilities is limited to you and your guests. Resident shall notify Sponsor of all guests. Guests may not occupy your Residence for more than fourteen (14) consecutive days or more than thirty (30) total days in any calendar year without our prior written approval. You will be responsible for the conduct of your guests and for payment of any charges incurred by your guests. Sponsor reserves the right to limit the number of guests and length of their stay in its sole discretion.
- 212 Absence from the Community.** You agree to notify us in advance of any contemplated absence of two weeks or longer from the Community.
- 213 Resident Handbook.** We will establish and adopt policies and procedures (“Policies”) for the occupancy and orderly operation and management of the Community which will be described in a Resident Handbook (“Resident Handbook”). The Policies will be drafted to provide for the safety, welfare, and comfort of all Residents consistent with the provisions of this Agreement. The Resident Handbook will be provided to you on or before the date you move in and may be amended from time to time in Sponsor’s sole discretion. You agree to abide by and observe the Policies and all amendments and additions thereto. The Resident Handbook, as amended from time to time, is hereby incorporated by reference. In the event that the terms of this Agreement conflict with the Resident Handbook, the terms of this Agreement shall control.
- 214 Non-Impairment of Financial Responsibility.** After execution of this Agreement, you agree not to willfully impair your ability to meet your financial obligations under this Agreement by making transfers and thereby creating circumstances such that you would no longer meet the financial qualifications as set by Sponsor for your Residence.
- 215 Locks.** Sponsor agrees to provide a locking device on each entry to the Residences. You agree that in the event of an emergency, staff of the Community may access your Residence at all times, and that housekeeping staff may access your Residence at scheduled times. You agree not to place any additional locking devices on entry doors.

### **3. TRANSFERS AND READMISSION**

There may come a time when transfer to Assisted Living or the Health Center or to another facility which provides services not provided under this Agreement is medically or otherwise indicated. Sponsor is aware that this is a critical transition and will adhere to the following procedures during any transfer or reassignment.

- 31 Consultations.** Except in case of emergency, Sponsor agrees not to transfer you from your Residence to Assisted living or the Health Center, or to a care facility or hospital which is not on the Community or Hebrew Home campus, for health-related or other reasons unless it has consulted with you, your physician, and your legal representative, if applicable. Such a decision shall be made by our Medical Director

in consultation with the Executive Director, staff of the Community, you, your physician, and, when appropriate, your legal representative, and such decision shall be made considering the best interest of the Resident. If you are transferred, Sponsor will communicate the reason for the transfer and a description of any change in charges to be paid by the Resident for services not covered hereunder as a result of the transfer to you and your legal representative. The decision of Sponsor shall be final and binding, subject to the dispute resolution process set forth in the Resident Handbook. In the case of an emergency transfer, Sponsor will schedule the consultations described above within a reasonable period of time after transfer.

Circumstances in which it is in the best interest of the Resident to be transferred include, but are not limited to, the following:

- a. A determination that the Resident can no longer function in an independent manner in a Residence, and the Resident requires additional assistance with activities of daily living or nursing care;
- b. A determination that the Resident is unable to remain ambulatory (for purposes of this Agreement, the term “ambulatory” is used to describe a person who is capable of demonstrating the mental competence and physical ability to leave a building without human assistance or supervision in case of emergency); or,
- c. A determination that the continued residency of the Resident at the Community would not be in the best interest of the Resident, other Residents, or staff of the Community or would interfere with the orderly operations of the Community.

If we determine, after the consultations as described above, that you should be transferred (a) from the Residence covered by this Agreement to Assisted living or the Health Center or (b) to a care facility or hospital which is not on the Community or Hebrew Home campus, you agree to be relocated in accordance with the decision.

In the event that a chronic condition, such as but not limited to traumatic brain injury, AIDS, ventilator dependence, or active psychiatric illness, requires placement in a more specialized chronic care facility that provides services beyond those provided by the Health Center, Sponsor’s liability shall be limited to the excess of Sponsor’s private pay per diem in the Health Center over the Monthly Service Fee applicable to a Permanent Transfer to the Health Center pursuant to Section 1.6 on a per diem basis. If Sponsor’s Health Center does not serve the outside community, a reasonable per diem rate equivalent to Sponsor’s direct cost to provide skilled nursing services, and comparable to those fees charged by similar nursing facilities, shall be established by Sponsor for the Health Center for the purpose of establishing its liability.

**32 Consents.** When Sponsor determines, after the consultations as described above, to transfer you to Assisted Living, the Health Center, or to a suitable care facility or

hospital for health care or other services, Sponsor shall be authorized to transfer you without having to obtain your further consent.

Sponsor shall not be responsible for the cost of any services rendered to a Resident who is transferred from the Community to another facility, except as specifically provided otherwise hereunder.

**33 Transfers.** Pursuant to Section 3.1 and 3.2, transfers are defined below as temporary and permanent.

**a Temporary Transfer.** A transfer is considered temporary when, pursuant to Section 3.1 and 3.2, the determination is made that the condition that requires your transfer has the potential to be resolved in a manner which may allow you to return to your Residence within ninety (90) days. Your Residence will be held for your return for one ninety (90) day temporary transfer during any six (6) month period.

**b Permanent Transfer.** A transfer is considered permanent when, pursuant to Section 3.1 and 3.2, the determination is made that the condition that requires your transfer will not allow you to return to your Residence within ninety (90) days.

In the event of a Permanent Transfer and if Resident is the sole occupant, you shall release your Residence in order for Sponsor to make your Residence available to a new resident. In such event, Sponsor may enter into a new Residency Agreement for occupancy of the Residence with a new resident. You grant Sponsor the right to remove your personal property from the Residence in the event of a Permanent Transfer and to store it at your expense. If your Residence is reassigned and should you subsequently recover sufficiently to maintain yourself independently in a Residence, you shall receive the next available Residence similar to the one relinquished. While you are in Assisted Living or the Health Center, the Monthly Service Fee will continue to be due and payable as described in Section 1.6.

If the Residence is occupied by two (2) Residents, the Permanent Transfer of one (1) Resident does not affect the rights, privileges and obligations under this Agreement of the remaining Resident.

#### **4. ENTRANCE FEE AND MONTHLY SERVICE FEES**

**41 Occupancy Date.** You will receive written notice at least sixty (60) days prior to the date we anticipate your Residence will be available for occupancy. The "Occupancy Date" will be the 60th day following your receipt of the notice for occupancy (or the date your Residence is actually available, if later). If the date you take occupancy is different from this Occupancy Date, it must be previously approved in writing by Sponsor.

In the event you decide not to move into your Residence on the Occupancy Date, the obligation of Sponsor to provide care and services as provided hereunder shall not be effective until you fully execute this Agreement, pay the Entrance Fee, and move into your Residence.

- 42 Entrance Fee.** You agree to make a non-transferable, non-interest bearing Entrance Fee in the total amount of \$\_\_\_\_\_. The Entrance Fee will be paid in two installments. Once paid, this Entrance Fee will not be increased or changed for the duration of this Agreement. The Entrance Fee shall in no way be considered or interpreted to be a security deposit.

The first installment of \$\_\_\_\_\_, which is an amount equal to ten percent (10%) of the Entrance Fee, is due at the time you execute the Residency Agreement. The first installment shall be received and held by Sponsor for you in accordance with the terms of this Agreement. The first installment shall be placed and maintained in a separate escrow account, and shall follow the disposition of the Deposit Balance.

The second installment, which is the remaining balance of your Entrance Fee, being \$\_\_\_\_\_(the “Deposit Balance”), is due on or before the Occupancy Date, unless otherwise previously agreed in writing. In the event the Deposit Balance of the Entrance Fee is not paid by the Occupancy Date, Sponsor in its sole discretion may terminate the Resident Agreement and seek to arrange for alternative occupancy of the Residence.

- a.** The Entrance Fee shall be Sponsor’s property for use in accordance with the terms of this Agreement, and shall not be subject to the claims of creditors of the Resident. The Entrance Fee shall be refundable in accordance with the provisions of this Section of this Agreement. No refund shall be made until all of your personal property is removed from the Community, including Assisted Living or the Health Center.
- b.** Entrance Fees will be held in an escrow account until the New York State Commissioner of Health approves the release of the funds when the Community achieves construction financing. However, the anticipated financing plan for the Community requires the Sponsor to request release of escrowed Entrance Fees/Entrance Fee deposits in order to meet reserve requirements necessary to obtain construction financing
- c.** The purpose of the Entrance Fee is to generate investment income and to help pay for operating and capital costs. As such, upon financing of the Community, income generated from the investment of the Entrance Fee will be paid to Sponsor for the benefit of the Community, unless required to be returned to the Resident by law. In addition, at our sole discretion, Entrance Fees may also be used to pay for project development costs, start-up deficits, interest expense, debt retirement, costs of future expansions, refund obligations and other purposes Sponsor deems appropriate. No reserve funding will be specifically established pertaining to the Entrance Fee. In order to obtain permanent financing and to secure the lender or other party or parties

who provide financing, we will pledge the receipts and revenues of the Community, including the Entrance Fees, to the extent allowable by law.

**d.** If this Agreement is terminated prior to occupancy, the Reservation Deposit shall be refunded in accordance with the provisions of Section 6.1 of this Agreement.

**e.** If you terminate this Agreement within the first ninety (90) days of occupancy:

**i.** in accordance with Section 6.2 (b); or

**ii.** in the event of your death; or

**iii.** in the case of double occupancy, both occupants' deaths within such period; or

**iv.** in the event of a change in occupancy as set forth in Section 4.6; then

Sponsor will refund the Entrance Fee you paid for your Residence without interest, less the actual cost of any services rendered and any costs Sponsor has incurred, if any, at your request in accordance with Section 1.7 of this Agreement, on the earlier of: (1) thirty (30) days after a new resident executes the Residency Agreement and moves into the Residence, or (2) one (1) year after termination of this Agreement.

**f.** If you terminate this Agreement after the expiration of the first ninety (90) days of occupancy:

**i.** in accordance with Section 6.2(c); or

**ii.** in the event of your death; or

**iii.** in the case of double occupancy, both occupants' deaths after the expiration of the first 90 days of occupancy; or

**iv.** in the event of a change in occupancy as set forth in Section 4.6; then

For single occupants, Sponsor will refund the Entrance Fee you paid for your Residence less two percent (2%) per month prorated for partial months from the date of occupancy to the date of termination, but in no event less than eighty percent (80%), without interest, on the earlier of: (1) thirty (30) days after a new resident executes the Residency Agreement and moves into the Residence, or (2) one (1) year after termination of this Agreement.

For double occupants, Sponsor will refund the first person Entrance Fee you paid for your Residence less two percent (2%) per month prorated for partial months from the date of occupancy to the date of termination, but in no event less than eighty percent (80%), without interest. Sponsor will refund the second person Entrance Fee to you less two percent (2%) per month prorated for partial months from the date of occupancy to the date of termination until the Entrance Fee is no longer refundable, without interest. The refund will be paid on the earlier of: (1) thirty (30) days after a new resident executes the Residency Agreement and moves into the Residence, or (2) one (1) year after termination of this Agreement.

**g** If Sponsor terminates this Agreement for cause in accordance with Section 6.2 (d) of this Agreement, Sponsor shall pay any refund due to you upon the earlier of: (1) thirty (30) days after a new resident executes the Residency Agreement and moves into the Residence, or (2) one (1) year after termination of this Agreement.

**h** We reserve the right to off-set against the refund of the Entrance Fee any fees or amounts payable to us under this Agreement, including any charges deferred or unpaid. Termination of this Agreement for any reason will not affect or impair the exercise of any right or remedy granted to us or you under this Agreement for any claim or cause of action occurring prior to the date of such termination. From the amount to be reimbursed pursuant to this Section, we may deduct and retain a sum equal to:

**i.** the amount of any Monthly Service Fees deferred, if any, by us on behalf of the Resident under Section 4.8 of this Agreement; and

**ii.** any other money you owe to us for any reason whatsoever.

**4.3 Monthly Service Fees.** Your Monthly Service Fee will initially be \$\_\_\_\_\_per month for one (1) person and an additional \$\_\_\_\_\_per month for a second person. The Monthly Service Fee shall be due beginning on the Occupancy Date and will be prorated, if necessary, on a daily basis for the first and last months of occupancy. The Monthly Service Fee shall be billed in advance to you on or before the first (1<sup>st</sup>) day of each month, and shall be paid on or before the tenth (10<sup>th</sup>) day of the month.

Fees for Additional Services will be charged in accordance with the Additional Services Fee Schedule we establish which will be on file in the administrative office. Charges for Additional Services shall be billed on or before the first (1<sup>st</sup>) day of each month, and shall be paid on or before the tenth (10<sup>th</sup>) day of the month following the month the services were rendered.

**4.4 Changes in Monthly Service Fees.** The Monthly Service Fee paid by Resident is intended to provide for the core services outlined in this Agreement and to provide for all other financial requirements of operating the Community including, without limitation, debt service, property taxes or PILOT, if any, and other costs. It is our intention to adjust the Monthly Service Fee, if necessary, only once per year. However, a change may be made at any time upon sixty (60) days prior written notice to the Resident if Sponsor, in its sole discretion, deems it necessary to meet the financial, service, and contractual obligations of the Community and has obtained any approvals required to affect such increase.

**4.5 Late Fee.** Any monthly statements not paid within thirty (30) days from the date of the monthly statement shall be subject to a late charge equal to the lesser of 1% per month, or the maximum amount permitted by law. The Resident is responsible to pay any late charges and the cost of collection, including reasonable attorneys' fees and costs. A service fee will be imposed and payable by the Resident for any

insufficient funds/returned checks.

**4.6 Changes in Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident surrenders possession of the Residence to the other, other than by

death or by a transfer covered by Section 3, the obligations of the Resident remaining in the Residence under this Agreement remain in legal force and effect, except that the Monthly Service Fee will be adjusted to reflect the single occupancy rate then in effect for the Residence. The Resident not remaining in the Residence will receive no services or benefits under this Agreement but will continue to be jointly and severally liable for the obligations of the Resident remaining in the Residence. The remaining Resident may elect to relocate to a different Residence, if desired, as covered in Section 6. No refund of the Entrance Fee will be made until the remaining Resident cancels this Agreement in accordance with Section 6.4.

In the event the joint occupants of a Residence desire separate living accommodations at the Community, and one (1) Resident remains in the Residence designated hereunder, a refund of the Entrance Fee shall only be made in accordance with Section 6.4, and the Monthly Service Fee shall be adjusted to reflect the single occupancy rate then in effect for the Residence. Upon occupancy of the second Residence by the departing joint occupant, a new Residency Agreement must be executed and submitted for approval by Sponsor, accompanied by the then current Entrance Fee, for the second living accommodations.

In the event of the marriage of a Resident to another Resident where the two Residents had been maintaining separate Residences, they may: (a) continue to maintain two Residences and pay the applicable Monthly Service Fee for single occupancy for each Residence then in effect; or (b) release either Residence occupied by them, and pay the applicable Monthly Service Fee for first and second person occupancy then in effect. All benefits provided in each Residency Agreement shall remain and continue in effect. In the event that a Resident releases his Residence, there shall be a refund of the Entrance Fee as set forth in Section 4.2.

In the event two Residents, each maintaining his own Residence, decide to share a single Residence, they may release either Residence occupied by them, and pay the applicable Monthly Service Fee for first and second person occupancy then in effect. All benefits provided in each Residency Agreement shall remain and continue in effect. There shall be a refund of the Entrance Fee to the Resident whose Residence is released subject to the terms set forth in Section 4.2 of the Agreement.

If you and a non-Resident (including a new spouse) desire to share the Residence, the non-Resident may become a Resident and live in the Residence only if he/she meets the qualifications for entrance set forth in Section 5 and both persons execute a new Residency Agreement. In such event, the Monthly Service Fee shall be adjusted to reflect the additional charge per month for a second person.

In the event you seek to share your Residence with an individual who does not meet the residency requirements for the Community, Sponsor, at its sole discretion, may allow such person to reside at the Community as long as you are a Resident of the Community. The non-qualifying resident will receive those services specified in this Agreement except the life care benefit as described in Section 1.6. If Sponsor allows such person to reside in the Community, this individual must pay the then current

second person monthly service fee. However, this person would not have any rights, privileges or protection under this Agreement.

**4.7 Liability for Charges.** Each person who is designated as a Resident in this Agreement is jointly and severally liable for the payment of the Monthly Service Fee, fees for any Additional Services, and all other amounts required to be paid to Sponsor, pursuant to the provisions of this Agreement. In the event it is necessary for us to institute legal action or other proceedings to recover amounts payable to Sponsor under this Agreement, we also will be entitled to recover reasonable legal fees and costs incurred in connection with all such proceedings. This provision will survive any termination of this Agreement.

**4.8 Residents Who Become Unable to Pay.** It is Sponsor's policy that this Agreement will not be terminated solely because of your financial inability to continue to pay the Monthly Service Fee or other charges payable under the terms of this Agreement by reason of circumstances beyond your control; provided, however, this policy shall not be construed to otherwise qualify or limit Sponsor's right to terminate this Agreement as set forth in Section 6.2. Sponsor reserves the right to terminate this Agreement if Sponsor can demonstrate that the Resident's inability to pay the Monthly Service Fee is due to the willful mismanagement or transfer of assets needed to pay the Monthly Service Fee.

**a.** In addition, the foregoing commitment not to terminate on account of inability to pay shall not go into effect until after you have exhausted all of your available income and assets, including your Entrance Fee, toward payment of the Monthly Service Fee or other charges payable under this Agreement. Moreover, in the event of your inability to pay the Monthly Service Fee or associated charges for a given Residence, Sponsor may require you to move to a less expensive Residence consistent with your residential and care needs as Sponsor determines. Refusal to comply and move in such circumstance may result in the termination of the Residency Agreement by Sponsor.

If you present facts which in the opinion of Sponsor justify special financial consideration, Sponsor will consider subsidizing in part or in whole the Monthly Service Fee and other charges payable by you under the terms of this Agreement so long as such subsidy can be made without impairing the ability of Sponsor to operate for the benefit of all residents and attain its objectives while operating on a sound financial basis. Any determination by Sponsor with regard to the granting of such subsidy or financial assistance shall be within the sole discretion of Sponsor and any decision to provide such financial assistance or subsidy shall continue in effect only so long as Sponsor, in its sole discretion, determines that it can continue to operate for the benefit of all residents on a sound financial basis. In the event Sponsor determines to provide you with any financial assistance or subsidy, you agree that we may charge such amounts, plus interest at a rate equal to the lesser of one percent (1%) per month or the maximum amount permitted by law, against the refund of your Entrance

Fee. The cost of any such financial assistance provided shall be accrued and remain an obligation of the Resident and his or her estate. Furthermore, we may require you to move to a less expensive Residence, consistent with your residential and care needs, as Sponsor determines.

- b.** It shall be a condition of receiving a subsidy that you represent that you have not made any gift or other transfer of money or other assets or property with the intention of impairing your financial obligations to the Community under this Agreement. If your income is found to be inadequate to meet your responsibilities to us and to pay personal and incidental expenses, you shall make every effort to obtain assistance from available resources and, if you can qualify, to take the necessary steps to obtain all applicable aid or assistance. If your Monthly Service Fee is subsidized wholly or partly by us, you will notify us of any sale or transfer of assets or property and you agree, from time to time at our request, to supply us with financial statements and copies of your tax returns. Should we determine that you are willfully mismanaging or transferring your assets, we may terminate any subsidy you are receiving from us and this Agreement may be terminated in accordance with Section 6.2.

**4.9 Substitutions.** It is Sponsor's policy that property may not be substituted as payment for either the Entrance Fee or Monthly Service Fee.

## **5. APPLICATION AND ACCEPTANCE FOR RESIDENCY.**

The obligations of Sponsor to provide services and facilities hereunder are conditioned upon acceptance of the Resident for residency at the Community in accordance with this paragraph. The decision to accept a Resident for residency at the Community shall be within the sole discretion of Sponsor.

**5.1 Residency Requirements for Acceptance.** We require that you be capable of independent living and have assets and income which are sufficient (under foreseeable circumstances and after provision for payment of your obligations hereunder) to meet ordinary and customary living expenses, after assuming occupancy. You hereby represent and warrant that you are capable of independent living and have assets and income which are sufficient to meet ordinary and customary living expenses after assuming occupancy.

- a. Confidential Data Profile.** You shall complete and submit a Confidential Data Profile provided by Sponsor prior to or concurrent with the execution of this Agreement. You hereby certify to Sponsor that all information reflected on such Confidential Data Profile, which is hereby incorporated by reference and made a part of this Agreement, including all personal financial data, is complete and accurate, and that you will update such information in a timely fashion.

- b. Confidential Medical Profile Report.** Upon request, in Sponsor's sole discretion, and in addition to the Confidential Data Profile, you may be

required to submit a Confidential Medical Profile. You hereby certify to Sponsor that all information reflected on such Confidential Medical Profile, which is hereby incorporated by reference and made a part of this Agreement is complete and accurate, and that you will update such information in a timely fashion.

- c. **Age.** To be accepted for admission at the Community, you must be at least sixty-two (62) years of age at or before the Occupancy Date. In the event of joint occupancy, one of the occupants must be at least sixty-two (62) years of age before occupancy.

**52 Notification of Decision.** Within thirty (30) days of satisfaction by you of all of the requirements set forth in Section 5.1, Sponsor shall notify you in writing of its decision concerning your acceptance to the Community. In the event you are not accepted for residency at the Community, your Reservation Deposit specified in Section 4 and tendered upon execution of the Residency Agreement shall be refunded with interest within thirty (30) days of the date of the written notification to you of non-acceptance for residency, and the parties shall have no further obligations to one another under this Agreement.

**53 Material Changes Prior to Occupancy.** If there is a material change in condition after you are accepted for residency so that at the time of occupancy you are precluded from independent living for health reasons, as certified by a licensed physician, you will be admitted directly into Assisted Living or the Health Center at the appropriate level of care. However, you may elect to terminate this Agreement and your entire Reservation Deposit with interest earned on account to date shall be refunded to you in accordance with Section 6.1.

**54 Duty of Resident to Notify Sponsor.** You acknowledge and agree that Sponsor has relied upon all of the information contained in your Confidential Data Profile and Confidential Medical Profile, if applicable, to make its decision regarding your acceptance for residency at the Community. Any material misrepresentation or omission by you shall render this Agreement null and void at the option of Sponsor. You agree to notify Sponsor prior to the Occupancy Date of any material change in any of the matters covered by, or reflected on, the Confidential Data Profile or, if applicable, the Confidential Medical Profile. Our right to terminate this Agreement on the basis of a material misrepresentation or omission in connection with your application for admission expires after two years of ratification of this contract.

## **6. TERMINATION AND REFUNDS**

From the effective date of the termination of this Agreement, you shall have no further right to occupy the Residence, or any unit in Assisted Living or the Health Center, or to receive any services or benefits pursuant to this Agreement, except the right to receive the appropriate payment described below, and you shall promptly vacate the Community.

**61 Termination Prior to Occupancy.** You will be entitled to full reimbursement of any monies paid to us, less any costs Sponsor has incurred, if any, at your request,

within thirty (30) days, including interest earned to the date of cancellation on any monies paid to us accrued at the rate of interest earned on the account, non-compounded, of our receiving your written termination of this Agreement, if applicable, and will be released from liability to pay to us any other amount under this Agreement under any one of the following conditions:

- a. If you terminate this Agreement before midnight of the third (3rd) day from when you signed this Agreement, received the Financial Disclosure Document and paid the Reservation Deposit (“Rescission Period”).
- b. If we receive your written termination of this Agreement after the Rescission Period, but prior to occupancy.
- c. If you die before occupying your Residence at the Community, or if, because of illness, injury, or incapacity, you would be precluded from occupying your Residence consistent with the representations made by you in the Confidential Data Profile or, if applicable, the Confidential Medical Profile, this Agreement will be automatically terminated.
- d. If you terminate this Agreement because the Community is not substantially complete within six (6) months of the completion date specified in the initial Disclosure Statement.
- e. If we terminate this Agreement by:
  - i. Your failure to pay the second installment or remaining Entrance Fee by the Occupancy Date as described in Section 4.2;
  - ii. Electing not to construct the Community; or
  - iii. The Residence not being available for occupancy within three (3) years after the date of execution of this Agreement.

**6.2 Termination of Residency After Occupancy.** After you have assumed occupancy of your Residence, this Agreement is subject to termination as follows and the refund provisions described in Section 4.2. as follows:

- a. If you terminate this Agreement after the expiration of the first ninety (90) days of occupancy:
  - i. in accordance with Section 6.2(c); or
  - ii. in the event of your death; or
  - iii. in the case of double occupancy, both occupants’ deaths after the expiration of the first 90 days of occupancy; or
  - iv. in the event of a change in occupancy as set forth in Section 4.6; thenFor single occupants, Sponsor will refund the Entrance Fee you paid for your Residence less two percent (2%) per month prorated for partial months from the date of occupancy to the date of termination, but in no event less than eighty percent (80%), without interest, on the earlier of: (1) thirty (30) days

after a new resident executes the Residency Agreement and moves into the Residence, or (2) one (1) year after termination of this Agreement.

For double occupants, Sponsor will refund the first person Entrance Fee you paid for your Residence less two percent (2%) per month prorated for partial months from the date of occupancy to the date of termination, but in no event less than eighty percent (80%), without interest. Sponsor will refund the second person Entrance Fee to you less two percent (2%) per month prorated for partial months from the date of occupancy to the date of termination until the Entrance Fee is no longer refundable, without interest. The refund will be paid on the earlier of: (1) thirty (30) days after a new resident executes the Residency Agreement and moves into the Residence, or (2) one (1) year after termination of this Agreement.

- b.** This Agreement shall terminate upon your death, if you are the only Resident hereunder, and upon the death of the surviving Resident, if there are two (2) Residents hereunder, such termination to be effective on the date your belongings have been removed from your Residence.
- c.** You may terminate this Agreement at any time during the first ninety (90) days of occupancy for any reason by delivering written notice to us, such termination to be effective on the date your belongings have been removed from your Residence.
- d.** After the first ninety (90) days of occupancy, you may terminate this Agreement at any time for any reason by delivering written notice to us, such termination to be effective on the later of sixty (60) days from the date such notice is received or another date specified in the notice.
- e.** Subject to applicable law, Sponsor may terminate this Agreement at any time following the Occupancy Date for just cause, including, but not limited to, any one or more of the following:
  - i.** Failure to pay your Entrance Fee;
  - ii.** Failure to pay your Monthly Service Fees;
  - iii.** Your inability to pay Monthly Service Fees as a result of your willful mismanagement of assets or income needed for payment of the Monthly Service Fees;
  - iv.** The making of any material misrepresentation or omission in connection with your application for admission;
  - v.** Any acts of fraud committed by you in connection with this Agreement; or
  - vi.** If your continued presence has become a threat to your life, health or safety or to that of other residents or persons in the Community.

Our right to terminate this Agreement on the basis of a material misrepresentation or omission in connection with your application for admission expires two years after ratification of this Agreement. If we decide to terminate this Agreement for just cause, we will deliver to you written

notice of termination with an effective date of no less than thirty (30) days nor more than one hundred and twenty (120) days of the notice. You will have such period in which to resolve the issue. Should the notice be expressly based upon a written statement of medical findings by two doctors, one of whom is neither employed by nor associated with Sponsor that you are a danger to yourself or to others, then we shall fix an effective termination date which is reasonable in light of the circumstances. This decision may be appealed as outlined in the Resident Handbook.

- 63 Reapplication.** If your Agreement has been terminated and you later wish to reenter the Community, you will be required to apply for admission to the Community under the same terms as any new person seeking admission.
- 64 Effect of Double Occupancy.** If your Residence is occupied by two (2) Residents and one (1) Resident dies or through illness, injury or incapacity is precluded from being a Resident under the terms of this Agreement, the remaining Resident may elect to remain in the Residence and the Monthly Service Fee will be adjusted to reflect the then applicable single occupancy rate payable for the type of Residence occupied, or you can cancel this Agreement and receive a refund as set forth in Section 4.2.
- 65 Relocation.** You may elect to move to another Residence, subject to availability. In such event, the Agreement will be amended to reflect the change in Residence. If applicable, you will be required to pay an additional Entrance Fee equal to the difference between the then current Entrance Fee for the new Residence selected and

the Entrance Fee initially paid. However, in the event the current Entrance Fee for the new Residence selected is less than the Entrance Fee initially paid, refund of the difference in Entrance Fee will be paid at the time of relocation, in accordance with Section 4.2. You will pay the then current Monthly Service Fee for the new Residence. All moving costs will be at your expense.

## 7. **MISCELLANEOUS**

- 71 Resident's Interest.** You do not have any ownership, beneficial, or trust interest in the Community, its assets or properties by virtue of this Agreement. You agree that you shall not pledge, mortgage, or use this Agreement or your Residence as a security interest, and that no one to whom you owe money or who may have some other claim against you may make or file any claim, lien, or attachment against this Agreement or your Residence.
- 72 Modifications.** Sponsor reserves the right to modify the terms of this Agreement, subject to regulatory approval, to comply with any changes in law or regulation. All other terms will continue in effect. To the extent reasonably possible, Sponsor will give the Resident thirty (30) days' advance written notice of any such modifications.
- 73 Assignment.** To the extent permitted by law and with the approval of the Commissioner of Health, this Agreement is assignable by us without your prior consent. The provisions of this Agreement are not assignable or transferable in whole or in part by you. You do not have a right to sublet the Residence.
- 74 Responsibility for Protection of Resident's Property.** We shall not be responsible for damage or loss to any personal property belonging to you caused by fire, flooding or other casualty, or by leaking of water, bursting of pipes, theft or any other cause. You shall be solely responsible, at your own expense, for insuring against property damage or loss and personal liability to others. In the event of your death or transfer from the Community, we will exercise ordinary care in temporarily safekeeping your personal property. Property not claimed within thirty (30) days of termination of this Agreement will be considered a donation to the Community to the extent permitted by law.
- 75 Injury or Accident While Away from the Community.** If you are injured in an accident or become ill while away from the Community, you shall make every reasonable effort to notify Sponsor as soon as possible. Sponsor shall not be responsible for or assume the cost of care for illness or injury incurred by you while away from the Community.
- 76 Injury Caused by Third Party.** In the event of an accident or injury to you caused by a third party, for which such third party may be liable for the cost of any medical, surgical, nursing or additional care for you resulting therefrom, you or your legal representative shall notify Sponsor promptly and you or your legal representative shall pursue diligently any claim for damages which may be due from such third party for the injury. You agree to indemnify Sponsor for any medical, nursing or any other medical expenses incurred by Sponsor in providing care to you for which a third party is liable.

Sponsor may limit its actions as provided above to claims for recovery of the costs and expenses incurred by it, and in such event, Sponsor shall not be obligated to assert any claim on behalf of you arising out of such accident or injury beyond the costs and expenses incurred by Sponsor.

- 7.7 Indemnification for Negligence.** You hereby agree to indemnify, protect and hold Sponsor, its officers, directors, employees, and representatives, and the management company and its officers, directors and employees harmless from any loss, damage, injury or expense, including reasonable attorneys' fees, incurred by Sponsor as a result of your acts or omissions or the acts or omissions of your invitees or guests.
- 7.8 Right of Entry.** You hereby authorize our employees and agents to enter your Residence to provide services, repairs, maintenance, alterations, pest control and inspection, and to respond to any perceived medical or other emergency.
- 7.9 Damage to Residence.** If your Residence is damaged by fire, flood, storm or other casualty or cause and we elect not to terminate this Agreement, we will, at our expense, proceed diligently to repair and restore your Residence. If your Residence is uninhabitable during the repair, we will relocate you to a comparable type Residence at the Community, if available, or, if not, we will try to relocate you temporarily to any other available Residence at the Community and the Monthly Service Fee will be adjusted for the type of Residence you temporarily occupy, but in no event shall be more than your current Residence.
- 7.10 Entire Agreement.** This Agreement constitutes the entire Agreement between us with regard to your Residence and care. We will not be liable for, or bound by, any statements, representations or promises made to you by any person representing or purporting to represent us unless such statements, representations or promises are expressly set forth and endorsed by both parties in writing, and attached to this Agreement.
- 7.11 Binding Effect.** This Agreement is binding upon our successors and assigns and your heirs and personal representatives.
- 7.12 Severability.** Each provision of this Agreement will be deemed separate from every other provision, and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the balance of the Agreement.
- 7.13 Subordination.** Your rights under this Agreement will be subordinate to any mortgage, security interest, pledge, or other lien that now encumbers all or any part of the Community's assets and shall be further subordinate to any mortgage, security interest, pledge, or other lien hereafter placed on all or any part of the Community's assets, and you agree to execute, acknowledge and deliver such subordination

agreements as any lender or future lender shall reasonably require in order to establish the priority of any such lien.

- 7.14 Non-discrimination.** The Community will be operated on a non-discriminatory basis, and will provide the facilities and services described in this Agreement to individuals regardless of race, color, sex, marital status, religion, creed, handicap, national origin, or other protected categories.
- 7.15 Notices.** Any notice to Sponsor by you will be given in writing and mailed by certified mail or overnight delivery by a nationally recognized courier or delivered by hand during business hours to Sponsor at the administrative office or at such other address as we may designate in writing. If you deliver notice by hand, you must obtain a receipt from the member of the Community's staff to whom you gave the notice. Any notice to you by us will be given in writing and mailed by certified mail or overnight delivery by a nationally recognized courier or delivered by hand to your Residence or at such other address as you may designate to Sponsor in writing.
- 7.16 Choice of Law.** This Agreement will be interpreted according to the laws of the State of New York, without reference to choice of law rules.
- 7.17 Change of Condition.** You agree to notify us of any material change in any of your physical, financial or mental condition prior to residency.
- 7.18 Authorized Agent Signature.** This Agreement has been executed on behalf of Sponsor by its duly authorized agent and you acknowledge that no officer, director, agent or employee of the Community shall have any personal liability hereunder to you under any circumstances.
- 7.19 Third Party Rights.** No other persons or entities other than Sponsor and the Resident have any rights or obligations under this Agreement.
- 7.20 Failure to Act.** Failure or delay of any party to exercise any right, power, or privilege under this Agreement will not operate as a waiver of such right, power, or privilege.
- 7.21 Right of Subrogation.** Should you be injured by a third party and such injury requires Sponsor to provide health care services under this Agreement, Sponsor shall be subrogated, to the extent allowed by New York law, to your rights against such other third party to the extent necessary to reimburse Sponsor for the costs incurred in providing services under this Agreement.

To the extent allowed under New York law, this right of subrogation authorizes Sponsor to institute legal action in your name; provided, however, that such action shall not cause or result in a compromise, waiver or release of any causes of action that you may have against such third party for such injuries.

- 7.22 Waiver of Provisions.** Sponsor reserves the right to waive any of your obligations under the provisions of this Agreement in its sole and absolute discretion. No term,

provision, or obligation of this Agreement shall be deemed to have been waived by Sponsor unless such waiver is in writing by Sponsor. Any waiver by Sponsor shall not be deemed a waiver of any other term, provision, or obligation of this Agreement, and the other obligations of you and this Agreement shall remain in full force and effect.

- 723 Certain References.** Whenever in this Agreement a singular word is used, it also shall include the plural wherever required by the context and vice-versa. All references to the masculine, feminine, or neutral genders herein shall include any other gender, as the context provides.
- 724 Limitation on Damages.** In no event shall you be entitled to recover from Sponsor special, punitive, incidental or consequential damages arising out of or relating to a breach by Sponsor under this Agreement.
- 725 Acknowledgements.** No act, agreement or statement of any Resident, or of an individual purchasing care for a Resident under any agreement to furnish care to the Resident, shall constitute a valid waiver of any provision of Article 46 of the Public Health Law or of any regulation enacted pursuant thereto intended for the benefit or protection of the Resident or the individual purchasing care for the Resident.
- 726 Review and Consultation.** You hereby acknowledge and agree that you (1) have read this Agreement in its entirety prior to executing it; (2) understand the provisions and effects of this Agreement; and (3) have consulted with such attorneys, accountants, and other advisors as you have deemed appropriate in connection with your execution of this Agreement.
- 727 Procedure for Resolving Issues.** Internal procedures to resolve disputes have been established and are set forth in the Resident Handbook, a copy of which will be distributed in accordance with Section 2.13.
- 728 Approval of Changes.** Any amendment to this Residency Agreement and any change in the Entrance Fee or Monthly Service Fee must be approved by the Superintendent of Insurance.
- 729 Waiver of Article 46 of Public Health Law.** No act, agreement, or statement of any resident or contract holder, or of an individual purchasing care for a resident or contract holder under any agreement to furnish care to the resident or contract holder, shall constitute a valid waiver of any provision of Article 46 of the Public Health Law of the State of New York or of any regulation enacted pursuant thereto intended for the benefit or protection of the resident or contract holder or the individual purchasing care for the resident or contract holder.
- 730 Ownership of the Assets of the Operator.** The Residency Agreement does not include any ownership, or beneficial or trust interest in the assets of the operator, the assets of the facility, or both. For purposes of this section, assets shall include, but are not limited to, property, trusts, reserves, interest and other assets.

**IN WITNESS W H E R E O F , RIVERSPRING HEALTH SENIOR LIVING, INC. D/B/A RIVER'S EDGE** and the Resident have signed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**RESIDENT(S):**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

**RIVERSPRING HEALTH SENIOR LIVING,  
INC. D/B/A RIVER'S EDGE**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**Addendum A**

**Confidential Data Profile**



11. Driver's license #: \_\_\_\_\_ Would you bring a car? \_\_\_\_\_

12. Have you ever been convicted of or pled nolo contendere to a felony or other crime other than a traffic violation?

1st Person: Yes \_\_\_ No \_\_\_                      2nd Person: Yes \_\_\_ No \_\_\_

If you have answered yes, please provide an explanation on a separate sheet.

13. Apartment size desired: \_\_\_\_\_ Location/floor desired: \_\_\_\_\_

14. Are you capable of independent living without help from anyone else?

1st Person: Yes \_\_\_ No \_\_\_                      2nd Person: Yes \_\_\_ No \_\_\_

If no, please describe the kinds of assistance you currently need.

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15. Medicare No. (1st Person): \_\_\_\_\_

Medicare No. (2nd Person): \_\_\_\_\_

Supplemental Health Insurance:

Insurer: \_\_\_\_\_ Policy No.: \_\_\_\_\_

16. Health Condition - Please explain any major change in your general health in the past year and any long-term or persistent illness:

1st Person: \_\_\_\_\_

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2nd Person: \_\_\_\_\_

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17. Please give name, address and telephone number of primary physician:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Street City State Zip Code

Telephone No: ( ) \_\_\_\_\_

Last Seen: \_\_\_\_\_

18. Other Physician you visit regularly:

Physician: \_\_\_\_\_ Specialty: \_\_\_\_\_

Last Seen: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

(List any others on a separate sheet)

19. Have you been hospitalized or incapacitated for more than 2 weeks at a time during the last 3 years?

Yes \_\_\_ No \_\_\_ If yes, please explain such details as are necessary on a separate sheet.

20. Have you ever been treated for depression, anxiety, or any other emotional disorder?

Yes \_\_\_ No \_\_\_ If yes, please explain on a separate sheet.

21. Are you free from contagious disease? Yes \_\_\_ No \_\_\_

22. Are you currently addicted to alcohol or drugs? Yes \_\_\_ No \_\_\_

23. List all current medications. Include strength and how often taken:

Medication	Strength	Directions

To the best of my knowledge, the above statements and the information contained in the attached Financial Statement are complete and true. By signing this Confidential Data Profile, you authorize River’s Edge (“Sponsor”) to contact physicians listed herein and for those physicians to disclose medical information to Sponsor.

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Prospective Resident’s Signature

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Date

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Prospective Resident’s Signature

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Date

# FINANCIAL STATEMENT

Must be completed by each individual; joint holdings must be so noted  
**ALL INFORMATION WILL BE HELD CONFIDENTIAL**

<b>ASSETS</b>						
		Is the asset security for a loan?			Is the asset security for a loan?	
		1st Person	Yes		No	2nd Person
Cash (Savings and Checking Accounts)	\$				\$	
CDs, Money Market Accounts, etc.	\$				\$	
Stocks & Bonds	\$				\$	
IRAs, Annuities, etc.	\$				\$	
House	\$				\$	
Other Real Estate	\$				\$	
Trust Fund (indicate % beneficial interest)	\$				\$	
Cash Surrender Value of Life Insurance	\$				\$	
Other Assets (Describe Below: _____ _____ _____ _____	\$				\$	
<b>TOTAL ASSETS:</b>	<b>\$</b>				<b>\$</b>	
<b>LIABILITIES</b>						
	1st Person			2nd Person		
Mortgage on Residence	\$			\$		
Mortgage(s) on Other Real Estate	\$			\$		
Other Bank Loans	\$			\$		
Loans Against Cash Surrender Value of Life Insurance	\$			\$		
Other Liabilities (Notes Payable, etc.)	\$			\$		
<b>TOTAL LIABILITIES:</b>	<b>\$</b>			<b>\$</b>		

**HAVE YOU GUARANTEED ANY DEBT OWED BY ANOTHER?**

\_\_\_\_\_ YES      \_\_\_\_\_ NO

<b>Guarantor(s)</b>	<b>Debtor</b>	<b>Relation</b>	<b>Amount of Debt Guaranteed</b>

**REGULAR MONTHLY INCOME**

	<b>1st Person</b>	<b>2nd Person</b>
Social Security	\$	\$
Pension <sup>(1)</sup>	\$	\$
Dividends	\$	\$
Interest	\$	\$
Mortgage/Rental Income	\$	\$
IRA Income	\$	\$
Trust Income	\$	\$
Other Monthly Income	\$	\$
<b>Total Regular Monthly Income</b>	<b>\$</b>	<b>\$</b>

<sup>(1)</sup> With regard to monthly pension income reflected, will the monthly payment continue in the same amount for the life of the other person listed (generally, the surviving spouse)? \_\_\_\_\_ Yes      No. If no, what will the monthly payment be after the death of the recipient listed? \_\_\_\_\_/month.

I hereby declare that all statements made herein are true according to my best knowledge and belief. In witness whereof, I have hereunto set my hand to this application this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of 1st Person

\_\_\_\_\_  
Signature of 2nd Person