

## **Signature Senior Lifestyle Dementia Care Agreement**

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

### **The Agreement**

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

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

Under the terms of this Agreement, and in return for payment of the Fees under it, the Provider will provide to the Resident the following services:

- (i) the Care Services to be provided by the Provider as identified in the Care Plan from time to time; and
- (ii) any Additional Services agreed between the Provider and the Resident, as varied from time to time.

Agreement Date	
Resident’s surname	Click or tap here to enter text.
Resident’s first and middle names	Click or tap here to enter text.
Resident’s title	Click or tap here to enter text.
Resident’s gender	Click or tap here to enter text.
Resident’s date of birth	Click or tap here to enter text.

Home's name									
Home's Address									
Provider's name									
Provider's company registration number									
Provider's registered office address									
Planned Move In Date	Click or tap here to enter text.								
Suite no.	Click or tap here to enter text.								
<p>Dementia Care Package Fee per week from the Actual Move In Date until increased or reduced following reviews in accordance with the Terms and Conditions (payable by Direct Debit in advance on or about the 4th day of each month)</p> <p>All payable by Resident unless stated otherwise*</p> <p>(and in each case a daily proportion of this fee for any part of a week)</p>	<table> <tr> <td>Dementia Care Package</td> <td>Click or tap here to enter text.</td> </tr> <tr> <td>Total*</td> <td>£Click or tap here to enter text. per week</td> </tr> <tr> <td>Amount payable by Resident</td> <td>£Click or tap here to enter text. per week</td> </tr> <tr> <td>Contribution payable by Third Party Contributor</td> <td>£Click or tap here to enter text. per week</td> </tr> </table>	Dementia Care Package	Click or tap here to enter text.	Total*	£Click or tap here to enter text. per week	Amount payable by Resident	£Click or tap here to enter text. per week	Contribution payable by Third Party Contributor	£Click or tap here to enter text. per week
Dementia Care Package	Click or tap here to enter text.								
Total*	£Click or tap here to enter text. per week								
Amount payable by Resident	£Click or tap here to enter text. per week								
Contribution payable by Third Party Contributor	£Click or tap here to enter text. per week								
Responsibility for payment of Additional Fees for Additional Services	Click or tap here to enter text.								
Property & Financial Affairs Attorney's/Court Deputy's surname (if applicable)	Click or tap here to enter text.								
Property & Financial Affairs Attorney's/Court Deputy's first and middle names (if applicable)	Click or tap here to enter text.								
Property & Financial Affairs Attorney's/Court Deputy's address (if applicable)	Click or tap here to enter text.								
Health & Welfare Attorney's/Court Deputy's surname (if applicable)	Click or tap here to enter text.								

Health & Welfare Attorney's/Court Deputy's first and middle names (if applicable)	Click or tap here to enter text.
Health & Welfare Attorney's/Court Deputy's address (if applicable)	Click or tap here to enter text.
Third Party Contributor's surname	Click or tap here to enter text.
Third Party Contributor's first and middle names	Click or tap here to enter text.
Third Party Contributor's address	Click or tap here to enter text.
Guarantor's surname	Click or tap here to enter text.
Guarantor's first and middle names	Click or tap here to enter text.
Guarantor's address	Click or tap here to enter text.

**Agreement by the Resident**

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

1. to comply with the terms of this Agreement; and
2. to pay to the Provider the Fees, as stated in the Agreement Particulars above, and any increases to the Fees in accordance with the Terms and Conditions (with the exception of the Third Party Contributor contribution to the Fees as stated in the Agreement Particulars above).

Signed by the Resident or on his or her behalf by an Attorney/Court Deputy	
Name of signatory if Attorney/ Court Deputy	
Date	

**Agreement by the Provider**

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

Signed on behalf of the Provider	
Name of signatory	
Date	
Position	

**Agreement by Third Party Contributor**

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

1. I confirm that I have received a copy of this Agreement (including the Agreement Particulars above and the Terms and Conditions and Schedules attached); and
2. I agree to pay to the Provider the Third Party Contributor contributions to the Fees, as stated in the Agreement Particulars above, and any increases to the Fees in accordance with the Terms and Conditions attached; and
3. I agree that, if the Resident (as named above) has not entered into this Agreement because he or she lacks capacity to do so and has not arranged for a duly appointed and empowered Attorney/Court Deputy to enter into this Agreement on his or her behalf:
  - a. in addition to paying the Third Party Contributor contributions to the Fees as provided in **paragraph 2** above, I shall pay to the Provider all other Fees payable under this Agreement from time to time, including any increases to such other Fees in accordance with the Terms and Conditions attached; and
  - b. I shall use my best endeavours to ensure that the Resident (as named above) complies with the terms of this Agreement as if he or she had entered into it.

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

Signed as a Deed by Third Party Contributor	
Name of Third Party Contributor	
Date	
Signature of Witness	
Name of Witness	
Address of Witness	

**Agreement by Guarantor**

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

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

- a) all the Fees, as amended from time to time in accordance with this Agreement; and
- b) all other sums due to the Provider under this Agreement that such Resident is liable

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

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

I agree that my obligations under this Agreement are not to be released by:

- c) any delay by the Provider in enforcing the payment of the Fees or any other terms of this Agreement or any time allowed by the Provider for their payment; or
- d) any legal limitation, immunity, disability, incapacity or other circumstances relating to the Resident, whether or not known to me; or
- e) any variation of the terms of this Agreement; or
- f) anything else which would have released me from my obligations under this Agreement whether by the variation of this Agreement or by the conduct of the parties.

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

Signed as a Deed by Guarantor	
Name of Guarantor	
Date	
Signature of Witness	
Name of Witness	
Address of Witness	

## TERMS AND CONDITIONS

### 1. Definitions and Interpretation

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

<b>Actual Move In Date</b>	The date on which the Resident takes Occupation of the Suite
<b>Additional Fees</b>	The fees payable by the Payer to the Provider for the provision of Additional Services as varied from time to time
<b>Additional Services</b>	The provision of additional care services for the Resident (excluding the services covered by the Care Services) agreed between the Provider and the Resident
<b>Care Plan</b>	The plan of care agreed between the Provider and the Resident by the date of this Agreement outlining the care needs and time required to provide the Care Services which may be varied from time to time in accordance with <b>clause 2</b>
<b>Care Services</b>	The services referred to in <b>Schedule 1</b> as amended from time to time in accordance with this Agreement



<b>Common Areas</b>	Has the meaning in the Residence Agreement
<b>Community</b>	Has the meaning in the Residence Agreement
<b>Dementia Care Package Fee</b>	The Dementia Care Package Fee stated in the Agreement Particulars as varied from time to time by reference to the Care Plan which is subject to review in accordance with <b>clauses 2, 5.3</b> and/or <b>5.7</b> from time to time
<b>Fees</b>	The Dementia Care Package Fee & the Additional Fees
<b>Home</b>	The Home identified in the Agreement Particulars
<b>Home's Address</b>	The address of the Home stated in the Agreement Particulars
<b>Home Manager</b>	The general manager of the Home
<b>Index</b>	The latest available figure for the percentage change over 12 months for the UK consumer prices index including owner occupiers' housing costs index (CPIH) published by the Office for National Statistics or any index of prices replacing such index, as at the date of the applicable notice from the Provider to the Resident
<b>Month</b>	A calendar month
<b>Notified Absence Period</b>	A period beginning on the date from which the Resident has informed the Home Manager that the Resident expects to be absent from the Suite pursuant to <b>clause 5.12, clause 5.13, or clause 5.14</b> of this Agreement and/or <b>clause 5.19</b> of the Residence Agreement and ending on the earlier of (i) the date until which the Resident has so informed the Home Manager that the Resident expects to be absent or (ii) the day the Resident actually returns to the Home; or a period when the Resident is absent from the Home because of emergency hospitalisation
<b>Occupation</b>	Has the meaning in the Residence Agreement

<b>Payer</b>	<p>(a) the Resident where the Resident is paying all Fees due under this Agreement;</p> <p>(b) the Third Party Contributor where such Third Party Contributor has agreed to pay all the Fees due under this Agreement; and</p> <p>(c) the Resident and the Third Party Contributor where such Third Party Contributor has agreed to pay part of the Fees due under this Agreement and the Resident is to pay the rest of the Fees due under this Agreement</p>
<b>Planned Move In Date</b>	The Planned Move In Date stated in the Agreement Particulars
<b>Provider</b>	The Provider identified in the Agreement Particulars
<b>Residence Agreement</b>	A separate agreement for the provision of a licence to occupy a suite at the Home and certain non-care residence services and entered into by the parties to this Agreement, as amended from time to time
<b>Resident</b>	The Resident identified in the Agreement Particulars
<b>Resident Representatives</b>	Has the meaning in <b>clause 9.2.4</b>
<b>Services</b>	The Care Services and the Additional Services, in each case as amended from time to time in accordance with this Agreement
<b>Suite</b>	Has the meaning in the Residence Agreement
<b>Third Party Contributor</b>	The Third Party Contributor identified in the Agreement Particulars
<b>Trial Period</b>	28 calendar days from and including the Actual Move In Date
<b>Weekly Residence Fee</b>	Has the meaning in the Residence Agreement

## 2. CARE SERVICES

- 2.1 In exchange for the Dementia Care Package Fee, the Provider will provide the Care Services to the Resident, subject to all relevant laws, regulations and other mandatory requirements.

- 2.2 The Provider will review the Care Plan every two months, or whenever the Provider believes it is required to meet the needs of the Resident and may make periodic changes to the Care Services where the Provider believes it is appropriate. Where practicable, the Provider will give the Resident prior notice of any material changes to the Care Services or the time allocated to such Care Services and also, where practicable, the Provider will consult with the Resident prior to making any material changes to the Care Services, but where, in the Provider's opinion, the urgency of the Resident's care needs make it impractical to consult with the Resident before making the changes, the Provider will implement the changes without such consultation.
- 2.3 Revisions under **clause 2.2** to the Care Services received by the Resident may result in an alteration to the Dementia Care Package Fee charged. Any proposed alterations to the Dementia Care Package Fee resulting from changes to the Care Services received by the Resident:
- 2.3.1 will be notified to the Resident;
- 2.3.2 will take effect, except as provided in **clause** , from the date stated in the notification (which date may be before the date of notification if, in the Provider's opinion, the urgency of the Resident's care needs make it impractical to notify beforehand) and irrespective of whether or not the Resident countersigns acknowledgement of such notice as required by this **clause 2.3**; and
- 2.3.3 will be discussed with the Resident except where, in the Provider's opinion, the urgency of the Resident's care needs make it impractical to discuss with the Resident before making the changes to the Care Services received by the Resident,
- and, unless the Resident exercises his or her right of termination under **clause 2.5**, the Resident shall, after request on behalf of the Provider, countersign acknowledgement of the notice under this **clause 2.3**. If the Resident fails to countersign acknowledgement of such notice within 28 days of such request and does not exercise his or her right of termination under **clause 2.5**, the Resident will be deemed to have given such countersignature when requested.
- 2.4 After receiving notification of a change under **clause 2.2**, whether or not it includes a change to the Dementia Care Package Fee as referred to in **clause 2.3**, the Resident will have 28 days (or, if such notification is received by post during a Notified Absence Period, until the end of that Notified Absence Period if later) in which to terminate this Agreement by giving 28 days' written notice to the Provider and if the Resident gives such notice of termination and leaves the Home at the end of the period of such notice of termination, the relevant change notified under **clause 2.2**, and (as the case may be) **clause 2.3**, will not come into effect.

**3. ADDITIONAL SERVICES**

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

**4. RESIDENCE AGREEMENT**

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

**5. THE FEES AND OTHER PAYMENTS**

Payment timing and method

- 5.1 From the Actual Move In Date, the Payer shall pay to the Provider the Dementia Care Package Fees and Additional Fees by (unless another payment method is agreed with the Home Manager) direct debit payment, which shall be made on or around the 4<sup>th</sup> day of each Month. The first invoice would usually be for the period to the next month end billing date.
- 5.2 Each Month's Dementia Care Package Fee shall be in respect of the Month after which the invoice is issued and Additional Fees shall be invoiced in arrears.

Standard and exceptional annual increases to Fees

- 5.3 In addition to any Fee increases under **clauses 2.2** and **2.3** and any non-annual Fee increases under **clause 5.7**, the Provider shall have the right, after giving to the Resident not less than 28 days' notice of its intention to do so, to review and increase the weekly Dementia Care Package Fee applicable to the Resident with effect on 1st of January in every year:

- 5.3.1 by up to 5% (inclusive) of the immediately previous Dementia Care Package Fee (a standard annual increase to fees); or
  - 5.3.2 if the Index is equal to or greater than 6%, by a percentage of the immediately previous Dementia Care Package Fee that is equal to or less than the Index (an exceptional annual increase to fees).
- 5.4 Separately, under and as described in the Residence Agreement for the Resident, the Provider shall have the right, after giving to the Resident not less than 28 days' notice of its intention to do so, to review and increase the Weekly Residence Fee applicable to the Resident under that Residence Agreement with effect on 1st of January in every year:
- 5.4.1 by up to 5% (inclusive) of the previous year's Weekly Residence Fee (a standard annual increase to fees); or
  - 5.4.2 if the Index is equal to or greater than 6%, by a percentage of the previous year's Weekly Residence Fee that is equal to or less than the Index (an exceptional annual increase to fees).

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

- 5.5 As examples of the annual fee increases of the kinds described in **clauses 5.3 and 5.4** above (but using hypothetical initial fees):
- (a) if the initial Dementia Care Package Fee at the Resident's Actual Move In Date is £665 per week and the Index is 3% (i.e. less than 6%), there will be a standard annual increase to fees and, as from the next 1st January, the new Dementia Care Package Fee will be up to £698.25 per week. This would mean an increase of up to approximately £1,729 for that year;
  - (b) if the immediately previous Dementia Care Package Fee is £655 per week and the Index is 7.5% (i.e. greater than 6%), there will be an exceptional annual increase to fees and, as from the next 1st January, the new Dementia Care Package Fee will be up to £714.87 per week. This would mean an increase of up to approximately £2,593.50 for that year;
  - (c) if the Weekly Residence Fee at the Resident's Actual Move In Date is £1,000 per week and the Index is 3% (i.e. less than 6%), there will be a standard annual increase to fees and, as from the next 1st January, the new Weekly Residence Fee will be up to £1,050 per week. This would mean an increase of up to approximately £2,600 for that year;
  - (d) if the previous year's Weekly Residence Fee is £1,000 per week and the Index is 7.5% (i.e. greater than 6%), there will be an exceptional annual

increase to fees and, as from the next 1st January, the new Weekly Residence Fee will be up to £1,075 per week. This would mean an increase of up to approximately £3,900 for that year.

Further increases would apply in subsequent years calculated in accordance with **clause 5.3** for this Agreement and in accordance with the separate annual increase provision in the Residence Agreement for the Resident.

**(Notes: (1)** Please note that the examples above are for illustration only and the amounts used in them are not intended to reflect the actual Dementia Care Package Fees or Weekly Residence Fees payable by the Resident or other Payer or the annual increases to those actual fees. The actual Dementia Care Package Fees payable by the Resident or other Payer, and consequently annual increases to those actual fee amounts, are likely to be different. Similarly, the actual Weekly Residence Fees payable by the Resident or other Payer, and consequently annual increases to those actual fee amounts, are likely to be different.

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

#### Termination after notification of standard or exceptional annual Fee increases

- 5.6 During the period of any notification of a change in Dementia Care Package Fees given under **clause 5.3** (or, if such notification is received by post during a Notified Absence Period, during the period expiring at the end of that Notified Absence Period if later), the Resident will be entitled to terminate this Agreement by giving 28 days' written notice to the Provider and if the Resident gives such notice of termination and leaves the Home at the end of the period of such notice of termination, the relevant change in Fees under **clause 5.3** will not come into effect.

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

- 5.7 In addition to any Fee increases under **clauses 2.2** and **2.3** and the standard or exceptional annual Fee increases under **clause 5.3**, if at any time any major changes in legislation or sector regulations (for example, where the care home sector regulator imposes new minimum staffing requirements for the provision of specific types of care) and any of those changes directly results in a significant and demonstrable increase in the Provider's costs of providing the services to the Resident under this Agreement, then to the extent that those cost increases are not already covered by the standard or exceptional annual increase under **clause 5.3**, the Provider shall have the right, after giving to the Resident not less than 90 days' notice of its intention to do so, to review and increase the Dementia Care

Package Fee with effect at the end of such notice period.

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

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

- 5.8 During the period of any notification of a change in Dementia Care Package Fees given under **clause 5.7** (or, if such notification is received by post during a Notified Absence Period during the period expiring at the end of that Notified Absence Period if later), the Resident will be entitled to terminate this Agreement by giving 28 days' written notice to the Provider and if the Resident gives such notice of termination and leaves the Home at the end of the period of such notice of termination, the relevant change in Fees under **clause 5.7** will not come into effect.

Alteration of Additional Fees and availability of details of Additional Fees

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

Interest for late payment

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

Fees during absence from the Home

- 5.12 The Resident shall inform the Home Manager in writing in advance if the Resident expects to be absent from the Suite for a period exceeding 14 days.
- 5.13 During any time when the Resident is absent from the Home for a reason other than hospitalisation:
- 5.13.1 if the Resident has given to the Provider at least 28 days' written notice (a "**28 days' absence notice**") of being temporarily absent from the

Home for reasons other than hospitalisation:

- (i) the Provider will continue to charge, and the Payer shall continue to pay, the Dementia Care Package Fee for a maximum period of 5 days beginning with the first day of absence from the Home; and
- (ii) the Provider will recommence charging, and the Payer shall recommence paying, the Dementia Care Package Fee with effect from the earlier of (a) any date of return to the Home stated in the 28 days' absence notice and (b) the day the Resident actually returns to the Home; and

5.13.2 if the Resident has not given a 28 days' absence notice to the Provider, the Provider will continue to charge, and the Payer shall continue to pay, the Dementia Care Package Fee throughout the entire period of absence from the Home.

5.14 During any time when the Resident is absent from the Home because of hospitalisation that is planned, elective or otherwise non-emergency:

5.14.1 if the Resident has given to the Provider at least 28 days' written notice (a "**28 days' planned hospital absence notice**") of being temporarily absent from the Home because of hospitalisation that is planned, elective or otherwise non-emergency:

- (i) the Provider will continue to charge, and the Payer shall continue to pay, the Dementia Care Package Fee for a maximum period of 5 days beginning with the first day of absence from the Home; and
- (ii) the Provider will recommence charging, and the Payer shall recommence paying, the Dementia Care Package Fee with effect from the earlier of (a) any date of return to the Home stated in the 28 days' planned hospital absence notice and (b) the day the Resident actually returns to the Home; and

5.14.2 if the Resident has not given a 28 days' planned hospital absence notice to the Provider, the Provider will continue to charge, and the Payer shall continue to pay, the Dementia Care Package Fee during such absence for whichever is the shorter of (i) the entire period of absence from the Home and (ii) 14 days beginning with the first day of absence from the Home.

5.15 During any time when the Resident is absent from the Home because of emergency hospitalisation, the Provider will continue to charge, and the Payer shall continue to pay, the Dementia Care Package Fee for a maximum period of 5 days beginning with the first day of absence from the Home.



### Arrangements on death

- 5.16 In the event of the Resident's death:
- 5.16.1 the provision of the Care Services and charging of the Dementia Care Package Fee will cease immediately;
  - 5.16.2 any outstanding Fees or other sums payable to the Provider, whether under this Agreement, the Residence Agreement or otherwise, will be charged to, and payable by, the Resident's estate (to the extent the Resident is the Payer) and the Third Party Contributor (to the extent any Third Party Contributor is the Payer); and
  - 5.16.3 after deduction of any sums payable as referred to in this **clause 5.16** or otherwise due to the Provider, whether under this Agreement, the Residence Agreement or otherwise, any over-payment of Dementia Care Package Fee at death will be repaid on a daily pro rata basis to the Resident's estate after probate or administrative procedures have been completed, or if it was paid by a Third Party Contributor, will be repaid to such Third Party Contributor.

### Local Authority Funding

- 5.17 If at any time the Resident's Local Authority has agreed to fund the Resident's residence in the Home but the Local Authority is proposing at any time to pay less than:
- 5.17.1 the Weekly Residence Fee under the Residence Agreement for the Suite (and other items covered by that Weekly Residence Fee) that the Resident is occupying, or is going to occupy; plus
  - 5.17.2 the Dementia Care Package Fee,
- the Resident must ensure that a Third Party Contributor, or (where lawful) the Resident, enters into an agreement with the Local Authority to pay the difference as a third party top-up contribution (a "**Third Party Top-Up Contribution**").
- 5.18 If the Resident or any Third Party Contributor requires any assistance with arrangements relating to Third Party Top-Up Contributions, the Provider strongly advises the Resident and any Third Party Contributor to discuss with the Resident's allocated Local Authority Social Worker/Care Manager.

### Funded Nursing Care Contributions

- 5.19 Where the Resident becomes entitled to receive a Funded Nursing care Contribution ("**FNC**") payment from a Clinical Commissioning Group towards nursing care fees, the Resident shall to the extent possible direct that such FNC is

paid directly to the Provider. If the Provider actually receives an FNC payment from a Clinical Commissioning Group towards nursing care fees for the Resident, the Provider will apply a credit note equal to the amount of such FNC payment the Provider actually receives against the Dementia Care Package Fee charged for the Resident, but the Payer will still be liable to pay the balance of the Dementia Care Package Fee. The Provider will, where practicable, inform the Payer as soon as is reasonably practicable, of any FNC to be paid by any Clinical Commissioning Group that the Provider is aware of. Any FNC payments that the Provider may be able to receive may change over time and the Provider will notify the Payer of any changes as soon as reasonably practicable after becoming aware of them.

#### NHS Continuing Health Care

5.20 If on or following admission to the Home the Resident is assessed as eligible for NHS 'Continuing Health Care' ("**CHC**") funding from a Clinical Commissioning Group ("**CCG**") (or other NHS body) for care to be provided by the Provider ("**CHC Care**") and:

5.20.1 the Resident agrees to accept such CHC Care (the "**Agreed CHC Care**") and that it will be funded by the CHC funding; and

5.20.2 the Provider agrees with such CCG (or other NHS body) to provide the Agreed CHC Care in return for payment of such CHC funding by such CCG (or other NHS body),

then for so long as such CCG (or other NHS body) pays such CHC funding to the Provider:

5.20.3 the only Care Services that the Provider provides to the Resident shall be the Agreed CHC Care except that the Provider shall also provide Additional Services agreed between the Resident and the Provider that do not fall within the services that are identified as the Agreed CHC Care; and

5.20.4 the Payer shall not be required to pay the Dementia Care Package Fee but shall be required to pay the Additional Fees for any Additional Services agreed between the Resident and the Provider that do not fall within the services that are identified as the Agreed CHC Care.

#### Cessation of Local Authority, FNC funding or CHC funding

5.21 If at any time Local Authority, FNC funding or CHC funding for the Resident ceases (whether for past or future residence at the Home), the Payer will be liable for the entirety of the Fees, except for amounts that the Local Authority, FNC funding or CHC funding has paid.

Trial Period Fees and termination

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

**6. GENERAL PRACTITIONER ("GP")**

6.1 The Provider will register the Resident with the Provider's retained GP unless

6.1.1 the Resident notifies the Home prior to admission to the Home that he or she wishes to keep his or her own existing GP; and

6.1.2 such GP agrees to continue to be the Resident's GP; and

6.1.3 the Provider is satisfied, acting reasonably, that the services to be provided by such existing GP meet the requirements of the Provider.

6.2 References in this Agreement to the "**Resident's GP**" mean the one appointed by the Provider or the Resident (as the case may be) pursuant to **clause 6.1**.

**7. MEDICINES**

7.1 The Provider will take charge of and dispense all the Resident's prescribed medication.

7.2 Except in the case of negligence or breach of this Agreement by the Provider or any of its agents or staff, the Provider shall not be liable for the misuse of medicines which are kept and self-administered by the Resident.

**8. LIABILITY**

8.1 Subject to **clause 8.7**, the Provider will not be liable to the Resident in respect of any loss or damage caused by any failure, interruption or delay in the provision of the Services arising either from any cause or circumstance beyond the reasonable control of the Provider including mechanical breakdown, failure, malfunction, shortages of fuel or materials or labour disputes or from any necessary maintenance, repair, replacement, renewal, servicing, inspection or testing of the systems used to provide the Services.

8.2 The Provider will use reasonable endeavours to minimise the period of failure interruption or delay in the provision of the Services where the reason for the failure interruption or delay is beyond its reasonable control.

- 8.3 The Provider shall provide the Services with reasonable skill and care, including the appointment of such service suppliers as it reasonably considers competent to perform the Services.
- 8.4 Subject to **clause 8.7**, the liability of the Provider to the Resident in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever under or in connection with this Agreement shall be limited to £5,000,000 in the aggregate or such greater sum as the Provider may notify the Resident from time to time
- 8.5 If the Provider fails to comply with this Agreement, the Provider is responsible for loss or damage the Resident suffers that is a foreseeable result of the Provider breaking this Agreement or the Provider failing to use reasonable care and skill but, subject to **clause 8.7**, the Provider is not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time this Agreement was made, both the Provider and the Resident knew it might happen, for example, if the Resident discussed it with the Provider before this Agreement was entered into.
- 8.6 Subject to **clause 8.7**, the Provider will have no liability to the Resident for any claim relating directly to any failure to provide the Services unless the Resident gives the Provider written notice of the claim promptly and in any event within 12 months after the Resident becomes aware (or should reasonably have become aware) of the circumstances giving rise to the claim and gives the Provider such period as is reasonable in the circumstances, but at least 28 days (or such longer period as is agreed between the Provider and the Resident), following such notification in which to remedy the Services concerned.
- 8.7 Nothing in this Agreement will operate to exclude or restrict the Provider's liability (if any) for:
- 8.7.1 death or personal injury resulting from negligence by the Provider or by the Provider's agents or staff; or
  - 8.7.2 any breach of the obligations implied by section 17 of the Consumer Rights Act 2015 (*Trader to have right to supply the goods etc*); or
  - 8.7.3 any breach of the obligations implied by section 49 of the Consumer Rights Act 2015 (*Service to be performed with reasonable skill and care*); or
  - 8.7.4 losses for which it is prohibited by section 7 of the Consumer Protection Act 1987 to limit liability; or
  - 8.7.5 fraud or fraudulent misrepresentation; or

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

**9. TERMINATION OF AGREEMENT**

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

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

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

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

(The Resident's right to terminate this Agreement during the Trial Period is in **clause 5.22.**)

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

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

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

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

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

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

9.2.4 give to the Resident and (if the Resident has any) the Resident's representatives (including any statutory advocate acting for or assisting the Resident) ("**Resident Representatives**") disclosure, so far as is reasonably practicable, of the reasons why the Provider believes the Resident may need to leave the Home and this Agreement may need to

be terminated (e.g. if the Provider is able to disclose them, advice in a doctor's report or serious incident reports); and

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

9.3 After consultation as described in **clause 9.2.5**, if the Provider and the Resident or any Resident Representatives who have the power to decide for the Resident agree (and agreement by the Provider and the Resident or any such Resident Representatives must not be unreasonably withheld or delayed) that this Agreement should terminate because of the Resident's care needs or because it is not possible for the Resident to return from hospital, then the Provider shall have the right to terminate this Agreement by giving at least 28 days' written notice of termination to the Resident.

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

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

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

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

9.4.3 if there has been repetitive material misconduct or repetitive material adverse behaviour by the Resident at the Home.

9.5 Before giving notice of termination under **clause 9.4**, the Provider will consult with the Resident, any Resident Representatives and other relevant independent parties (including relevant independent professionals (e.g. a multidisciplinary team, which may include the Resident's own doctor and consultant specialist) and, where applicable, the placing Local Authority or NHS body, the Resident's social care worker or occupational therapist) at an early stage in good time before a final decision is made so that they can be properly involved in the decision-making process and there is a reasonable opportunity to address the Resident's detrimental or behaviour.

Steps in extreme circumstances

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

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

- 9.7 In **clauses 9.7, 9.8 and 9.9, "Relevant Overdue Amount"** means an amount which exceeds the total of:

9.7.1 28 days' Weekly Residence Fees payable under the Residence Agreement;

PLUS

9.7.2 28 days' Dementia Care Package Fees,

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

9.7.3 Weekly Residence Fees or other sums payable under the Residence Agreement; and/or

9.7.4 Dementia Care Package Fees or other sums payable under this Agreement; and/or

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

9.7.6 any shortfall in payments to the Provider because no agreement for a "Third Party Top-Up Contribution" has been put in place as required by **clause 5.17** or any such agreement has not been complied with.

- 9.8 If at any time there is a Relevant Overdue Amount, the Provider shall have the right to give a notice to the Resident and any other Payer:

9.8.1 notifying the Resident and any other Payer that there is a Relevant Overdue Amount, the amount of it and who should have paid it; and

9.8.2 requesting that in the period of 14 days after the notice is given the

Resident and any other Payer consult with the Provider about the reasons for non-payment and proposals from the Resident or any other Payer to pay the Relevant Overdue Amount to the Provider; and

9.8.3 notifying the Resident and any other Payer that if at the end of the period of 14 days referred to in **clause 9.8.2**, there remains a Relevant Overdue Amount and no other payment plan has been agreed with the Provider for paying such Relevant Overdue Amount to the Provider, the Provider shall have the right to terminate this Agreement by giving at least 28 days' written notice of termination to the Resident.

9.9 If at the end of the period of 14 days referred to in **clause 9.8.2**:

9.9.1 there remains a Relevant Overdue Amount; and

9.9.2 no other payment plan has been agreed with the Provider for paying such Relevant Overdue Amount to the Provider,

the Provider shall have the right to terminate this Agreement by giving at least 28 days' written notice of termination to the Resident.

Provider's right to terminate because the Home is to close

9.10 If the Provider is proposing a planned closure of all or part of its business, including the Home:

9.10.1 the Provider will give the Resident and any Resident's Representatives notice in writing that closure of the Home is proposed at least 90 days before the proposed closure date;

9.10.2 the Provider will consult about the proposed closure with the Resident and any Resident Representatives for at least 30 days before the proposed closure date; and

9.10.3 following the consultation, the Provider shall have the right to terminate this Agreement by giving at least 28 days' written notice of termination to the Resident.

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

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

9.11.2 the Provider will consult about the proposed closure with the Resident and any Resident Representatives for as long as the Provider is



reasonably able to; and

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

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

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

Parties' rights to terminate under other clauses of this Agreement

- 9.13 The rights to terminate this Agreement in this **clause 9** are in addition to and do not limit the parties' other rights to terminate this Agreement in **clauses 2.5, 3.3, 5.6, 5.8 and 5.22**.

Assistance with obtaining alternative accommodation

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

Complaints about termination decisions and dispute resolution

- 9.15 If at any time the Resident or any Resident Representative wishes to appeal or otherwise dispute any decision by the Provider in connection with termination of this Agreement, or any proposal for such termination, then the Resident or any Resident Representative can use the complaints procedures identified in **clause 11** or the alternative disputes procedure described in **clause 12**.

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

- 10.1 If this Agreement is terminated whether under any provision of this Agreement or otherwise:

- 10.1.1 on or before the termination date all sums due to the Provider, whether under this Agreement, the Residence Agreement or otherwise, which have not been paid must be paid to the Provider; and

- 10.1.2 the Resident and any Third Party Contributor will be charged, and must pay, any costs arising because of the Resident's failure to leave the Home (including, without limitation, for any care provided); and
  - 10.1.3 all monies paid in advance which relate to the period after termination will be repaid to the Resident (or the Third Party Contributor to the extent the Third Party Contributor was the relevant Payer) after deduction of any monies properly owing to the Provider; and
  - 10.1.4 if the Resident or a Third Party Contributor has paid Dementia Care Package Fees for a period in advance which extends beyond the date when the notice of termination expires, provided that the Resident has left the Home and the Resident's Suite is cleared, the Resident, or such Third Party Contributor (as the case may be), shall be entitled to a pro-rata refund for the period from when the resident leaves the Home until the end of the period paid for in advance less any sums otherwise due to the Provider, whether under this Agreement, the Residence Agreement or otherwise.
- 10.2 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

## **11. REGULATOR AND COMPLAINTS**

- 11.1 The Home is registered as a Care Home with the Care Quality Commission (CQC).
- 11.2 If the Resident, any Third Party Contributor, any Guarantor, the Contact After Death (as defined in the Residence Agreement), any Resident Representative or the Resident's estate has a complaint, the Provider has a complaints policy and procedure, which will be given to Resident when he or she takes up residence at the Home. If the Resident or other complainant is not satisfied with the Provider's response to a complaint or a complaint is not resolved to the Resident's or such other complainant's satisfaction by the Provider:
  - 11.2.1 if the Resident or a Third Party Contributor pays all or part of the Fees, the Resident or such other complainant may refer his or her complaint to the Local Government Ombudsman (<http://www.lgo.org.uk/>); and
  - 11.2.2 if a Local Authority pays all or part of the Fees, the Resident or such other complainant may refer his or her complaint to that Local Authority and, if the Resident is unhappy with the outcome of a complaint, the Resident may refer it to the Local Government Ombudsman (<http://www.lgo.org.uk/>).

12. **ALTERNATIVE DISPUTE RESOLUTION BY MEDIATION**

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

12.2 If:

12.2.1 the Resident, any Third Party Contributor, any Guarantor, the Contact After Death (as defined in the Residence Agreement), any Resident Representative or the Resident's estate wishes to refer any complaint to alternative dispute resolution by mediation under this **clause 12**; or

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

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

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

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

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

12.6 This **clause 12** and the commencement of a mediation will not prevent any of the parties commencing or continuing court proceedings.

13. **NOTICES**

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

13.2 Any copy of a notice sent for information to (as applicable) any Guarantor or any Third Party Contributor, and any other correspondence to any such person, may be sent by first class post or hand delivered. Notices sent by post will be deemed

to be received forty-eight (48) hours after posting. Notices hand delivered will be deemed to be received immediately.

- 13.3 The Provider would prefer for notices to the Provider to be (i) sent by first class post to the Home Address or (ii) sent by first class post to or left at the Provider's registered office address or (iii) sent by email to the Home Manager.

**14. OTHER IMPORTANT TERMS**

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

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

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

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

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

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

**15. GOVERNING LAW AND JURISDICTION**

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

## **SCHEDULE 1**

### **Care Services**

- The care services to be delivered by the Provider pursuant to the Care Plan as determined and assessed from time to time pursuant to **clause 2**, provided that unless and until otherwise determined and assessed from time to time pursuant to **clause 2**, Dementia Care Package Band A will apply. Dementia Care Package Band A comprises up to 3 hours 30 minutes per day of a non-nurse carer or up to 1 hour 45 minutes per day of a carer who is a nurse, or a proportionate blend thereof (for example, up to 3 hours per day of a non-nurse carer plus up to 15 minutes per day of a carer who is a nurse)
- Care Staff available 24 hours a day
- Emergency call system in suites
- Activities as organised by the Provider's Activity Team
- Scheduled transportation arranged by the Provider in the Provider's minibus with wheelchair access
- Housekeeping services for infection control purposes which are more frequent or otherwise additional to those provided under the Residence Agreement, and provision of related cleaning materials
- Laundry services for infection control purposes which are more frequent or otherwise additional to those provided under the Residence Agreement