

**SUNCOAST MANOR RETIREMENT COMMUNITY, INC.  
d/b/a WESTMINSTER SUNCOAST**

Approved by the Florida Office of Insurance Regulation on 05/06/11  
Certificate of Authority Number 88044

**I. PARTIES TO THE AGREEMENT**

This agreement is made on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_ by and between, Suncoast Manor Retirement Community, Inc. doing business as Westminster Suncoast

(hereinafter referred to as “the Corporation” meaning owner, operator and provider), a Florida not-for-profit corporation exempt from federal taxes under Section 501 (c) (3) of the Internal Revenue Code and authorized under a Certificate of Authority to transact business in the State of Florida and,

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(Hereinafter referred to as “the Resident” whether one or more persons. Any personal pronoun shall refer to either gender). The agreement date shall be within thirty (30) days after reservation of a unit or move-in date, should it occur sooner. The full Entrance Fee is due on the agreement date. All refund benefits will be calculated from this date.

Presbyterian Retirement Communities, Inc. a 501 (c) (3) not-for-profit corporation is affiliated with the Corporation and is not responsible for the financial and contractual obligations of the Corporation.

Westminster Services, Inc. a 501 (c) (3) not-for-profit corporation is the management entity for the Corporation and is not responsible to the financial and contractual obligations of the Corporation.

The purpose of this agreement is to set forth the understanding of the obligations of both parties and to explain the continuing care residency provisions.

**II. EXPLANATION OF CONTINUING CARE PROVISIONS**

**A. ENTRANCE FEE**

The Entrance Fee provides the Resident the use of a living unit for the remainder of the Resident’s life within the limits of liability established by this agreement. In addition, the Resident is provided priority admission to the skilled nursing health center at a discounted rate.

**1. Care Level Definitions**

- a. **Residential Living** - The Resident is capable of self- maintenance with limited assistance from outside help for the performance of daily living activities.
  - b. **Residential Assisted Living** - The Resident requires a greater level of assistance and supervision in performing activities of daily living, but does not need constant assistance or skilled nursing care.
  - c. **Health Center** - The Resident requires supervision 24 hours per day in the skilled nursing health center.
2. **Transfer Rights and Change of Living Accommodations Between Levels of Care or Communities**
- a. **Transfer rights** under this continuing care agreement allow the Resident to transfer to any level of care offered by the community, or to another community owned by the Corporation, providing the Resident's needs match the services offered. Transfers may be initiated by either the Resident or the Corporation.
  - b. **Changes in living accommodation** may result from transfer to another level of care or selection of another unit within the same care level. In all situations the Resident pays the monthly service fee associated with the new accommodation and level of care.
    - (1) **Downgrade move - A Resident requests transfer to a smaller unit within the same care level or to a less independent level of care.** These moves require no additional Entrance Fee payments or moving charges. There will be no refund of the initial Entrance Fee paid.
    - (2) **Lateral Move - A Resident requests transfer to a similar unit of similar pricing.** These moves require the Resident to pay moving charges and refurbishing fees as determined by the corporation for the vacated unit.
    - (3) **Upgrade Move - A Resident requests transfer to a larger accommodation than originally acquired under the residency agreement.** These moves require an additional Entrance Fee. The additional fee is the difference between the current published Entrance Fee of the new unit less the Entrance Fee actually paid (exclusive of any unit upgrade charges) for the vacated unit. These moves also require the Resident to pay moving charges costs and refurbishing fees as determined by the corporation for the vacated unit.
    - (4) **Reverse Care-Level Move - A Resident transfers to a level of care with fewer services.** No charges will be made when the move is to a unit comparable to one previously occupied.

(5) **Move at Corporation's Request** - The Corporation has the right to require a Resident to move to an alternate accommodation for reasons other than the Resident's health needs. In this event, the Corporation would move the Resident to a similar unit, pay the moving charges to another unit and would also pay the costs to refurbish the vacated unit.

(6) **All Moves to Newly Constructed – Including Downgrade, Lateral, Upgrade and Reverse Care-Level Move.** These moves require an additional Entrance Fee. The additional fee is the difference between the current published Entrance Fee of the new unit less the Entrance Fee actually paid (exclusive of any unit upgrade charges) for the vacated unit. These moves also require the Resident to pay moving charge costs and refurbishing fees as determined by the corporation for the vacated unit. **Newly Constructed** can either mean construction of a completely new building or the refurbishing in an existing building.

3. **Guaranteed Refund** - The guaranteed refund program allows the Resident the right to elect, for an additional fee, a guaranteed percentage refund of the total Entrance Fee paid. It is available only at the signing of this agreement, for any Resident 85 years old or younger.

### III. UNIT REVISIONS, ATTACHMENTS AND DAMAGES

- A. Unit revisions, attachments, and improvements must be approved in writing by the Corporation and become the property of the Corporation when the Resident vacates the unit.
- B. The cost of unit revisions, attachments, and improvements desired by the Resident are not part of the Entrance Fee and therefore are non-refundable. Improvements and changes to accommodations will be handled as an addendum to this agreement.
- C. The Corporation will hold the Resident liable for damage to a unit caused by the Resident or his representative. Such damage becomes a debt of the Resident and may be charged to the Resident or Resident's estate.

### IV. RESPONSIBILITY TO RELOCATE

- A. The Resident has the responsibility to move to another level of care as the Resident's needs may require. The Resident agrees that when a physical or medical condition occur requiring special assistance or nursing care, the Resident will accept transfer to the residential assisted living or skilled nursing health center of the community.

B. Transfers will be at the discretion of the community's Executive Director, Director of Nursing and the community's consulting Medical Director. The Resident's service fees will be adjusted to the service fee for the new care level.

C. **Health Center**

1. The skilled nursing health center will be operated in compliance with Federal and State regulations. Residents with a continuing care agreement will be assured that space will be provided at the annually published rates for the community, or like community, for temporary or permanent stays. Therapy charges, doctors' fees, prescriptions, supplies, diagnostic testing and other such items are the responsibility of the Resident.

2. The Resident agrees that should special medical care be needed that is not provided by the Corporation's skilled nursing health center, or if the Resident becomes physically or mentally ill so as to jeopardize the health, comfort or peace of other Residents, the Corporation has the right to transfer the Resident immediately to such outside service facility deemed appropriate by the Executive Director, Director of Nursing and the community's consulting Medical Director. All such transfers will be made to protect the best interest, welfare and health of the Resident and the community. The Resident is responsible for all related charges.

D. **Definition of Convalescent and Permanent Care in the Skilled Nursing Health Center**

1. **Convalescent Care** is temporary care that is offered for a limited period of time annually. The number of days and discounted service fees will be established annually by the Corporation. During convalescent care the Resident will pay the discounted skilled nursing rate, in addition to the monthly service fee of their primary residential or residential assisted living residence.

Convalescent care is automatically suspended when in the opinion of the Executive Director, Director of Nursing and the community's consulting Medical Director, the Resident is no longer convalescent and needs the care level on a permanent basis, or has recuperated sufficiently to require a lesser level of care.

2. **Permanent Care** is determined when the Resident is no longer capable of residing in residential or residential assisted living and needs skilled nursing care to maintain an acceptable standard of living. The Resident agrees to accept the determination of the community's Executive Director, Director of Nursing and community's consulting Medical Director for placement in this level of care. Such decisions will allow for consideration of family members and the Resident's physician, where possible; but ultimately, the decision must be based on the Resident's ability for self maintenance and safety to self and others.

E. **Permanent Care Rates** are established annually by the Corporation, and are classified as:

1. **Agreement Rate** - The rate for Residents who have a continuing care residency agreement and have made prepayment toward skilled nursing care through an Entrance Fee.
2. **Non Agreement Rate** - The daily rate for those who do not have a continuing care residency agreement and have made no prepayment toward skilled nursing care.
3. **Special Care Rates** - The rate for special services such as memory support, hospice or therapy programs.

F. **Medical Insurance**

The Resident shall maintain Medicare Part A, Medicare Part B or equivalent and one supplemental health insurance policy or equivalent insurance coverage acceptable to the community and shall furnish the community with evidence of such coverage upon request.

V. **PHYSICIANS, HOSPITALS AND OUTSIDE SERVICES**

- A. The Resident may engage the services of any physician, but preferably one who is agreeable to providing medical services to the Resident in the Corporation's Health Center.
- B. The Resident agrees to abide by the orders of his private physician or the community's consulting Medical Director when either deems hospitalization is necessary for the Resident's well being.
- C. The Resident is responsible for all bills from physicians, hospitals, pharmacies and other outside service facilities.
- D. The Resident is responsible for planning and payment of burial arrangements.

## VI. RESIDENCY QUALIFICATIONS

The Resident must meet the following qualifications before the Corporation can approve this Residency Agreement. Any exception to any of these qualifications will be at the discretion of the Corporation's Executive Committee. Such applicants shall have no right to occupancy until approved by the Board of Directors. Approved exceptions will be placed in the Resident's file maintained by the community of residency.

### A. Age

Residents must be age 62 or older. If one member of a couple is less than 62, the admission must be approved by the Corporation's Executive Committee.

### B. Health

1. The Resident must meet the health standards set forth by the Corporation or applicable Florida Statutes.
2. The Resident must submit the results of a pre-entrance physical examination by a physician of the Resident's choice. This examination must be administered not more than sixty (60) days prior to occupancy.
3. The Resident may be reclassified by the Corporation to a different care level other than the one requested should his physical examination not meet the requirements of the requested care level.
4. If the Resident is reclassified by the Corporation to skilled nursing care on a permanent status within thirty (30) days from occupancy, the Corporation will refund to the Resident the total Entrance Fee. The Resident will be allowed to remain in the Health Center as a non-agreement patient on a space available basis.

### C. Financial

1. The Resident must complete the financial disclosure form of the Corporation.
2. The Corporation will use this information to determine the Resident's financial ability to pay fees and reasonable living expenses presently and in the future.

3. Residents who request joint occupancy, and who execute a joint life agreement, are jointly and severally liable for all payments due under the terms of this agreement. Should one individual of a joint occupancy agreement die, or otherwise vacate the community, both Residents, including the estate of a deceased Resident, shall remain liable for payment of the applicable monthly fees and any other applicable charges.

## VII. SERVICES AND FEES

The Monthly **Service Fee** for Residential Living and Residential Assisted Living is a monthly charge for meals, housekeeping, maintenance, transportation, health resources center services, convalescent care and activities routinely provided to the Resident as determined by the Corporation. These fees are subject to change with a sixty (60) day notice to the Resident. Services beyond those routinely provided are available for an additional fee. The Resident's monthly service fees begin on the agreement date. Monthly Service fees are billed and payable a month in advance.

### A. Services Included in the Monthly Service Fee

1. **Dining Services** - Meals are provided in dining areas within each level of care. The fee schedule reflects the number of meals to which the Resident is entitled.
2. **Special Diets** - When a special diet is ordered by the Resident's physician, Dining Services will endeavor to prepare meals that conform to the requested diet.
3. **Maid Service** - Housekeeping is provided for all common areas. Frequency of Housekeeping in the Resident's living unit is defined by the published pricing schedule.
4. **Maintenance of the Living Unit** - The Corporation's maintenance staff shall provide repair to all Corporation owned items in and around the living units within a reasonably prompt time period.
5. **Maintenance and Landscaping of the Facility** - The Corporation's maintenance and grounds staff shall perform repairs, maintenance and landscaping services to maintain the community's buildings, equipment and grounds.
6. **Parking** - The Corporation will make uncovered parking space available for the one vehicle per living accommodation. There may be a charge for any additional parking spaces.

7. **Scheduled Transportation** - Periodic trips will be scheduled by the community to nearby banks, grocery stores, shopping centers, medical offices and other residential service related areas.
  8. **Planned Events and Activities** - Recreational, social, cultural and spiritual events and activities will be provided for the Resident. Involvement of Residents will be encouraged in organizing these types of events and desired activities.
  9. **Use of Common Space** - The community will make available to the Resident and guests, common space such as lounges, dining areas, meeting rooms, library and activity areas. Appropriate common space is provided within each care level. Private uses of these spaces may require scheduling and fees for additional services rendered by staff.
  10. **Insurance** - The Corporation will insure the community against reasonable losses and liabilities. The Resident is responsible for insurance coverage of his own personal property and personal liability.
  11. **Health Resource Center**-routine screening and monitoring is available to Residents at no charge, except supplies. Services of a complex nature or those that are identified as billable may be provided either by the community nursing staff or an outside provider, and will be billed to the Resident or his medical insurance, as applicable.
  12. **Convalescent Care** - as described in IV, D, page 3.
- B. **Available Services Not Included in Service Fee**  
The following services will be available to the Resident at published rates established by the Corporation.
1. Additional **Resident meals** not included in service fee
  2. **Guest meals**
  3. **Unscheduled transportation or transportation to special events**
  4. Extra **housekeeping** and **maintenance** services and supplies
  5. **Supplies** and **services** for activities
  6. **Barber** and **beauty shop** services
  7. **Health Resource Center** services provided in the Resident's unit

8. **Physician or Physician Assistant** services provided in the Health Resource Center are billed to the Resident by the Physician. The Corporation will not accept responsibility for payment of service bills of the Resident for the cost of medications, ancillary services, health insurance, physicians, and hospitals or outside service facilities
9. **Additional supplies and services** of the skilled nursing health center, such as the memory support program, and medicines
10. **Setup/clean up** charges for private uses of common spaces designated for such purposes
11. **Covered parking** spaces as available
12. **Prescription drugs**
13. **Additional assistance** engaged under the Community's personal care assistance program
14. **Other services** as approved by the Board of Directors

**C. Rate Increases**

1. The Corporation's Board of Directors shall establish changes in fees that will assure and maintain quality living and services for the Residents as a group. A minimum of sixty (60) days notice shall be given before changes in service fees shall become effective, except for changes required by the State or Federal assistance programs.
2. The Corporation, with this agreement, does not consent to undertake the lifetime care of the Resident for fixed fees.

**D. Interest and Late Payment**

1. The Corporation reserves the right to charge interest and late payment fees acceptable under Federal and State laws that may be necessary to ensure prompt payment of debt by the Resident.
2. The Resident agrees to pay any related legal, collection or court fees that may be incurred by the Corporation in the collection of the Resident's debt, interest and late payment fees.

**E. Ad Valorem Tax Assessment**

This community is taxed by the county or city for fire protection, police, roads, schools and other related services. The Resident agrees to pay the assigned living unit's proportion of ad valorem taxes assessed to the Corporation for the community in which the assigned living unit is located. This shall include living unit, common space, land and other improvements that may be taxed.

**VIII. LIMITATIONS**

**A. No Interest in Real Property**

It is agreed and understood that this Residency Agreement:

1. Is neither a lease nor does it create any title or interest in the community real estate or other property owned by the Corporation.
2. Does not convey ownership nor is the community managed as a condominium or cooperative where each Resident has a vote in the management process.
3. May not be transferred for the use or benefit of the heirs, assignees, successors, representatives of the Resident or the provider of funds for the Resident.

**B. Resident's Depletion of Financial Assets**

1. If, after proper management and expenditure of Resident's assets, the Resident outlives all resources and the family or other interested persons are unable or unwilling to pay the agreement charges, it is the intent of the Corporation to continue to provide care for the Resident so long as the resources of the Corporation are adequate for such purposes. The Corporation reserves the right to accommodate such Resident in the least expensive living unit and community operated by the Corporation.
2. It is understood between the parties that the intention of this agreement is not to deprive the Resident of any benefits from any governmental program of assistance or health insurance for the elderly. The Resident further agrees to apply for and cooperate in obtaining any governmental support or other funds to which the Resident may become entitled.
3. It shall not be deemed just cause if the resident is unable to pay monthly service fees until the entire unearned entrance fee, plus, when applicable, any Medicare benefits under Title XVIII of the Social Security Act and/or third party insurance benefits received, is earned by the community.

**C. Resident's Personal Property and Possessions**

1. The Corporation will not be liable for the care or maintenance of the Resident's personal property or possessions which he brings to the living unit.
2. The **Service Fee** will continue until personal items are removed from the vacated unit through a level of care transfer, withdrawal or death. This continued expense is the liability of the Resident or his estate.
3. The Corporation will allow thirty (30) days for removal of the property and possessions.
  - a. After thirty (30) days, the Corporation has the right to remove and place in storage any remaining items for six (6) months.
  - b. The Resident's estate will be liable for all storage and moving fees. If, after six (6) months, the property and possessions have not been claimed, the Corporation may take ownership of the unclaimed items.
4. The Corporation shall not be responsible for the loss of the Resident's personal property due to any cause.
5. The Resident agrees to indemnify and hold the Corporation harmless, including the payment of any and all court costs and attorney's fees, for any injury to the person or property of others resulting from the negligence of the Resident.
6. It is recommended that the Resident obtain personal property, liability and flood insurance, where applicable.
7. Refunds of unused service fees will be prorated and refunded within forty-five (45) days of removal of possessions.

**D. Tax Liability**

The Resident is liable for any Federal or State taxes related to or resulting from payment of the entrance or service fees, or receipt of refunds as provided, by this agreement. The Corporation, within its legal limits, will make every effort to reduce any liability.

**E. Relationship to the Presbyterian Church**

The Presbyterian Church (USA), in whole or in part, neither has nor accepts any responsibility for the financial or agreement obligations of the Corporation.

## **IX. CHANGE IN UNIT OCCUPANCY**

If after occupancy, the Resident marries or desires another individual to move into the unit, the Corporation may allow such residency with written consent of the Resident and qualification by the non-Resident with the Corporation's criteria for admission. Criteria for joint occupancy are subject to the following provisions:

### **A. With Another Resident of the Corporation**

1. Both Residents will maintain their individual agreement but may combine living accommodations, as units are available.
2. The Residents may have a unit which best meets their needs and that is equal to or less than the current value of their combined units.
3. Desire for larger accommodations will be handled as an upgrade/move.
4. The applicable monthly fee for the new unit will include the second person fee.
5. Each Resident retains the benefits in the Resident's original agreement.
6. Upon the death of either Resident, the rights of unit occupancy will be determined by the initial agreement of the survivor. The desire to remain in a larger unit other than initial agreement will be handled as an upgrade/move.

### **B. With a Non-Resident of the Corporation**

1. If the individual chooses to pay an Entrance Fee, he or she must sign a agreement and the following shall apply:
  - a. All admission criteria required by the Corporation must be met. The individual must pay the Entrance Fee for the most common single occupancy unit.
  - b. Residents may have a combined unit which best meets their needs. The living unit may be equal to or less than the current value of the unit presently occupied by the original agreement Resident plus the price paid for the new Resident's agreement. Desire for larger accommodations will be handled as a unit upgrade.
  - c. Upon the death of either Resident, the rights of living unit occupancy will be determined by the initial agreement of the survivor. The desire to remain in a larger unit other than initial agreement will be handled as a unit upgrade/move.

2. If the individual chooses to not pay an Entrance Fee, the individual must sign a rental agreement, if such agreements are available and the following shall apply:
  - a. All admission criteria required by the Corporation must be met.
  - b. Joint occupancy will require payment of the rental service fee for the second person.
  - c. The rental agreement Resident will be entitled to Community services, including Health Center benefits as defined in the rental agreement. Stays in the Health Center, other than those allowed under the rental agreement, will be on a space available basis and charged at the prevailing non-agreement daily health care rate.
  - d. If the initial agreement Resident vacates the living unit, the rental Resident must either:
    - (1) Apply for an Entrance Fee agreement and accompanying monthly service fee;
    - (2) Pay the prevailing rental rate for single occupancy for the unit occupied; or
    - (3) Vacate the unit.

**C. Vacation Visitors**

The Resident may have vacation visitors but stays longer than normally acceptable time periods as determined by the Corporation are not allowed. Visitors may not occupy a Residents' unit when the Resident is absent from the community. Visitors do not have the same community rights as the Resident. The Resident agrees to abide by the Corporation's policies in such matters.

**X. TERMINATION AND CANCELLATION RIGHTS OF:**

**A. The Resident**

The Resident has the right to rescind this agreement without penalty or forfeiture within seven (7) days of executing this agreement. In accordance with Chapter 651, the Corporation shall place monies paid by the Resident in escrow for seven (7) days, or if requested by the Resident, the Corporation shall maintain the monies for the seven (7) day period.

If the Resident rescinds this agreement within the seven (7) day escrow period, the Corporation will return all monies paid to the Resident within (7) days. The Resident is not required to move into the community before the expiration of the escrow period.

If the Resident terminates this agreement after the escrow period, but prior to occupancy, the Resident shall be entitled to a refund of Entrance Fee monies paid to the Corporation less a sum consisting of a processing fee of 4% of the total Entrance Fee paid, and less any costs specifically incurred by the Corporation at the written request of the Resident, attached as an addendum to this agreement.

**1. Prior to Occupancy and Termination of Escrow Period**

- a. Should the Resident die before occupancy, become incapable of living in the care level requested, or have a financial status change which results in the inability to meet the financial requirements of the community, the Resident or the Corporation will terminate the agreement.
- b. The Resident agrees that any service fees paid prior to occupancy are the sole property of the Corporation.
- c. The Corporation will refund within thirty (30) days from the date of written notice of the termination, any prepaid Entrance Fee less any costs specifically incurred by the Corporation at the written request of the Resident, which shall be attached to this agreement.

**2. After Occupancy**

- a. The Resident, or the person who provided the transfer of property or funds for the care of such resident, may terminate this agreement for any reason by giving thirty (30) days written notice to the Corporation. The service fee shall continue until the unit is vacated or thirty (30) days, whichever is later.
- b. Should the Resident terminate this agreement and later desire readmission, the Resident must meet admission policy in effect at that time.
- c. In the event of death, the service fee shall continue until the living unit is vacated.

## B. The Corporation

The Corporation may terminate this agreement with thirty (30) days written notice to the Resident for what the Corporation determines as any just or sufficient cause which shall include but not be limited to:

1. The Resident persistently violates rules and regulations established by the Corporation.
2. The Resident becomes undesirable to the point of interfering with or obstructing the comfort or well being of other Residents.
3. That there has been a good faith determination that a resident is a danger to himself or herself or others, in which case only such notice as is reasonable under the circumstances shall be required.
4. The Resident becomes unable to meet the agreement payments because of dissipation of assets by sale, gift or transfer.
5. The Resident fails or refuses to pay fees to the Corporation. However, this agreement may not be terminated for nonpayment of fees until full compliance with the conditions of the Florida Statutes has been met. Should Entrance Fees be exhausted within ninety (90) days of the date of failure to pay, the Corporation may not require the Resident to leave before ninety (90) days from the date of failure to pay, during which time the Resident shall continue to pay the Corporation a reduced fee based on his current income.
6. It is mutually agreed that the action of the Corporation in dismissing the Resident shall be final and conclusive.
7. Any agreement terminated by the Corporation, the Corporation shall pay to the resident any refund due upon the resident's vacating the community as detailed in Section XII, Refunds.

## XI. CORPORATE RIGHTS AND RESPONSIBILITIES

- A. **Use of Entrance Fee** - The Corporation may use the **Entrance Fee** for such purposes as it may deem best. It is understood by both parties to this agreement that the Entrance Fee becomes the absolute property of the Corporation except for the Resident's refund provisions provided by this agreement.

- B. **Right to Take Action** - The Corporation reserves the right to take any action permitted under this agreement as deemed appropriate for the financial soundness of the Corporation, and for the health, safety and general well-being of the Residents.
- C. **Reserve Funding** - The Corporation will fund and maintain financial reserves as established by the Board of Directors and in compliance with Chapter 651 of the Florida Statutes.
- D. **Compliance with Law and Future Law** - This community of the Corporation and all other Continuing Care Communities in the State of Florida are regulated by Chapter 651, Florida Statutes. A copy of the law is on file in this community. The law gives you or your legal representative the right to inspect our most recent financial statement and inspection report before signing the agreement.

**Chapter 651, Florida Statutes, provides that no amendments may be made to this agreement which has not been approved by the Florida Office of Insurance Regulation. The provisions of said section take precedence over any conflicting provisions contained in Part II of Chapter 400, Florida Statutes.**

The Resident and the Corporation agree to comply with the Federal and State laws presently in effect and with all laws that may be enacted during the term of this agreement. The Resident further agrees to execute, when requested by the Corporation, any and all amendments or modifications to this agreement, if required by law.

- E. **Corporate Tax Status** - The Corporation is presently exempt from Federal income tax as an exempt organization under Section 501(c) (3) of the Internal Revenue Code of 1986 as amended.
- F. **Interpretation of this Agreement** - This agreement shall be construed under the laws of the State of Florida. The invalidity of any restriction, condition, or other provision of this agreement or part of it shall not impair or affect in any way the validity, enforceability, or effect of the rest of this agreement.
- G. **Subordination** - The Resident agrees that his rights under this agreement shall at all times be subordinated or junior to the lien of all mortgages which have been or may be executed in the future by the Corporation covering the Corporation's real estate.

## H. **Dispute Resolution**

Resolution of any controversy, dispute, claim, question, or disagreement of any kind (whether in agreement or in tort, statutory or common law, legal or equitable, or otherwise) now existing or hereafter arising between the parties in any way arising out of, pertaining to, or in connection with the provision of services, the Agreement or any, or the breach thereof (hereafter collectively referred to as "Dispute" or "Disputes"), shall be governed exclusively by the provisions in this agreement.

1. Negotiated Dispute Resolution. In the event of any Dispute, Resident and Corporation shall use their best efforts to settle the Dispute. To this effect, they shall consult and negotiate with each other in good faith and recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If a solution is not reached within a period of thirty (30) days, then, upon notice by either party to the other, all Disputes shall be submitted to mediation in accordance with Subsection 2 below.
2. Mediation. If a resolution of any Dispute is not achieved by negotiation as provided in Subsection 1 above, either party may submit the Dispute to mediation by submitting a written request for mediation to the Department of Financial Services, Office of Insurance Regulation, in accordance with Rule 69O-193.062(5),
3. Florida Administrative Code. A copy of the request for mediation will simultaneously be provided by the requesting party to the other party. The mediation will be conducted in accordance with the rules procedures prescribed in Rule 69O-193.062, Florida Administrative Code.

Any Dispute that is submitted to mediation under this subsection and is not resolved by mediation may be submitted to binding arbitration in accordance with Subsection 3 below if both parties agree at that time to the binding arbitration procedure and to be bound by the arbitration result.

4. Binding Arbitration. If resolution of any portion of a Dispute is unresolved at the conclusion of mediation as provided in Subsection 2 above, the parties may agree to submit that portion of the Dispute to binding arbitration in accordance with the American Arbitration Association Commercial Arbitration Rules with Supplementary Procedures for Consumer-Related Disputes. The arbitration shall be administered by the American Arbitration Association. If the Dispute involves a monetary amount greater than \$30,000, the arbitration shall be conducted before a panel of three neutral arbitrators. The three arbitrators shall be selected as follows. Each party to a dispute appoints one arbitrator (who might or might not be a member of the American Arbitration Association National Roster of Neutrals) and the two arbitrators select a third arbitrator from the American Arbitration Association's National Roster of Neutrals in accordance with the standard American Arbitration Association procedures.

Within fifteen days after a demand for arbitration is served, each party shall select one arbitrator and the arbitrators selected by the parties shall, within ten days of their appointment, select a third neutral arbitrator.

In the event both parties do not appoint an arbitrator or the arbitrators appointed by the parties are unable to appoint a third arbitrator, the parties or their attorneys may request the American Arbitration Association to appoint one or more arbitrators as may be required for the appointment of three arbitrators. If the Dispute involves a monetary amount less than or equal to \$30,000 or does not involve any monetary amount, the arbitration shall be conducted before a single arbitrator selected by the American Arbitration Association. Prior to the commencement of hearings, the arbitrator, or if three arbitrators are appointed, each of the arbitrators shall provide an oath or undertaking of impartiality. After selection of the arbitrator(s) the arbitration shall be conducted in accordance with the American Arbitration Association Commercial Arbitration Rules with Supplementary Procedures for Consumer-Related Disputes. Judgment on the award of the arbitrator(s) may be entered by any court having jurisdiction thereof.

5. If the parties do not agree to submit the Dispute to binding arbitration, and the Dispute is raised in a judicial action or proceeding (including, without limitation, any claim, counterclaim, cross-claim or third party claim) the court shall determine all issues of law and fact, a jury trial being expressly waived.

## **XII. REFUNDS**

Refunds, as described in the following paragraphs, are applicable under the program selected by the Resident prior to signing the agreement.

Refunds will be made payable to the Resident or the estate of the Resident unless the Resident has submitted other written directions to the Corporation. The Corporation shall be entitled to deduct from the refund any sums owed to the Corporation by the Resident.

### **A. Traditional Entrance Fee Program**

1. **Apartment, Villa, Duplex, Quadraplex, House or Assisted Living Unit**
  - a. The Corporation shall refund the Entrance Fee upon withdrawal of the Resident on a pro rata basis with the Corporation retaining 4% of the fee as the initial processing fee and 2% of the fee for each month of residency. After four (4) years of occupancy, no refund will be due.

- b. The Corporation shall refund 75% of the Entrance Fee for death of the Resident within the first year of occupancy; 50% of the Entrance Fee for death of the Resident within the second year; and in the event of death of the Resident after two (2) years, there will be no refund due.
- c. The refund due will be made within 120 days after the written notification or death.

**B. Guaranteed Entrance Fee Refund Program**

- 1. On written notice of death or withdrawal of the Resident, the refund shall be calculated on the selected Guaranteed Refund program.
- 2. The refund due will be paid from the proceeds of the next Entrance Fee received at the community for any comparable unit for which there are no prior claims by any Resident.

**C. Resident's Joint Occupancy Rights**

If this agreement is executed by two Residents in joint occupancy, it is agreed that if one of the joint occupants terminates residency by death or withdrawal, all rights and obligations within the agreement, including refund, shall vest in the remaining Resident to the same extent as if such remaining Resident had been sole Resident under the terms of this agreement. The termination on death or withdrawal by one of the joint occupants does not create a right to a refund. Any future refund will be determined based on the length of occupancy of the remaining Resident at the time of termination of the agreement.

**D. Refund Directives**

It is my/our desire that refund benefits and/or personal property shall be distributed as indicated below:

Myself or my Estate

Trust (as indicated below)

Another person (as indicated below)

Westminster Retirement Communities' Foundation, Inc. or its successor

Name of Beneficiary or Trust

Attention (if Trust)

Address

Phone Number

SAMPLE



**AGREEMENT SIGNATURES**

In Witness Whereof, the Corporation has caused the agreement to be executed by its undersigned duly Authorized Representative and by the Resident(s) on the date indicated below. The Resident(s) acknowledge receipt of a copy of this agreement.

Signed this      day of                      , in the year

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Resident

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Resident

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorized Corporate Representative

