



***ALFA MODEL RESIDENT
ADMISSION AGREEMENT***

June 1999

The ALFA Model Resident Agreement is provided as a service by the Assisted Living Federation of America and is intended as guidance to providers in developing appropriate admission agreements with residents. This document is not intended as legal advice and should not be relied upon as such. Providers should consult competent legal counsel experienced in assisted living in developing, revising and reviewing their individual resident agreements. In addition, providers should remember that state law in many states addresses the issue of resident admission agreements. The laws of some states are very specific regarding both form and content of resident admission agreements and should always be consulted when developing or revising admission agreements.

Prepared for:
the Assisted Living Federation of America

by:
Kenneth L. Burgess, Esq.

Karen Weinstein, Esq.

Foley & Lardner

1 Maritime Plaza

San Francisco, California 94111

TABLE OF CONTENTS

	<u>Page</u>
I. ACCOMMODATIONS AND SERVICES	1
A. Accommodations	1
1. Your Apartment	1
2. Decoration and Alterations	2
B. Basic Services.....	2
1. Meals and Snacks.....	2
2. Activities.....	2
3. Common Areas	3
4. Transportation	3
C. Health and Personal Care Services	3
1. Observation.....	3
2. Health Needs Which The Community Cannot Meet	3
3. Assistance With Activities of Daily Living.....	4
4. Assistance With Storage and Administration of Medications	4
5. Health Records.....	4
6. Excluded Services	4
II. FEES.....	5
A. Basic Services Rate.....	5
B. Adjustments to Rates	5
C. Absences from Community.....	5
D. Security Deposit	6
III. PAYOR INFORMATION AND FUNDING SOURCE	6
IV. ADMISSIONS	6
V. CHANGE OF ACCOMMODATIONS.....	6
A. Dual Occupancy.....	7
B. Move to New Apartment.....	7
VI. ACCESS TO YOUR APARTMENT.....	7
VII. YOUR RIGHTS AND RESPONSIBILITIES	7
A. Rules and Regulations.....	7

B.	No Proprietary Interests	8
C.	Absences	8
VIII.	TERMINATION OF AGREEMENT	8
A.	By You	8
B.	By the Community	8
C.	Death	9
D.	Vacating Apartment and Refund	9
E.	Release From Obligations	10
IX.	PROPERTY OF COMMUNITY	10
A.	No Tenancy Interest or Management Rights.....	10
B.	Liability for Damage.....	10
X.	PROPERTY OF RESIDENT.....	10
XI.	ADVANCE DIRECTIVES	11
XII.	INCOMPETENCY.....	11
XIII.	WAIVER OF ONE BREACH NOT A WAIVER OF ANY OTHER	12
XIV.	ASSIGNMENT	12
XV.	FAMILY VISITS	12
XVI.	SEVERABILITY	12
XVII.	GOVERNING LAW	12
XVIII.	ATTORNEYS' FEES.....	12
XIX.	NOTICE.....	12
 <u>EXHIBITS</u>		
EXHIBIT ____	DESCRIPTION OF [ROOM, APARTMENT, UNIT] TO BE OCCUPIED BY RESIDENT	15

EXHIBIT ___ SUPPLIES AND SERVICES INCLUDED IN THE COMMUNITY'S
BASIC SERVICES RATE..... 16

EXHIBIT ___ OPTIONAL SUPPLIES AND SERVICES NOT COVERED IN THE
COMMUNITY'S BASIC SERVICES RATE - AND RELATED
CHARGES 17

EXHIBIT ___ COMMUNITY RULES AND REGULATIONS 18

EXHIBIT ___ STATEMENT OF RESIDENTS' PERSONAL RIGHTS 19

RESIDENT'S ADMISSION AGREEMENT

This Agreement is made between _____ (*insert Community name*) (the "Community") and _____ (referred to singly or collectively as "You").¹

RECITALS

- A.** The Community is located at _____ (*insert Community address*). You have applied for accommodations at the Community and the Community has accepted Your application.
- B.** The Community is licensed by the [State, Commonwealth, District] of _____ (*insert name of State, Commonwealth or District*) as a _____ (*insert name of licensure category used in Your state such as "assisted living facility", "board and care facility", "residential care facility", etc.*). This Agreement is a month to month agreement that can be terminated at any time as provided in Section VIII.

AGREEMENTS

I. ACCOMMODATIONS AND SERVICES

Beginning on _____, _____, (*insert beginning date of residency*) the Community shall provide the following accommodations and services to You, subject to the other terms, limitations, and conditions contained in this Agreement.

A. Accommodations

- 1. Your Apartment.** You may occupy and use the [apartment, unit, or other designation for living space] identified on Exhibit ____² ("Your Apartment/unit, etc."), subject to the terms of this Agreement. You are

¹ Increasingly states are regulating both the admission and discharge of Residents from assisted living Communities. Some states now limit the *admission or retention* of Residents by purporting to require that Residents with certain health conditions either may not be admitted to an assisted living Community or that they be transferred out of the Community. State law may also dictate that Residents be given certain notice prior to or at admission. For example, some states have developed a list of Resident rights and require that a written copy of the statement of rights be provided to Residents at admission. Many states also require that Residents be given detailed information about the services available, which services are covered by the Basic Services Rate and which must be purchased separately. Similarly, state laws increasingly limit the reasons for which a Resident may be *discharged* from a Community. In some states, Residents may be discharged only for nonpayment or if they pose a safety or health threat to others in the Community because of medical conditions or behavioral issues. This model agreement has been drafted with these issues in mind. However, you should consult state law with respect to admission criteria, discharge criteria, and required notices to Residents and modify this model agreement where necessary to ensure compliance with state law.

² You may either identify the exact apartment or unit number within the Agreement itself, or identify it on an exhibit attached to the Agreement. This latter option avoids the need to execute or amend the Agreement each time a Resident changes rooms, by simply allowing you to replace the attached exhibit identifying the new room when a Resident moves.

encouraged to personalize Your Apartment by providing Your own furnishings. If You are unable to furnish Your Apartment, the Community will provide basic furnishings for Your Apartment.

2. **Decoration and Alterations.** You are free to decorate Your Apartment as You wish, provided that You comply with the safety rules of the Community. You may not make any structural or physical changes to Your Apartment, unless expressly approved in writing by the Community. Any such alterations or improvements shall become the property of the Community. You may not change any lock or add any lock or locking device to Your Apartment without the prior written consent of the Community. Any changes or modifications to Your Apartment which require the assistance of electricians, contractors or similar professionals must be approved in advance by the Community.

B. Basic Services

1. **Meals and Snacks.** [___] (*insert number*) nutritionally well-balanced meals per day are included in Your Basic Services Rate. Modified diets will be available to You if prescribed by Your physician as a medical necessity.³ Snacks are also available to You and other Residents as needed.
2. **Activities.** The Community will provide a program of planned activities, opportunities for community participation, and services designed to meet Your physical, social and spiritual needs.
3. **Common Areas.** You will be provided with the opportunity to use the general purpose rooms of the Community, such as lounges, craft rooms, library, meeting rooms and chapel.
4. **Transportation.** The Community will make arrangements for or provide transportation to You in order to meet Your necessary medical and dental needs. The Community will also provide regularly scheduled

³ Some Communities also make modified or special diets available to Residents even when they are not medically required, but are simply requested by the Resident. If your Community allows this, add at the end of this sentence “or if otherwise requested by You.” One caution – this statement may be read as a contractual promise to provide any type of special meal the Resident requests, regardless of how much effort that requires by the Community or how often the Resident may request varying meals. To avoid this, the Community may wish to also provide in the Agreement the following or similar language: “Special dietary arrangements, other than those which are medically required, must be negotiated in advance between You and the Community and will be described on Exhibit ___ to this Agreement.” If extra charges are made for special diets (i.e., they are not included in the basic services rate), those charges should be listed on Exhibit ___ where other items not included in the basic services rate are spelled out. Whenever a Community provides modified or special meals or diets, the details of those arrangements should be spelled out both in an Exhibit dedicated to that issue and in the appropriate list of charges (whether they are included in the basic services rate or as extra charges). Some Communities have reported problems arising from misunderstandings with Residents at admission about the frequency and type of meals which are covered by the basic rate and/or can be specially requested.

transportation services for use by Residents for shopping and other outings, for which a charge may be made, as provided in Exhibit ____ which lists charges for additional services. All other transportation is Your responsibility.

C. Health and Personal Care Services

- 1. Observation.** The Community, through its staff, shall regularly observe Your health status to identify any changes in Your physical, mental, emotional and social functioning and will help You respond to Your dietary and health needs and needs for special services. In the event of an emergency, Community staff will summon emergency medical services to assist you by calling “911” or otherwise summoning appropriate medical services personnel.⁴
- 2. Health Needs Which The Community Cannot Meet.** Should you need health services which cannot be provided in the Community, either by Community staff or outside health providers with whom you contract, the Community will _____
_____ (insert here your Community’s policy on responding to health needs which cannot be met in the Community).⁵
- 3. Assistance With Activities of Daily Living.** Through its staff, the Community will make available to You assistance, as needed, with dressing, grooming, bathing and other activities of daily living, to the extent allowed by applicable state law.
- 4. Assistance With Storage and Administration of Medications.** Through it staff, the Community will assist You with storage and administration of medications and assistance in taking self-administered medications to the extent allowed by state law. If the Community determines that these services cannot properly be provided to You in Your Apartment because

⁴ Please review state law regarding how to respond to Resident medical emergencies. Some state statutes or regulations require that the Community summon emergency medical services personnel. In states which allow assisted living Communities to provide significant levels of health care, this issue may be addressed differently in state statutes or regulations.

⁵ Different Communities have different policies on responding to Resident health emergencies or needs which cannot be met in the Community. The policy of almost all Communities is to call 911 for emergencies, an issue which is addressed in section I.C.1, above. However, with respect to both emergency and non-emergency health care needs the Community cannot meet, some Communities will 1) accompany the Resident to a hospital; 2) accompany a Resident to a physician’s office or other health care provider; 3) immediately notify family members of the Resident of the health care need, etc. In this section, describe the policy of your Community with respect to this issue. You may also want to address in this section the issue of transfer agreements which exist between your Community and a hospital, nursing facility or other health care facility. With respect to that issue, you may wish to include in this agreement a statement that your Community has in effect transfer agreements with a designated list of local health care facilities for the purpose of responding to medical needs of Residents which cannot be met in the Community.

of applicable state law, transfer to a higher level of care outside the Community may be required.⁶

5. **Health Records.** The Community maintains a separate Resident record on each of its Residents which may contain medical and other personal information. All information and records regarding Residents are confidential and are not released without written consent of the Resident or their authorized legal representative. The Community's licensing agency has the authority to examine such medical records as part of the agency's evaluation of the Community. In addition, each Resident has the right to review their Resident record or to authorize members of their family to review the Resident record.⁷
6. **Excluded Services.** Except as otherwise expressly stated in this Agreement, You are responsible for furnishing or paying for any of Your health and medical care services, including, without limitation, hospital services, physicians' services, nursing services including skilled nursing facility charges, private duty personnel, medications, vitamins, eye glasses, eye examinations, hearing aids, ear examinations, dental work, dental examinations, orthopedic appliances, laboratory tests, x-ray services, or any rehabilitative therapies.⁸

II. FEES

A. Basic Services Rate

The Basic Services Rate, as of the date of this Agreement, is \$_____ This amount is due and payable monthly in advance by the first (1st) day of each calendar month. A late charge of twenty-five dollars (\$25), plus interest at the maximum legal rate, shall be assessed if the Basic Services Rate is not paid by the tenth (10th) day of the month. Your rights to occupy and use Your Apartment

⁶ Storing of medications for Residents and assisting Residents in the self-administration of medications is becoming an increasingly difficult issue in many states. Some states are seeking to severely limit when a Community can assist Residents with medication administration, particularly in the case of Residents with some level of dementia. For example, some states argue that only licensed nursing staff can assist certain Residents (i.e., dementia Residents) with medication administration. Therefore, contractual promises to assist with medications should be limited in the Agreement to assistance as allowed by state law.

⁷ The confidentiality of medical and personal information is closely regulated in virtually every state. Therefore, state law should be consulted in connection with this provision. In most states, confidential medical and personal information may not be released to individuals other than the Resident or his/her legal representative unless expressly authorized by statute. State law normally allows the regulating state agency to access such records without Resident permission. In all other cases, the consent of the Resident is **normally** required.

⁸ The provision of and payment for health care services is one of the most regulated, and debated, aspects of assisted living. Please check state law to determine whether certain services must be included in a Resident's Basic Services Rate. Ensure 1) that your Agreement complies with state law and 2) that it clearly spells out which, if any, health care services are provided as part of the Basic Rate and which are the financial responsibility of the Resident.

and to receive other services under this Agreement are contingent upon Your timely payment of the Basic Services Rate. The items included in the Basic Services Rate are listed in Exhibit “___” to this Agreement. Charges for services and supplies not included in the Basic Services Rate are listed in Exhibit “___.”

B. Adjustments to Rates

The Community shall have the right, upon (*insert desired notice period such as thirty (30) days, etc.*) prior written notice to You, to change Your Basic Services Rate and other fees and charges.⁹ If Your care is funded at government-prescribed rates, the operative date for any government modification in reimbursement rate shall be the operative date for a change in Your Basic Services Rate.

C. Absences from Community

You are responsible for paying Your Basic Services Rate even when You are absent from Your Apartment or the Community, including, but not limited to, times when You are on vacation or when You have been transferred temporarily to a skilled nursing facility, or if You have been transferred to an outside health care facility. You are not entitled to any discount from Your Basic Services Rate during such absences.¹⁰

D. Security Deposit

Prior to admission to the Community, You must pay a deposit [of \$_____.____; or equal to _____ months charges for those services you have requested; or other amount determined by the Community on a standard basis]. Your deposit will be held by the Community and (*insert here the Community’s policy regarding deposits*).¹¹

⁹ Some states now regulate the amount of advance notice which must be given to Residents before charges, either those for basic services or for extra services, can be increased. Please check state law in your state and ensure that your Agreement complies with any required notice provisions.

¹⁰ Some Communities do provide a discount for Residents who are absent from the Community for extended periods of time, either voluntarily or because they are in a skilled nursing facility or other health care facility. If your Community provides such discounts, you should modify this section to state that policy. If your Community allows discounts in some cases of absence, but not in all cases, be sure to state your policy clearly to avoid future misunderstandings.

¹¹ State laws in many states closely regulate the ability of a Community to collect deposits, how and where those deposits are maintained, routine accountings to Residents, how deposits may be used (i.e., applied to unpaid accounts, charged against the final month’s charges, etc.), and when deposits must be returned. Please check state law in your state to ensure that your Community’s policy is consistent with state law and then complete this section consistent with that policy. Some Communities may also charge a Community Fee. Again, state law should be examined to determine whether, and to what extent, state law regulates such fees.

III. PAYOR INFORMATION AND FUNDING SOURCE

Your stay at the Community will be paid for by _____ [Resident, family, Medicaid, other source].

IV. ADMISSIONS

You understand and agree that Your age, application forms, statement of finances, health history and medical report, personal interview and emergency information records are a part of this Agreement, and any material misrepresentation or omission made by You as to Your age, finances, resources and health history shall render this Agreement voidable at the option of the Community. You agree to submit updated copies of the above forms from time to time as requested by the Community.

V. CHANGE OF ACCOMMODATIONS

The Community reserves the authority to determine and make all arrangements regarding residency, including admission and dismissal of You and other Residents and adjustments in rates and accommodations consistent with state law and Community policies.

A. Dual Occupancy¹²

The Community permits dual occupancy of selected units. If there are two of You, in the event of the death or transfer of one of You during the term of this Agreement, the remaining resident may remain in Your Apartment upon the payment of the current Basic Services Rate for double occupancy of the Apartment. If the remaining resident wishes to transfer to a single apartment, he or she may do so, upon payment of the current Basic Services Rate for single occupancy, when one becomes available.¹³

B. Move to New Apartment

If, at Your request, You choose to change apartments within the Community, You will be responsible for paying the actual cost of labor and materials needed for cleaning and redecorating the new Apartment and for moving You to the new Apartment.

¹² This section will not apply, and should not be used, in states which require private rooms in assisted living Communities.

¹³ Some Communities prefer to approach this issue from the opposite angle, and require that a Resident remaining in a double room after his or her roommate leaves must pay the single occupancy rate. However, many providers feel it is unfair to charge a Resident the single occupancy rate in such situations since it is not the remaining roommate's fault that one of the occupants has departed. However, Communities wishing to charge single occupancy rates in this situation should simply change the term "double occupancy rate" in line 4 of this section to "single occupancy rate."

VI. ACCESS TO YOUR APARTMENT

The Community's staff may enter Your Apartment at reasonable times and for reasonable purposes, including inspection, maintenance and other services described in this Agreement. Every effort will be made to notify a Resident that a Community employee will enter or has entered their Apartment for non-routine events. In addition, the Community is licensed as a _____ (*insert the licensure category under which Your Community is licensed*) by _____ (*insert the state agency which licenses Your Community*) and, as such, a duly authorized agent of the (*Department, agency, etc.*) may, after providing proper identification and stating the purpose of his or her visit, enter and inspect the entire Community, including Your Apartment, at any time without advance notice.

VII. YOUR RIGHTS AND RESPONSIBILITIES

A. Rules and Regulations

You agree to abide by and conform to the rules, regulations, policies and principles as they now exist for the operation and management of the Community and such reasonable amendments to the above as the Community may subsequently adopt. A copy of the Community's Rules and Regulations is provided with this Agreement at Exhibit ___ and is incorporated by reference as a part of this Agreement. You shall also have the rights set forth in the Statement of Residents' Personal Rights, which is attached as Exhibit ___ and made a part of this Agreement.

B. No Proprietary Interests

Your rights under this Agreement are the rights and privileges expressly granted, and do not include any proprietary interest in the Community or other properties of the Community.

C. Absences

You are free to leave the Community at any time that You wish, but the Community cannot be responsible for any obligations or expenses incurred by You at such time. You agree to notify the Community in advance of such absence.¹⁴

¹⁴ Some Communities do provide discounts for meals or other services when Residents are away from the Community for extended periods of time. If your Community allows discounts, you should identify them here or, if they vary too widely to include in the Agreement, you may state that discounts are provided in some situations, as spelled out in a separate policy which you reference here.

VIII. TERMINATION OF AGREEMENT

A. By You

You may terminate this Agreement at any time, with or without cause, by giving thirty (30) days written notice to the Community through the Community's Administrator. Your notice must identify the date when the termination is to become effective, which date must be at least thirty (30) days after the date of the notice. In addition, if You are transferred permanently to an outside facility because You need a higher level of care than that available at the Community, You may terminate this Agreement immediately upon Your vacating Your Apartment and removing all Your belongings from it.

B. By the Community

The Community may terminate this Agreement at any time, with or without cause, by giving thirty (30) days written notice to You and to Your responsible person, if applicable. In addition, it is the policy of the Community to terminate for reasons including, but not be limited to, the following: Your failure to pay the Basic Services Rate or additional charges for services You have requested within ten (10) days of the due date; Your failure to comply with State or local law after receiving written notice of the alleged violation; Your failure to comply with the Community's Rules and Regulations as described in Section VII(A), above; a change in the use of the Community; or a finding by the Community that the Community is inappropriate for Your care. Notwithstanding the foregoing, the Community may terminate this Agreement at any time by giving You (*fill in desired notice provision*) days written notice if You are engaging in behavior which is a threat to the mental and/or physical health or safety of You or to the mental and/or physical safety of others in the Community.¹⁵

C. Death

This Agreement shall terminate automatically upon Your death. The Basic Services Rates due and payable shall be and remain the property of the Community, and Your estate shall be charged for unpaid bills. The full Basic Services Rate will be charged for the entire calendar month regardless of what

¹⁵ State law in many states regulates the involuntary transfer or discharge of assisted living Residents. State law may limit the reasons for which Residents may be discharged, the timing of required notices, discharge planning and other aspects of the discharge process. This model provision assumes no state law conflicts exist. Please carefully check state law before using this language. Even states which limit reasons for which Residents may be discharged and the timing of required notices normally allow for immediate transfer where a Resident is endangering themselves or others. Discharges for such reasons should be carefully documented for the protection of both Residents and the Community.

portion of the month Your Apartment is occupied, except as provided in Section VIII(D), below.¹⁶

D. Vacating Apartment and Refund

Upon termination of this Agreement under Section VIII(A), (B), or (C) above, You or Your estate shall vacate Your Apartment, remove all of Your belongings from it, and return all Your keys to the Community. Until Your Apartment is vacated and all Your property is removed from Your Apartment, You or Your estate shall remain liable for the Basic Services Rate. Once Your Apartment has been vacated, the Community may remove any of Your remaining belongings and store them at the expense of You or Your estate. When Your Apartment has been vacated and all Your property has been removed from the Community, Your Basic Services Rate obligations will terminate. If Your Apartment is vacated and all Your property has been removed prior to the fifteenth (15th) day of the month, You or Your estate will be entitled to a refund equal to one-half (1/2) of the Basic Services Rate You paid for the final month, less the cost of repairs or replacement that the Community is entitled to charge You or Your estate under Section IX(B), below. If Your Apartment is vacated and all of Your property is removed after the fifteenth (15th) day of the month, You will not be entitled to any refund.

E. Release From Obligations

Any termination of this Agreement under this Section VIII shall terminate the Community's obligation to furnish accommodations and services to You. Upon payment of any refund provided for above, the Community shall be discharged from any further obligations to You under this Agreement.

IX. PROPERTY OF COMMUNITY

A. No Tenancy Interest or Management Rights

This Agreement gives You the right to live in the Community and to have as much freedom and choice regarding Your life here as possible. However, it does not give You the rights of a "tenant" as that term is defined by state law. The Community reserves the sole right to provide management of the Community in the best interests of all Residents and reserves the right to manage or make all

¹⁶ Different Communities have different policies regarding the refund of payments made for the month during which a Resident dies. This approach assumes the Community charges for an entire month even if an Apartment is occupied only for a portion of the month. Another popular approach is to prorate the monthly fee based upon the number of days in the month a Resident's Apartment is actually occupied by the Resident or his or her possessions. If you opt for this approach, suggested language to replace the second sentence of this section would be: "The Basic Services Rate will be prorated on a daily basis during any month in which Your Apartment is vacated due to Your death and Your estate will be charged only for those days during which either You or Your possessions actually occupy the Apartment. Any portion of the Basic Services Rate which has been prepaid and covers days for which the Apartment is not occupied by You or Your possessions will be refunded to Your estate."

decisions concerning the admission, terms of admission or dismissal of other Residents consistent with state law.

B. Liability for Damage

You agree to maintain Your Apartment in a clean, sanitary and orderly condition. You shall reimburse the Community for the repair to Your Apartment and for the repair or replacement of furnishings and fixtures owned by the Community in Your Apartment above and beyond ordinary wear and tear. In addition, You shall reimburse the Community for any loss or damage to the Community's real or personal property outside of Your Apartment caused either intentionally or negligently by You or by persons on the premises with Your permission.

X. PROPERTY OF RESIDENT

The Community is not responsible for loss of any property belonging to You due to theft or any other cause unless such loss is caused by the negligent or intentional acts of the Community or its employees or agents. If You wish to purchase insurance in the event of damage to Your property or the loss of Your property, You are responsible for purchasing and maintaining such insurance.¹⁷

XI. ADVANCE DIRECTIVES

It is the policy of this Community to ask all prospective Residents whether they have executed any advance directives. This includes health care powers of attorney, living wills, or other documents which describe the amount, level or type of health care You would want to receive at a time when You can no longer communicate those decisions directly to a doctor or other health care professional. It also includes documents in which You name another person who has the legal authority to make health care decisions for You. If You have executed any such documents, or if You execute any such documents while You are living at the Community, it is Your responsibility to advise Community staff of this and to provide a copy of any such documents to the Community. If You have such documents, and You have provided a copy to the Community, the Community will provide copies of these documents to health care professionals who may be called to assist You with health care. If You execute such documents, and later revoke or change them, it is also Your responsibility to inform the Community of such revocation or change. This is [required/requested] so that the Community can assist You in ensuring

¹⁷ Some Communities have mandatory theft and loss prevention programs under which Residents bringing into the Community personal items worth a predetermined dollar amount must either 1) register such items with the Community; 2) allow the Community to safeguard such items during designated times (e.g., during sleeping hours); or 3) purchase insurance sufficient to replace or repair the item and provide the Community with proof of ongoing insurance coverage. Valuable jewelry and other small personal items which may be easily lost are a good example of items for which some Communities wish additional protection both for the Resident and for themselves. This is mentioned here not as a suggestion, but only as one example of the manner in which some Communities seek to limit loss and liability for Residents and themselves regarding such items.

Your health care choices are properly communicated to Your health care professionals.^{18,}
19

XII. INCOMPETENCY

In the event You become legally incompetent or are unable to properly care for Yourself or Your property, and in the event that You have made no other designation of a person or legal entity to serve as Your guardian or conservator, You hereby grant authority to the Community to apply to a court of competent jurisdiction for the appointment of a conservator or guardian.

XIII. WAIVER OF ONE BREACH NOT A WAIVER OF ANY OTHER

The failure of the Community in one or more instances to insist upon the strict performance, observance or compliance by You with any of the terms and provisions of this Agreement, shall not be construed to be a waiver or relinquishment by the Community of its right to insist upon strict compliance by You with all of the terms and provisions of this Agreement.

XIV. ASSIGNMENT

This Agreement may not be assigned by either party.

¹⁸ The Patient Self-Determination Act is a federal statute which requires that certain health care providers ask Residents whether they have executed advance directives and to record those responses, along with any such documents, in a Resident's file. The Act does not apply to assisted living communities. However, some states have incorporated the Act's provisions into state statutes or regulations applicable to assisted living communities. Even if your Community is located in a state which does not incorporate the Act's requirements, it is a good idea to ask Residents whether they have advance directives, to record their responses, and to request copies of any advance directives. If you do this, it is important to periodically ask Residents whether they have revoked or changed these documents as well. This is particularly important for Communities which employ licensed professional staff who may render health care to Residents. Knowing that a Resident has one or more of these documents will assist you in 1) knowing what health care the Resident does or does not want; 2) knowing who is authorized to make health care choices for a Resident when that Resident can't communicate their wishes directly; and 3) informing outside health care providers that a Resident has an advance directive. The primary purpose of this is to assist Residents in having their wishes carried out. A secondary purpose is to limit the Community's possible liability since courts are increasingly willing to entertain lawsuits based on the delivery of unwanted health care (as evidenced by an advance directive) or the failure to deliver requested health care.

¹⁹ Please review your state's laws governing advance directives and, specifically, Do Not Resuscitate Orders ("DNR orders"), and ensure that your admissions agreement is consistent with any such laws. Some state laws directly address the issue of DNR orders. In some states, assisted living staff are required to summon emergency medical services personnel despite the presence of a DNR order. This derives from state laws or interpretations which do not allow most assisted living staff to pronounce a Resident dead. In some states, even registered nurses may not pronounce death and, in the event of a Resident emergency, life-sustaining care must be administered until a physician pronounces death. In many states, this is a very controversial and confusing issue. State law on this topic may also impact section I.C.1 of this model agreement which deals with summoning emergency medical services personnel in the case of a Resident medical emergency.

XV. FAMILY VISITS

The Community encourages family and friends to visit You, subject to the Community Rules and Regulations. The Community encourages regular family involvement with the Resident and provides ample opportunities for family participation in activities at the Community. The Community’s visiting policy is posted at _____ (insert location).

XVI. SEVERABILITY

If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, this Agreement shall be read as if such unenforceable provision was not included and all other provisions of this Agreement shall continue in full force and effect.

XVII. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the [State, Commonwealth, District] of _____ (insert State, Commonwealth or District name), except as to conflicts of laws issues.

XVIII. ATTORNEYS’ FEES

In the event any action is brought by either party to enforce or interpret the terms of this Agreement, the prevailing party in such action shall be entitled to its costs and reasonable attorneys’ fees incurred therein from the non-prevailing party, in addition to such other relief as the court may deem appropriate.

XIX. NOTICE

Notices required by this Agreement shall be in writing and delivered either by personal delivery or mail. If delivered by mail, notices shall be sent by Express Mail, or by certified or registered mail, return receipt requested, with all postage and charges prepaid. All notices and other written communications required under this Agreement shall be addressed as indicated below, or as specified by subsequent written notice by the party whose address has changed.

IF TO COMMUNITY

Attention: _____

IF TO RESIDENT

Attention: _____

IN WITNESS WHEREOF, _____ *(insert Community name)*
and You have executed this Agreement in duplicate.

RESIDENT(S):

Name: _____

Address: _____

(Signature)

(Date)

RESPONSIBLE PERSON (if applicable):

Name: _____

Address: _____

Telephone: _____

(Signature)

(Date)

THE COMMUNITY:

By: _____

Its: _____

(Signature)

(Date)

EXHIBIT ____

**DESCRIPTION OF [ROOM, APARTMENT, UNIT]
TO BE OCCUPIED BY RESIDENT**

EXHIBIT ____

**SUPPLIES AND SERVICES INCLUDED IN THE
COMMUNITY'S BASIC SERVICES RATE**

EXHIBIT ____

**OPTIONAL SUPPLIES AND SERVICES NOT COVERED IN THE COMMUNITY'S
BASIC SERVICES RATE - AND RELATED CHARGES**

Item

Charges

EXHIBIT ____

COMMUNITY RULES AND REGULATIONS

EXHIBIT ____

STATEMENT OF RESIDENTS' PERSONAL RIGHTS