

BROOKHAVEN

AT LEXINGTON

Residence and Care Agreement

**1010 Waltham Street Suite 600
Lexington, MA 02421-8052
781-863 9660 1-800-283-1114
Fax: 781-863-9944**

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RESIDENCE AND CARE AGREEMENT**

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**SYMMES LIFE CARE, INC.
RESIDENCE AND CARE AGREEMENT**

I. RECITALS

A. Parties

This Residence and Care Agreement (hereinafter, the "Agreement") is made between _____ (hereinafter "Resident") and Symmes Life Care, Inc. (hereinafter called the "Community"), a non-profit Massachusetts corporation which owns and operates a continuing care retirement community known as Brookhaven at Lexington, in Lexington, Massachusetts (hereinafter called "Brookhaven"). If two persons desiring to share a living unit at Brookhaven enter into this Agreement, the term "Resident" shall apply to them jointly and severally, and to the survivor.

B. Defined Terms

Article XI of this Agreement defines certain terms used in this Agreement.

C. Confidential Data Application

Resident has applied to the Community for a living unit at Brookhaven. A copy of Resident's Confidential Data Application is attached to this Agreement as Exhibit 1 and made a part of this Agreement. Knowing that the Community relies upon the statements Resident has made in the Confidential Data Application in entering into this Agreement with Resident, Resident warrants that all statements Resident has made in the Application are true, complete and not misleading.

D. Disclosure Statement

Resident hereby acknowledges that Resident has received and reviewed a copy of the Community's Disclosure Statement on or prior to the date Resident deposited funds with the Community in connection with Resident's application to become a resident of the Community. The Disclosure Statement is attached as Exhibit 2 and made a part of this Agreement.

E. Conditions for Acceptance for Residency

As conditions precedent to the execution of this Agreement, Resident is required to meet the following requirements to the satisfaction of the Community, subject to such exceptions as the CEO of the Community may approve in writing.

Health

Resident is required to have a complete physical examination by the Community's Medical Director or his/her designee at the time of application for admission to Brookhaven. On the date of the examination, Resident must be in an

acceptable state of health and able to perform activities of daily living without assistance in the living unit Resident has selected at Brookhaven, as determined by the Medical Director or his/her designee. The physical examination must be conducted within 70 days before Resident's Occupancy Date (as defined in Article II, below). Resident agrees to notify the Community immediately in writing if there is any material change in Resident's physical or mental health before Resident occupies living unit at Brookhaven.

Financial

Resident shall have furnished information to the Community with respect to Resident's financial resources demonstrating that Resident has the financial ability to pay the Entrance Fee, the Monthly Service Fee, extra meal charges, charges for additional services, and Resident's personal living expenses during the term of this Agreement. Resident agrees to notify the Community in writing if there is any material change in Resident's financial condition before Resident occupies living unit at Brookhaven.

Age

Resident must be at least 62 years of age on the Occupancy Date at Brookhaven. In the case of joint residency, both Residents must be at least 62 on the Occupancy Date.

Insurance

Resident shall have provided evidence to the Community that Resident has health insurance satisfactory to the Community, as required by this Agreement. Article V, Section D, describes the health insurance Resident must secure and maintain.

F. Consideration for Obligations of the Community

Unless specifically stated otherwise in this Agreement, Resident understands that all services are provided by the Community in consideration of Resident's timely payment of both the Entrance Fee and Monthly Service Fee.

G. Undertaking by Community

Through the operation of Brookhaven, the Community intends to provide comfortable surroundings at a reasonable cost so that Resident may reside at Brookhaven in peace and contentment to the extent that the Resident's health permits.

II. DATE OF OCCUPANCY

The Occupancy Date shall be the date which is seventy (70) days from the date of this Agreement or the date on which the Resident moves into the Living Unit, whichever shall first occur. On or before the Occupancy Date, the Resident shall pay the balance of the

Entrance Fee that is due to the Community. The Resident's obligation to pay the Monthly Service Fee shall begin on the Occupancy Date. From and after the Occupancy Date, Resident shall have the right to occupy the Living Unit and to receive the services described in this Agreement. The Resident shall be obligated to pay the Entrance Fee and the Monthly Service Fee in accordance with Article VII, Section A, 1 and 2.

III. FACILITIES PROVIDED BY THE COMMUNITY

A. Living Unit

1. Selected Unit

Resident has selected and the Community shall provide to Resident the living unit at Brookhaven described as # _____ (the "Living Unit"). Beginning on the Occupancy Date, Resident shall have the exclusive right to occupy and use the Living Unit, subject to the terms and conditions of this Agreement.

2. Appliances

The Community shall provide a dishwasher, disposal, stove, microwave, refrigerator, and clothes washer/dryer in the Living Unit. These appliances are the property of the Community and shall be maintained by the Community. All other appliances shall be provided by Resident, subject to the condition that no appliance shall be permitted to interfere with the health, safety, and well-being of other Brookhaven residents or increase the cost of the Community's insurance premium. The Community shall determine in its sole discretion if particular appliances comply with this provision.

3. Fixtures and Furnishings

The Community will furnish floor coverings, window coverings and fixtures for the Living Unit. Requests to substitute other floor coverings, window coverings or fixtures shall be submitted in writing to the CEO for approval. Approved substitutions shall be at Resident's expense. Furthermore, any change to or replacement by Resident of the furnishings or fixtures provided by the Community shall vest title to the altered or replaced furnishings or fixtures in the Community unless otherwise agreed in writing by the Community. Requests for redecoration of the Living Unit, in addition to or other than that scheduled by the Community, shall be in writing and require the prior written approval of the CEO. Such redecoration will be at Resident's expense.

All other furnishings for the Living Unit must be provided by Resident, subject to the condition that no furnishings shall be permitted to interfere with the health, safety, and well-being of other Brookhaven residents or to increase the insurance premium for the Community. The Community

shall determine in its sole discretion if particular furnishings comply with this provision.

Notwithstanding any other provision in this Agreement, the Community may make alterations to Resident's Living Unit to meet the requirements of any applicable statute, law, or regulation of the federal, state, or municipal government.

4. Structural Changes

Resident shall not make any structural changes to the Living Unit (e.g. electrical, plumbing, removal of walls) without the prior written approval of the CEO. If approved, such changes shall be made at Resident's expense unless otherwise agreed in writing by the Community. Approval of such changes may be conditioned upon Resident's undertaking to bear the cost of a later restoration of the Living Unit to its original condition.

5. Emergency Call System

The Community shall equip and maintain an emergency call system in the Living Unit.

B. Common Areas

Resident may use, in common with others, the dining rooms, lobbies, auditorium, library, social and recreational facilities (indoor and outdoor) and other public rooms at Brookhaven.

C. Health Center

The Community owns and operates a skilled nursing facility (the "Health Center") located adjacent to the residential areas at Brookhaven. The Health Center is licensed by the Commonwealth of Massachusetts to provide nursing services to persons admitted as residents. (For a description of the Health Center services, see Article V, Section A, 1 of this Agreement.)

D. Assisted Care Unit

The Community operates an Assisted Care Unit adjacent to the residential areas at Brookhaven. The Assisted Care Unit provides care and services to residents transferred to this unit. (For a description of services provided by the Community to residents of the Assisted Care Unit, see Article V, Section A, 3 of this Agreement.)

E. Storage

Storage space separate from the Living Unit is available. While the Community shall attempt to protect property stored in such space, any loss or damage to stored property shall be borne by Resident.

F. Parking Facilities

Resident shall have access to outdoor parking at no additional charge. Any loss or damage to vehicle shall be borne by Resident.

IV. SERVICES PROVIDED BY THE COMMUNITY

The services described in Article IV are included in the Monthly Service Fee unless otherwise specified.

A. Resident Meals

1. Meal Service

The Community serves three meals a day. Payment of the Monthly Service Fee entitles Resident to receive one meal per day in the dining areas. Resident may elect to receive additional meals from the Community at an additional charge.

2. Meal Rate Schedule

The Community will publish a meal rate schedule. This schedule will be the basis for establishing the charge to Resident for meals not covered by the Monthly Service Fee, including guest meals. The Community reserves the right to change these rates from time to time. The Community will notify Resident in writing of any change in meal rates at least 60 days in advance of the effective date.

3. Tray Service

The Community will provide tray service to Resident in the Living Unit during minor, short-term illnesses when ordered by Resident Health Services. One meal per day will be covered by the Monthly Service Fee. Additional tray service meals will be charged to Resident based on the meal rate schedule.

4. Medically Indicated Diets

Medically indicated diets will be provided at no additional charge to Resident if approved by the Medical Director.

5. Meal Credit during Resident's Absence

Resident will receive a meal credit (reflecting the food cost savings to the Community) for a period of absence from Brookhaven of not less than two (2) consecutive weeks. To receive the meal credit, Resident must complete a notification of absence form. There is no meal credit for periods of absence from Brookhaven when Resident is receiving inpatient care in a hospital or nursing care facility, including the Health Center.

B. Guest Meals

The Community may provide meals for guests accompanying the Resident in Brookhaven's dining rooms. Guest meal charges based on the meal rate schedule will be billed to Resident on Resident's monthly statement.

C. Housekeeping Services

Resident is expected to maintain the Living Unit in a clean, sanitary, and orderly condition and to be responsible for all light housekeeping tasks in the Living Unit. Once a week, the Community will furnish general housekeeping services and will launder linens and towels at no additional charge. If Resident does not maintain the Living Unit in a safe and healthy manner, the Community, after written notice to Resident, will have the right to assume the responsibility for all necessary housekeeping services and to bill Resident a reasonable charge for such services.

D. Maintenance and Repair Service

Repairs, maintenance and replacement of property and equipment owned by the Community in the Living Unit which is deemed necessary by the Community due to normal wear and tear will be performed by the Community at no additional charge to Resident. Repairs, maintenance and replacement of Resident's personal property will be Resident's responsibility.

E. Grounds

The Community will furnish basic grounds keeping service at no additional charge to Resident. Resident may, with prior written approval from the CEO and at Resident's own expense, plant and maintain the area adjacent to the Living Unit. Title to such planting is vested in the Community unless otherwise agreed in writing by the Community.

F. Utilities

The Community will furnish water, trash disposal, electricity, heat, air conditioning and wiring for telephone, television and internet cable service at no additional charge to Resident.

While Resident's Living Unit will be wired for telephone, television and internet cable service when Resident moves in, Resident will be responsible for dealing

directly with the service providers regarding installation and monthly service charges and these services will be at Resident's own expense.

G. Local Transportation

The Community will provide scheduled transportation for Resident to certain local shopping centers, banks and other points of common interest on a scheduled basis at no additional charge.

H. Taxes

The Community makes an "in lieu of taxes" payment annually to the Town of Lexington.

V. HEALTH CARE SERVICES

A. Covered Services

The Community shall provide or arrange for the following health care services (hereinafter called "Covered Services") for Resident, should the need arise, when such services have been prescribed or approved by the Medical Director. The Community shall pay the costs of Covered Services only to the extent such costs are not covered or paid by Resident's insurance or third parties responsible for those costs, and the Community's obligation shall be secondary to the obligations of any insurer or responsible third party, as hereinafter provided. Covered Services are included in the Monthly Service Fee except as provided below.

1. Health Center Services

The Community will provide medically necessary and appropriate nursing and medical care to Resident as an inpatient at the Health Center. To receive services at the Health Center, Resident must meet the medical criteria for admission to the Health Center. Such care shall be provided in a semi-private room, unless a private room is medically necessary and available. Absent such medical necessity and subject to availability, Resident may elect to occupy a private room in the Health Center for an additional charge payable by the Resident.

Although the Community expects that Resident will be able to receive medically necessary nursing care at the Health Center, in the event that there is no space available at the Health Center at the time Resident requires nursing care services of the kind provided by the Health Center and the Resident meets the medical criteria for admission to the Health Center, the Community shall arrange for Resident to be cared for, temporarily, at a substantially equivalent facility selected by the Community. Resident shall be transferred back to the Health Center as soon as appropriate space becomes available. The Community shall be responsible for the cost of Resident's care at an alternate facility, with the

exception of those items which would not have been covered had Resident been residing at the Health Center.

Except in the case of an emergency, a decision to transfer Resident to the Health Center will be made by a committee including the Medical Director, a representative of Health Services and the CEO. The committee will consult with Resident (or Resident's representative) and Resident's personal physician. Upon a determination by the committee that a transfer to the Health Center is necessary or appropriate by reason of Resident's inability to maintain the living unit or the assisted care unit in a safe and healthy manner and live without endangering the health, safety or well-being of self or others (or, on a temporary basis, in an equivalent facility or in an alternative facility as provided in this Article V, Section C, 4), Resident agrees to be transferred to such facility for such care. If Resident disagrees with the transfer decision, Resident or Resident's representative will follow Brookhaven's transfer appeal procedure as outlined in its Transfer Policy. The decision resulting from the appeal procedure as to the necessity and appropriateness of such transfer shall be final and binding on all parties.

2. Assistance in Daily Living Program

When approved by the Medical Director as medically necessary and appropriate, the Community shall provide or arrange, at no additional charge to Resident, a program of assistance in daily living ("Assistance in Daily Living") services for up to one hour (1) per day to enable Resident to continue to occupy the Living Unit in a safe and healthy manner. The services may include nursing and home health aide services. (See also Article VI, Section B for a description of Supplemental Assistance in Daily Living Services which are not covered by the Monthly Service Fee and which Resident may arrange for at Resident's own expense.)

3. Assisted Care Unit

The Community will provide necessary and appropriate care to Resident if Resident is transferred to the Assisted Care Unit at Brookhaven. The Community may require Resident to transfer to a living space in such unit. Such care shall be provided in a private suite. The determination shall be made by a committee including the Medical Director, a representative of Health Services and the CEO. The committee will consult with Resident (or Resident's representative) and Resident's personal physician. Upon a determination by the committee that a transfer to the Assisted Care Unit is necessary or appropriate by reason of Resident's inability to maintain the Living Unit in a safe and healthy manner and live without endangering the health, safety or well-being of self or others; Resident agrees to be transferred to the Assisted Care Unit. If Resident disagrees with the transfer decision, Resident or Resident's representative will follow Brookhaven's transfer appeal procedure as outlined in its Transfer Policy.

The decision resulting from the appeal procedure as to the necessity and appropriateness of such transfer shall be final and binding on all parties.

4. Emergency Response Service

A trained responder shall be available to respond to emergency medical situations 24 hours a day.

5. Other Services

The Community will offer health education and wellness programs to its residents.

B. Physician Services

1. Medical Director or His/Her Designee

On a regularly scheduled basis, the Community shall make available to Resident the medical services of the Medical Director or his/her designee. The cost of such services shall be borne by Resident. These services are not Covered Services.

2. Personal Physician

Resident may, at Resident's own expense, engage the services of any physician of Resident's choice. At its option, however, the Community may require Resident to reimburse the Community for the Community's cost in caring for any complications resulting from services rendered by a Resident's personal physician. There will be physician exam space available by appointment at Brookhaven so that Resident's personal physician may consult with Resident on-site. The services of Resident's personal physician are not Covered Services. Resident shall require any physician engaged by Resident to supply to the Medical Director, at his/her request, current information regarding the Resident's health status, medications and medical treatment. Resident agrees to execute a HIPAA compliant authorization for release of health information to Medical Director or his or her designee.

C. Exclusions and Limitations

1. Pre-Existing Conditions

The Medical Director, or his/her designee, has evaluated the results of the medical examination required by Article 1, Section E and any information furnished by Resident or Resident's personal physician to the Community. If the Medical Director, or his/her designee, has determined that Resident has a pre-existing condition(s), the pre-existing condition(s) is (are) set forth in Addendum A to this Agreement. Except as otherwise provided in

this Section, for the purposes of this Agreement, only the conditions specified in Addendum A shall be deemed Resident's pre-existing condition(s). In preparing Addendum A, the Community has relied on information furnished to it by the Resident and Resident's representatives (including any private physician's report(s) and information obtained from family members). The Community has no obligation to independently verify such information or make any further inquiries with respect to Resident's health. If Resident or Resident's representatives have misrepresented or failed to disclose information relevant to the identification of a pre-existing condition which the Community would reasonably have identified as a pre-existing condition in the absence of such misrepresentation or omission, such condition shall also be considered a pre-existing condition under this Agreement.

For the purposes of this Agreement, a pre-existing condition is a disease, illness, sickness, injury or mental condition for which Resident has received medical diagnostic services, care, advice or treatment from a physician, or for which a prudent layperson would have sought diagnostic or treatment services, within the twenty-four (24) month period preceding the Occupancy Date. Should a pre-existing condition be, in whole or in part, a cause for Resident's permanent transfer to the Health Center (or to an alternate care facility if space is not available at the Health Center or if required in accordance with Section C, 4 below), Resident will be obligated to pay the Monthly Service Fee and the difference between the Monthly Service Fee and the then current semi-private room and board rate established by the community, for a total of 365 days. If Resident has been transferred to an alternate care facility in accordance with Section C, 4 below Resident will be obligated to pay the published charges of such alternate care facility.

2. Illness or Accident Away from Brookhaven

If Resident is involved in an accident or suffers an illness while away from Brookhaven, the Community shall have no responsibility to pay for Resident's medical care until Resident returns to Brookhaven. Upon Resident's return, the Community's responsibility for such care shall be governed by the terms of this Agreement.

3. Injuries Resulting from Motor Vehicle Accidents

The Community may pursue compensation for any costs of medical care related to injuries sustained while Resident is operating or is a passenger in a motor vehicle.

4. Mental Illness, Dangerous Diseases, and Drug and Alcohol Abuse

Brookhaven, including the Health Center and Assisted Care Unit, is not designed to care for persons who are afflicted with mental illness,

contagious or dangerous disease, or conditions related to drug or alcohol abuse. Should the Community determine that:

- (i) Resident has a mental illness, contagious or dangerous disease or a condition related to drug or alcohol abuse; and
- (ii) Resident's presence at Brookhaven, including the Health Center and the Assisted Care Unit, is likely to be dangerous or detrimental to the health, safety or well-being of Resident or others;

then the Community may transfer Resident to an appropriate facility selected by the Community. If Resident disagrees with transfer decision, Resident or Resident's representative will follow Brookhaven's transfer appeal procedure as outlined in its Transfer Policy. The decision resulting from the appeal procedure as to the necessity and appropriateness of such transfer shall be final and binding on all parties.

In the event of such a transfer, Resident shall continue to pay the Monthly Service Fee. The Community will bear the cost of Resident's care in such facility if the Resident requires services of the type that would otherwise be Covered Services under this Agreement, in an amount not to exceed the actual per patient daily cost of operating the Health Center. In the case of a transfer to an assisted care/living facility, the Community will bear the cost of Resident's care in such facility if the Resident requires services of the type that would otherwise be Covered Services under this Agreement, in an amount not to exceed the actual Monthly Service Fee paid by the Resident. Resident shall be responsible for the costs of care in such facility in excess of the amount payable by the Community.

If Resident or Resident's family or guardian prefers a facility other than the facility selected by the Community, the Community shall bear the cost as described in the previous paragraph, of Resident's care in such alternate facility if the Resident requires services of the type that would otherwise be Covered Services under this Agreement,:

- (i) The Community determines that Resident's admission to such alternate facility will not impair Resident's ability to meet Resident's financial obligations to the Community; and
- (ii) Resident continues to meet Resident's financial obligations to the Community while being cared for in such alternate facility.

If the Community determines that either of the foregoing conditions has not been met and so notifies Resident in writing, Resident shall then be transferred to a facility selected by the Community; or, if Resident refuses to be transferred, the Community shall have no further obligation to pay for Resident's care in the alternate facility.

Nothing contained in this Article V, Section C, 4 shall be construed to expand the categories of services that are Covered Services under this Agreement.

5. Specific Exclusions

Except as otherwise expressly provided in this Agreement, Resident shall be solely responsible for the cost of: physician services; inpatient and outpatient hospital services; sub-acute hospital care; laboratory and diagnostic services; prescription and non-prescription drugs; audiological tests and hearing aids; eye glasses and refractions; dentistry, dentures, dental inlays and oral surgery; orthopedic appliances and other durable medical equipment such as wheelchairs and walkers; physical, occupational, respiratory and speech therapy; podiatry; treatment for psychiatric disorders; treatment for alcohol or drug abuse; and renal dialysis. The omission of a particular health care service from the foregoing list of specific exclusions does not indicate that the service is a Covered Service. Covered Services are only those services specifically described as Covered Services in Article V, Section A.

D. Insurance

1. Health Insurance

Resident shall obtain and maintain in force at Resident's own expense the maximum coverage available to Resident under the Federal Social Security programs commonly known as Medicare Part A, Medicare Part B and Medicare Part D. Resident shall also be required to obtain and maintain maximum coverage under a Blue Cross/Blue Shield of Massachusetts Medicare Supplemental Insurance plan or an equivalent Medicare Supplemental Insurance plan approved in writing by the Community. If Resident fails to secure and maintain such insurance, the Community may terminate this Agreement in accordance with Article VIII, B, 1. If Resident fails to secure and maintain such insurance, Resident shall be responsible to pay for any Covered Services which would have been covered by such insurance had it been in effect as required by this Agreement. Resident shall notify the Community promptly if any insurance coverage required under this Section expires, terminates, or is replaced or if there is a material change in the coverage under any health insurance that Resident has in effect.

Resident hereby authorizes the Community to make on Resident's behalf any and all claims for insurance benefits for Covered Services and agrees to execute any and all documents necessary to enable the Community to prepare, submit, collect and enforce such claims; provided, however, that the Community shall have no obligation to submit claims on behalf of Resident unless requested to do so in writing by Resident. Any insurance

benefits received by Resident from any source with respect to Covered Services shall be paid by Resident to the Community as reimbursement for the value of Covered Services provided by the Community to Resident, up to the value of such Covered Services.

2. Automobile Insurance

If Resident owns or leases a motor vehicle, Resident shall obtain and maintain at Resident's own expense, insurance to cover medical and other costs resulting from automobile accidents causing injury to Resident or to others and/or property damage. If Resident does not own or lease a motor vehicle, but on occasion rents a vehicle, Resident must obtain adequate insurance to cover medical and other costs resulting from automobile accidents causing injury to Resident or to others and/or property damage through the rental agency.

3. Other Insurance

Resident shall maintain personal property and liability insurance against the risk of loss for damages to Resident's personal property and for injury to persons or property which may occur.

E. Right of Subrogation; Power of Attorney

In case of injury to Resident caused by any act or omission of another person, the Community shall be subrogated and succeed to the right of recovery of Resident against such person and/or his or her insurer, for the value of any and all Covered Services provided by the Community with respect to any condition arising from such injury. Resident shall pay to the Community any sums recovered by Resident by suit, settlement or otherwise from such person or his or her insurer up to the value of the Covered Services provided by the Community under this Agreement. The Community shall also be entitled to reimbursement for all expenses incurred by Community in obtaining such recovery, but only to the extent the amount recovered exceeds the value of Covered Services thus provided. Resident shall furnish such information and assistance and execute such instruments as the Community may require to facilitate the exercise of its rights of subrogation hereunder.

In case of injury to Resident caused by any act or omission of another person, Resident shall not unreasonably refrain from asserting and prosecuting any claim Resident may have against such person for compensation for such injury. If Resident declines to prosecute any such claim for compensation, at the written request of Community, Resident shall execute a power of attorney to the Community authorizing it to take any and all actions which the Community deems necessary or appropriate to assert and prosecute such claim on Resident's behalf. Resident shall furnish such information and assistance and execute such documents as

the Community may reasonably request in order to assert and prosecute such claim. In addition to the value of any and all Covered Services provided by Community to Resident with respect to any condition arising from such injury, the Community shall also be entitled to reimbursement for all expenses incurred by Community in obtaining such recovery, but only to the extent the amount recovered exceeds the value of Covered Services thus provided.

VI. SERVICES AVAILABLE AT AN ADDITIONAL CHARGE

A. Personal Facilities Services

At its option, the Community may arrange for services within Brookhaven to be provided by concessionaires and used by Resident at Resident's expense. The providers and type of services may change from time to time at the discretion of the Community.

The following are the additional services which as of the date of this agreement, the Community may make available to Resident for an additional charge.

- Convenience Store
- Branch Bank
- Laundry and Dry Cleaning Service
- Barber and Beauty Shop
- Newspaper Delivery
- Group Travel Trips
- Classes, Art, Theater, Orchestra and Lecture Series
- Guest Suite
- Notary Services

B. Supplemental Assistance in Daily Living Services

1. Availability and Approvals

If Resident becomes in need of additional assistance with tasks of daily living ("Supplemental Assistance in Daily Living" services) such as bathing, dressing or personal caregiver services in excess of the one hour per day of such assistance provided by the Community as described in Article V, Section A, 2, the Community will assist the Resident in identifying an appropriate agency to be engaged by the Resident at the Resident's expense to provide such services. All arrangements must be approved in advance in writing by the CEO. The agency must agree to policies and procedures established by the Community.

The Community reserves the right to make determinations with regard to Resident's ability to continue to occupy the Living Unit in a safe and healthy manner. The Community may require that Resident obtain Supplemental Assistance in Daily Living services as a condition of

continuing to occupy the Living Unit if it determines that such services are necessary to assure the health, safety and well-being of Resident or others.

The Community may, in its sole discretion, decline to approve a proposed arrangement for Supplemental Assistance in Daily Living services if it determines that, for any reason, the arrangement is not consistent with the health, safety and well-being of Resident or others.

The Community may also require Resident to transfer to the Health Center or to the Assisted Care Unit in accordance with Article V, Sections A,1 and A,3.

2. Release from Liability

Resident agrees to release the Community from any claim for damages Resident may suffer as a result of the negligence or wrongful conduct of any provider of Supplemental Assistance in Daily Living services or provider of any other services engaged by Resident, or any failure by such providers to provide the services Resident has engaged them to provide. This release does not apply to Assistance in Daily Living services or other services provided to Resident by an employee of the Community.

3. Authorization of Periodic Medical Evaluations

As a condition for approving an arrangement for Supplemental Assistance in Daily Living services or other personal caregiver services, the Community may require that Resident receive periodic medical examinations by the Community's Medical Director or his/her designee to assess Resident's ability to continue to occupy the Living Unit in a safe and healthy manner. At Resident's election, the examinations may be performed by Resident's personal physician, provided that all information from the examination is supplied directly by Resident's personal physician to the Medical Director or to his/her designee. Upon request of the Community, Resident agrees to execute a HIPAA compliant authorization for release of health information to Medical Director or his or her designee.

VII. FINANCIAL CONDITIONS

A. Fees

For the right to reside at Brookhaven, and to receive from the Community the services that are described in this Agreement as available to Resident without additional charge, Resident shall pay to the Community an Entrance Fee and a Monthly Service Fee in accordance with the following provisions:

1. Entrance Fee

Resident shall pay the Community an Entrance Fee in the amount of \$_____ (herein called the "Entrance Fee") in accordance with the following schedule:

- a. Ten percent (10%) of the Entrance Fee, less the amount of the Priority Wait List deposit, shall be paid by Resident to the Community upon execution of this Agreement. The receipt of such payment is hereby acknowledged by the Community.
- b. The remaining ninety percent (90%) of the Entrance Fee shall be paid by Resident to the Community on the Occupancy Date.

2. Monthly Service Fee

a. Payment of Monthly Service Fee & Determination of Amount

Resident shall pay to the Community a monthly service fee in an amount determined by the Community based upon the style of the Living Unit and the number of persons who reside in the Living Unit (herein called the "Monthly Service Fee"). Resident's initial Monthly Service Fee for the Living Unit shall be \$_____.

b. Right to Adjust Monthly Service Fee

From time to time, but not more than once each calendar year, the Community may adjust the Monthly Service Fee. The Community will endeavor to set the Monthly Service Fee at an amount consistent with operating the Community on a sound financial basis. No change in the Monthly Service Fee shall be effective upon less than sixty (60) days advance written notice to Resident.

c. Monthly Statement

On or about the first day of each calendar month, the Community will present to Resident a detailed monthly billing statement which will include:

- (1) The Monthly Service Fee for the current month;
- (2) Any meal credits to Resident;
- (3) Additional charges to Resident for services rendered during the preceding month; and

- (4) Any other amounts then due the Community under this Agreement.

The amount due from Resident to the Community as reflected in the monthly statement shall be due and payable by Resident upon receipt of the monthly statement. If Resident fails to pay the amount due within ten (10) days of receipt of the monthly statement, the Community shall have the right to terminate this Agreement in accordance with Article VIII, Section B, 1 of this Agreement. Fees not paid when due shall be subject to reasonable late charges.

d. Effect of Hospitalization or Transfer to Health Center or Assisted Care Unit

Resident shall be obligated to pay the Monthly Service Fee each month during the term of this Agreement (and thereafter if Resident shall fail to vacate the Living Unit, the Health Center or the Assisted Care Unit on or before the date this Agreement terminates, as hereinafter provided), even if Resident is transferred, on a temporary, long-term or permanent basis, to a hospital or nursing care facility, including the Health Center, to the Assisted Care Unit, or to any other facility. Upon such transfer, Resident shall continue to pay the Monthly Service Fee.

e. Proration of Fee

If the Occupancy Date is a date other than the first day of the month, or if the date this Agreement terminates is a date other than the last day of the month, the Monthly Service Fee due for the first or last month under this Agreement shall be adjusted pro rata.

B. Fee Adjustments for Altered Circumstances

1. Marriage or other Joint Living Arrangement

a. Marriage or other Joint Living Arrangement with a Resident

If Resident desires to live with another person who also resides at Brookhaven, the Resident and Resident's co-habitant shall continue to pay the single person Monthly Service Fee for each unit until such time as one unit is vacated and the keys to that unit are returned to the Community. Thereafter the Residents will jointly pay a new Monthly Service Fee equal to the double occupancy rate for the Living Unit Residents jointly occupy. There will be no refund of the Entrance Fee paid by Resident or by Resident's co-habitant at the time Resident marries or begins a joint living arrangement with another resident.

b. Marriage or Other Joint Living Arrangement with a Non-Resident

If Resident desires to live with another person who is not a resident of Brookhaven, provided he or she satisfies the requirements for acceptance as a resident of Brookhaven, the non-resident may become a resident of Brookhaven upon execution of a Residence and Care Agreement and payment of the applicable Entrance Fee. The Entrance Fee for such individual shall be an amount equal to the difference between the then current Entrance Fee for single occupancy and the then current Entrance Fee for double occupancy of the Living Unit that the non-resident will occupy with Resident.

If Resident desires to live with a non-resident who the Community determines does not meet the requirements for acceptance as a resident of Brookhaven, Resident may terminate this Agreement in accordance with the provisions of Article VIII, Section B, 2 and shall be entitled to a refund of a portion of the Entrance Fee in accordance with Article VIII, Section B, 4.

2. Financial Inability to Pay

a. Community's Policy

Without in any way limiting the Community's right to terminate this Agreement in accordance with Article VIII, Section B, 1, it is the Community's policy that if the sole reason for Resident's failure to pay the Monthly Service Fee or other amounts due to the Community shall be insufficient funds due to circumstances beyond Resident's control, the matter will be reviewed by the CEO with Resident or resident's designee.

If Resident presents to the Community facts which, in the CEO's opinion, justify special financial consideration, the Community may, at its option, partly or wholly subsidize Resident's Monthly Service Fee; provided, however, that such subsidy shall be granted and continued only on the condition that, in the CEO's opinion, such subsidy will not impair the ability of the Community to attain its objectives while operating on a sound financial basis.

All determinations made by the CEO to grant, continue or deny special financial consideration shall be final and binding upon Resident. Any such determination shall be treated as a confidential matter by the Community and Resident and shall not be disclosed except as required by financial institutions lending monies to the Community, by regulatory or other governmental bodies or otherwise by law.

b. Resident's Responsibility

Resident's acceptance as a resident at Brookhaven is based upon information Resident has furnished in Resident's Confidential Data Application. It shall be a condition of receiving a subsidy that Resident shall warrant and represent to the Community that Resident has not made any gift or transfer for less than fair market value of real or personal property or imprudent investment in contemplation of the execution of this Agreement or subsequent to the submission of the Confidential Data Application. Resident shall also, from time to time as requested by the Community, provide the Community with personal financial statements and copies of Resident's income, gift, estate and any other tax returns.

c. Recovery of Community Subsidy

Upon termination of this Agreement, the Community shall have the right to recover from Resident or Resident's estate, trust, assignee or successor in interest the aggregate amount of Monthly Service Fees and other amounts due from Resident to the Community that have been subsidized by the Community, together with interest on the amount of the subsidy at an annual rate equal to the prime rate published by "The Wall Street Journal" (or its successor) on the effective date of termination of this Agreement plus one percent (1%). Such amount may be deducted by the Community from the amount of any refund of the Entrance Fee that may be payable to Resident or to Resident's estate or trust under the terms of this Agreement.

d. Maintenance of Resources

Subsequent to executing this Agreement, Resident shall not make any gift or transfer for less than fair market value of real or personal property or any investment that may materially impair Resident's ability, or the ability of Resident's estate or trust, to satisfy Resident's financial obligations under this Agreement.

3. Change of Living Unit

a. Transfer to a Smaller Living Unit

If Resident should choose to move to a smaller living unit, Resident will be permitted to do so, subject to availability. Following the move, Resident will pay the Monthly Service Fee for the smaller unit. Resident will pay an additional Entrance Fee in an amount equal to the difference between the Entrance Fee Resident has previously paid and the current Entrance Fee for the new living unit. No refund of any portion of the Entrance Fee will

be made at that time. Resident agrees to bear the cost of such a move, including returning the vacated Living Unit to its original condition.

b. Transfer to a Same Size or Larger Living Unit

If Resident should choose to move to a living unit of the same size or to a larger living unit, Resident will be permitted to do so, subject to availability. Resident will pay an additional Entrance Fee in an amount equal to the difference between the Entrance Fee Resident has previously paid and the current Entrance Fee for the new living unit. Following the move, Resident will pay the Monthly Service Fee which is applicable to the new Living Unit. Resident agrees to bear the cost of such a move, including returning the vacated Living Unit to its original condition.

c. Transfer to a Hospital, Health Center, Assisted Care Unit or Alternative Care Facility

The Community may transfer Resident to the Health Center, to the Assisted Care Unit or to an alternative care facility in accordance with Article V, Section A, 1, and A, 3 and Section C, 4 and Resident may be admitted to a hospital upon the order of Resident's physician. If, after consultation with Resident (or, if Resident is not competent, Resident's representative), and Resident's physician, it is the opinion of the Medical Director that Resident requires permanent or long-term care in a hospital or at the Health Center or the Assisted Care Unit (or an alternative care facility), the CEO may require Resident to vacate Resident's Living Unit, or the Assisted Care Unit.

In such case, Resident shall make arrangements to remove Resident's personal belongings from the Living Unit within thirty (30) days or from a room at the Health Center within forty-eight (48) hours or from the Assisted Care Unit within fifteen (15) days after notification of such determination. Notwithstanding such permanent or long-term transfer, Resident shall continue to pay the then current Monthly Service Fee for the vacated Living Unit, and no refund of any portion of the Entrance Fee shall be made at the time of such transfer.

d. Transfer of One of Two Residents Sharing a Living Accommodation to a Hospital, Health Center, Assisted Care Unit or Alternative Care Facility

If two people occupy the Living Unit and one Resident is transferred to a hospital, the Health Center or to the Assisted Care Unit (or an alternative care facility) for long-term or permanent

residency, Resident shall continue to pay the then current Monthly Service Fee for the Living Unit based upon double occupancy and no refund of any portion of the Entrance Fee shall be made at the time of such transfer.

e. Termination of Shared Living Arrangement

If two Residents who share a Living Unit desire to separate, they may, by mutual agreement, choose between the following options:

(i) Retention of Same Living Unit

One occupant may leave Brookhaven and the other occupant may retain the Living Unit and pay the Monthly Service Fee for single occupancy. No refund of any portion of the Entrance Fee will be made at that time.

(ii) Transfer to Alternate Living Unit

One occupant may move to another living unit, subject to availability. Such occupant shall be required to pay an additional Entrance Fee in an amount equal to the then current Entrance Fee for the new living unit less the portion of the Entrance Fee previously paid for the original Living Unit for double versus single occupancy of that unit and shall pay the Monthly Service Fee for single occupancy of the new living unit. The other occupant may retain the original Living Unit and pay the Monthly Service Fee for single occupancy. No refund of any portion of the original Entrance Fee shall be made at that time.

VIII TERMINATION AND REFUNDS

A. Terminations on or before the Occupancy Date

1. Termination Due to Death, Illness or Financial Condition

If Resident dies (or in the case of a couple, both Residents die) on or before the Occupancy Date, then this Agreement shall automatically terminate.

Each Resident is required to have a physical examination by the Community's Medical Director seventy (70) days prior to the Resident's Occupancy Date. If Resident's physical or mental condition deteriorates (or if two people have executed this Agreement, the physical or mental

condition of either deteriorates) on or before the Occupancy Date to the extent that, after consultation with the Medical Director, the CEO determines that Resident (or one of Residents) will be incapable of living independently in the Living Unit on the Occupancy Date, then this Agreement may be terminated by the Community by written notice to Resident.

If Resident's financial condition changes prior to the Occupancy Date to the extent that, in the opinion of the CEO, Resident will be unable to meet Resident's financial obligations under this Agreement, then this Agreement may be terminated by the Community by written notice to Resident.

If the Community fails to make the Living Unit available for occupancy by Resident on the Occupancy Date, this Agreement shall be deemed automatically terminated as of the Occupancy Date unless Resident and the Community agree in writing to extend the Occupancy Date.

2. Termination by Resident

At any time on or before the Occupancy Date, this Agreement may be terminated by Resident without cause upon written notice to the Community.

Resident's failure to pay the balance of the Entrance Fee and begin paying the Monthly Service Fee on or before the Occupancy Date shall be deemed a termination of this Agreement by Resident under this Article VIII, Section A, 2 unless an extension of the Occupancy Date has been agreed to in writing by Resident and the Community.

3. Refunds Upon Termination on or before the Occupancy Date

Within one hundred-twenty (120) days after the termination of this Agreement under this Article VIII, Section A, the Community will refund to Resident or Resident's legal representative all amounts paid to the Community by Resident, less the service charge equal to one percent (1%) of the Entrance Fee. The non-refundable processing fee paid by Resident shall be credited against the amount of the service charge.

B. After the Occupancy Date

1. Termination by the Community

The Community reserves the right to terminate this Agreement at any time after the Occupancy Date for good cause, including but not limited to: a breach by Resident of Resident's obligations under this Agreement; failure by Resident to abide by the rules adopted by the Community; any material misrepresentation or omission by Resident in connection with Resident's

application for residency at Brookhaven; failure to disclose to Community any material change in Resident's physical or mental condition or in Resident's financial condition after the date of Resident's application for residency at Brookhaven and prior to the Occupancy Date; or in the Community's judgment, Resident's continued residence at Brookhaven is disruptive or threatening to the health, safety or well-being of Resident or others.

If there is good cause for termination, the Community may terminate this Agreement by written notice of termination to Resident specifying an effective date of termination not less than thirty (30) days nor more than one hundred-twenty (120) days after the date notice is given. On or before the effective date of termination, Resident shall move from Brookhaven and vacate the Living Unit or the Assisted Care Unit and return keys to the Community. If Resident fails to vacate the Living Unit or Assisted Care Unit by the effective date of termination, Resident shall remain obligated to pay the Monthly Service Fee to the Community after the effective date and until Resident has vacated the Living Unit or Assisted Care Unit and returned the keys to the unit to the Community. Resident or Resident's estate will also be responsible for the removal and storage of Resident's personal belongings in accordance with Article IX, Section C, below.

If this Agreement is terminated by the Community under this Article VIII, Section B, 1, Resident shall be entitled to receive a refund of a portion of the Entrance Fee in accordance with Article VIII, Section B, 4, below.

2. Termination by Resident

Resident has the right at any time after the Occupancy Date to terminate this Agreement by delivering to the Community a written notice of termination. The written notice need not cite any reason for the termination but shall specify an effective date of termination which shall be not less than sixty (60) days nor more than one hundred-twenty (120) days after the date notice is given.

On or before the effective date of termination, Resident shall move from Brookhaven and vacate his or her Living Unit, Assisted Care Unit or Health Center room. If Resident fails to vacate the Living Unit, the Assisted Care Unit or Health Center room by the effective date of termination, Resident shall remain obligated to pay the Monthly Service Fee to the Community after the effective date and until Resident has vacated the Living Unit, the Assisted Care Unit or the Health Center room and returned the keys to the unit to the Community. Resident or Resident's estate will also be responsible for the removal and storage of Resident's personal belongings in accordance with Article IX, Section C, below.

If this Agreement is terminated by Resident under this Article VIII, Section B, 2, Resident shall be entitled to receive a refund of a portion of the Entrance Fee in accordance with this Article VIII, Section B, 4, below.

3. Termination by Death

If Resident refers to one individual, this Agreement shall terminate automatically upon Resident's death. Resident's obligation to pay the Monthly Service Fee shall continue after the date of death and until Resident's personal property has been removed from the Living Unit or the Assisted Care Unit and the keys have been returned to the Community by Resident's family, or Resident's estate. Resident's family or Resident's estate will also be responsible for the removal and storage of Resident's personal belongings in accordance with Article IX, Section C, below.

If Resident refers to one individual this Agreement is terminated by Resident's death, Resident's estate shall be entitled to a refund of a portion of the Entrance Fee in accordance with Article VIII, Section B, 4, below.

If Resident refers to two persons who have entered into this Agreement as joint residents, upon the death of one Resident, this Agreement shall remain in effect as to the survivor and there shall be no refund of any portion of the Entrance Fee at that time. The surviving Resident shall thereafter pay an adjusted Monthly Service Fee based upon single occupancy of the Living Unit.

4. Refunds upon Termination after Occupancy Date

Upon termination of this Agreement under any of the provisions of this Article VIII, Section B, Resident (or Resident's estate) shall be entitled to a refund of a portion of the Entrance Fee as follows:

a. Termination Within the First Nine (9) Months of Occupancy

If termination occurs prior to the expiration of the first nine (9) months following the Occupancy Date, Resident shall be entitled to receive a refund of the Entrance Fee paid to the Community by Resident less one percent (1%) of the amount of the Entrance Fee per month of occupancy at Brookhaven. The refund shall be paid by the Community within one hundred-twenty (120) days of the effective date of termination.

b. Termination After the Ninth (9th) Month of Occupancy

If termination occurs upon or after the expiration of the first nine (9) months following the Occupancy Date, Resident shall receive a refund in an aggregate amount equal to the lesser of (1) ninety

percent (90%) of the Entrance Fee paid by Resident; or (2) ninety percent (90%) of the Entrance Fee paid by the resident who occupies the Living Unit after Resident. The refund shall be payable as follows:

- (i) An amount equal to the Entrance Fee paid by the Resident or, if less, the Entrance Fee paid by the resident who occupies the Living Unit after the Resident, less one percent (1%) of such Entrance Fee per month of occupancy at Brookhaven shall be paid within one hundred and twenty (120) days of the effective date of termination; and
- (ii) The balance of the refund, if any, shall be paid on the date which is thirty (30) days after the Community has executed a Residence and Care Agreement with a new resident(s) and such resident(s) has occupied the Living Unit, or on the date which is one hundred and twenty (120) days after the effective date of termination, whichever is later.

C. Release of the Community

Upon termination of this Agreement, as herein above provided, neither party shall have any further obligation hereunder except:

- (1) Obligations occurring prior to the date of termination; and,
- (2) Obligations, promises or covenants contained herein which are expressly made to extend beyond the term of this Agreement.

IX. RESIDENT'S RIGHTS AND OBLIGATIONS

A. Right of Privacy

Subject to the provisions of this Agreement, Resident shall have the exclusive right to occupy the Living Unit. The Community recognizes Resident's right to privacy and its responsibility to limit entrance to the Living Unit. The Resident recognizes and accepts the right of the Community to enter the Living Unit in order to carry out the purposes of this Agreement:

- 1. Performance of scheduled housekeeping duties;
- 2. Response to the emergency call system;
- 3. Response to the fire alert system;
- 4. Entrance if Resident is reported missing or has not responded to calls;

5. Scheduled or emergency maintenance; and
6. Showing the Living Unit to a prospective resident, but only during normal daytime hours and after notice of termination of this Agreement has been given or Resident has been required to vacate the Living Unit in accordance with the provisions of this Agreement.

B. Responsibility for Damages

The Community shall not be liable for any claims, damages, or expenses, including attorneys' fees and court costs, resulting from any injury or death to persons or any damage to property arising from the negligent or intentional act or omission of either Resident or Resident's guests, employees or agents, or by pets owned by or invited by the Resident.

Resident shall be solely responsible for any loss or damage to the real or personal property of the Community caused by the negligent or wrongful acts or omissions of either Resident or Resident's guests, employees, or agents, or by pets owned by or invited by the Resident, which will be charged to and paid for by Resident.

C. The Community's Responsibility for Protection of Resident's Property

1. Upon Resident's Death

In the case of Resident's death, the Community shall release all of Resident's property to the person(s) designated by Resident in writing to receive it, or if no such person(s) shall have been designated, then to Resident's executor or administrator, or if no executor or administrator qualifies within thirty (30) days of Resident's death, then to Resident's next of kin, as defined by Massachusetts Law. The Community will hold such property for not more than thirty (30) days following Resident's death at the risk of Resident's estate or of the persons entitled to receive the property. The Community will exercise ordinary care in safeguarding the property during that time. Resident hereby grants to the Community a limited power of attorney to hold and deliver Resident's property as provided herein, including the authority to store it away from the Community in a commercial warehouse at the Resident's expense.

2. Upon other Termination of the Agreement

If Resident is required to vacate the Living Unit (or a room in the Health Center or an Assisted Care Unit) in accordance with this Agreement and fails to remove Resident's personal property there from within thirty (30) days (or 48 hours if Resident was occupying a room at the Health Center or fifteen days (15) days if the Resident was occupying an Assisted Care Unit) of the date of the notice to vacate, the Community shall have the right to remove Resident's property and to store it at Brookhaven or in a

commercial warehouse at Resident's expense. After storing the property in a commercial warehouse and providing notice to Resident, the Community shall have no further responsibility for the property.

X. OTHER CONDITIONS

A. Power of Attorney and Guardianship

Resident will maintain a current durable power of attorney authorizing one or more named individuals to act for Resident and on Resident's behalf in all matters related to Resident's person and property and will provide a copy to the Community. The Community strongly encourages Resident to execute a Health Care Proxy designating one or more individuals to act for Resident in making decisions with respect to Resident's health care in the event Resident should become incapable of making such decisions, and requests that Resident provide a copy of Resident's Health Care Proxy to the Medical Director. The Community retains the right to institute proceedings for the appointment of a guardian and/or conservator if Resident becomes incompetent to care for him/herself or Resident's property. Resident will be responsible for the cost of these proceedings.

B. Delegation by CEO or Medical Director

Any authority or responsibility given by this Agreement to the CEO or Medical Director may be delegated by him or her to any one or more other members of the Community's staff.

C. Guest Policies

No one other than Resident shall have the right to occupy the living unit without the consent of the CEO, unless otherwise permitted pursuant to guest policies established by the Community. The intent of such policies shall be to permit stays of short duration by Resident's guests, where such stays will not, in the opinion of the CEO, adversely affect the operation of Brookhaven or the health, safety and well-being of Resident or others.

D. Resident's Obligation to the Community for Arrangements at Death

Resident agrees to provide the Community with the following information at the time of occupancy: name and address of funeral director (prior arrangements are encouraged); name and address of attorney and executor; persons to be notified of Resident's death and person designated to receive Resident's personal property following death.

E. Rules Adopted by the Community

The Community reserves the right to adopt policies, procedures and rules regarding residency at Brookhaven not inconsistent with the provisions of this

Agreement. Resident agrees to observe the rules and regulations adopted by the Community.

F. Non-Discrimination

The Community is operated to provide the facilities, programs and services described in this Agreement to individuals regardless of their race, color, sex, religion, creed, handicap, familial status or national origin, sexual orientation, ancestry, marital status, status as a veteran or member of the armed forces or, except as provided in Article I, Section E, age.

G. Sole Responsibility

All legal and financial obligations assumed by the Community in this Agreement are solely the responsibility of Symmes Life Care, Inc. All fees paid by the Resident to the Community, including the Entrance Fee, shall become the sole property of the Community, are deemed payment for residence and services, and are not held in trust for the benefit of the Resident nor held as reserves or security for the performance of the Community's obligations to the Resident.

H. Use of the Living Unit

Resident's Living Unit shall be used only for residential purposes and shall not be used for business or professional purposes, nor in any manner in violation of applicable zoning ordinances and other laws.

I. Interpretation

The terms of this Agreement and any disputes arising hereunder shall be governed by and interpreted in accordance with Massachusetts' law.

J. Entire Agreement

This Agreement, which includes each of the Recitals, Exhibits, Addenda and Schedules specified below, constitutes the entire Agreement between Resident and the Community. The Community is not liable for nor bound in any manner by, any statement, representation or promise made by any person representing or purporting to represent the Community unless set forth in this Agreement.

K. Notices

Notices shall be given in writing to the Community at the address of its Administrative Office given below and to Resident at the address given below until Resident enters Brookhaven, and thereafter at Resident's Brookhaven address. A change in address may be affected by written notice given by one party to the other in accordance with this section.

THE COMMUNITY: Symmes Life Care, Inc.
d/b/a BROOKHAVEN AT LEXINGTON
Attn: CEO
1010 Waltham Street, Suite 600
Lexington, MA 02421-8052

THE RESIDENT: _____

L. Non-Transferability

Resident's rights and privileges under this Agreement are personal to Resident and cannot be transferred or assigned by Resident's act, by any proceeding at law or in equity, or otherwise. Resident's right to occupy the Living Unit is not transferable by Resident to any other person. If any person, other than the person who has signed this Agreement, commences to live in Resident's Living Unit without following the procedures established by the Community, the Community shall have the right to terminate this Agreement.

M. No Oral Modifications

No amendment to this Agreement shall be valid unless in writing executed by the Community and Resident.

N. Joint and Several Liability

When two people have entered into this Agreement with the Community, the rights and obligations of each are joint and several except as expressly provided otherwise in this Agreement.

O. Severability

If any provision of this Agreement shall be deemed invalid or unenforceable, the balance of this Agreement shall remain in effect, and if any provision is deemed inapplicable to any person or circumstances, it shall nevertheless be construed to apply to all other persons and circumstances.

XI. DEFINITIONS

ASSISTED CARE UNIT	The Community operates an Assisted Care Unit adjacent to the residential area at Brookhaven.
BROOKHAVEN	The continuing care retirement community, including the Living Unit, the Health Center and the Assisted Care Unit, owned by the Community and located in Lexington, Massachusetts.
CEO	The chief executive officer of the Community as appointed by the Board of Trustees of Symmes Life Care, Inc.
COMMUNITY	Symmes Life Care, Inc., the corporation which owns the continuing care retirement Community known as Brookhaven and does business under the name Brookhaven at Lexington.
ENTRANCE FEE	The fee payable by Resident to the Community under Article VII, Section A, 1 of this Agreement, and any additional Entrance Fee paid by Resident hereunder.
HEALTH CENTER	The skilled nursing facility at Brookhaven owned and operated by the Community, as described in Article III, Section C.
LIVING UNIT	The residency unit at Brookhaven to be occupied or occupied by Resident as specified in Article III, Section A, and any residency unit Resident may agree to occupy after the date of this Agreement. In the case of a Resident who has been transferred to the Assisted Care Unit or the Health Center (or an alternative care facility), the term refers to the residency unit occupied by the Resident prior to such transfer. A suite in the Assisted Care Unit is not a Living Unit for purposes of this Agreement. A bed within the Health Center is not a Living Unit for the purposes of this agreement.

MEDICAL DIRECTOR	The physician appointed by the Community to exercise administrative oversight of Resident's medical care and supervision which the Community is obligated to provide under this Agreement.
MONTHLY SERVICE FEE	The fee payable by Resident to the Community each month during the term of this Agreement, as set forth in Article VII, Section A, 2, as adjusted from time to time.
OCCUPANCY DATE	The date which is seventy (70) days from the date of this Agreement or the date on which Resident moves into the Living Unit, whichever shall first occur. Or in the case of a Living Unit not yet built, the date which is seventy (70) days from the date the Resident is informed by Brookhaven that the unit is ready for occupancy.
RESIDENT	The individual or the two individuals who have entered into this Residence and Care Agreement with the Community.

By my (our) signature(s) below, I (we) acknowledge that I (we) have read the foregoing and understand that this agreement including the following Exhibits, Schedules and Contract Addendum/Addenda, constitutes the Residence and Care Agreement.

Exhibit 1
Exhibit 2

Confidential Data Application
Community Disclosure Statement

Witness

Resident

Date

Address

Witness

Resident

Date

Address

BROOKHAVEN AT LEXINGTON
1010 WALTHAM STREET SUITE 600
LEXINGTON, MASSACHUSETTS 02421-8052

By:

CEO/President (or other authorized signature)

Date:

Exhibit 2

DISCLOSURE STATEMENT

This disclosure statement has been prepared by Symmes Life Care, Inc., hereinafter sometimes referred to as "PROVIDER" with respect to a continuing care retirement community known as Brookhaven located at 1010 Waltham Street, Lexington, Massachusetts 02421, and pursuant to Massachusetts General Laws, Chapter 93, Section 76.

1. Name and Business Address of Provider

Symmes Life Care, Inc.
D/b/a/ Brookhaven at Lexington
1010 Waltham Street Suite 600
Lexington, MA 02421-8052

Symmes Life Care, Inc. is a Massachusetts not-for-profit corporation, incorporated under the provisions of General Laws Chapter 180. This corporation owns and operates the continuing care retirement community known as "Brookhaven".

2. Officers and Directors of Provider

A list of the current officers and directors of the Provider is contained in Attachment 1 attached hereto. Each person listed in Attachment 1 serves as a volunteer without compensation in the capacity shown in Attachment 1.

3. Description of Business Experience of the Provider

Symmes Life Care, Inc. was organized in December 1984, for the purpose of developing and operating a retirement community. The Board of Trustees of the Provider is composed of individuals who have extensive experience in finance, business, social services, hospital administration and programs serving the elderly in the Lexington area.

4. Statement of Affiliation

Symmes Life Care, Inc. is not affiliated with any other organization.

5. Description of Physical Facilities

Provider's facility is located at 1010 Waltham Street, Lexington, Massachusetts. The facility is comprised of 241 resident apartments, a 20 suite Assisted Care Unit and a 49 bed skilled nursing facility licensed by the Commonwealth of Massachusetts.

6. Financial Statements

Certified financial statements of the Provider for the most recent fiscal year (ending September 30) are contained in Attachment 2 attached hereto. If the Provider's fiscal year ended more than ninety days prior to the date this Disclosure Statement is delivered to a prospective resident, interim financial statements are contained in Attachment 3 attached hereto. A five year history of entrance fees and monthly service fees is included in attachment 4 attached hereto.

Attachments

Attachment 1	Trustees and Officers
Attachment 2	Certified Financial Statements
Attachment 3	Interim Financial Statement
Attachment 4	Five Year Rate Schedule

Resident

Date

Resident

Date