**CHECKLIST FOR RESIDENCY AGREEMENTS FOR ASSISTED LIVING RESIDENCES**

**WITH ENRICHED HOUSING PROGRAM BASE LICENSURE**

**THAT DO NOT USE THE DEPARTMENT-ISSUED MODEL RESIDENCY AGREEMENT**

*Instructions*: Complete this checklist for all Residency Agreement submissions with the exception of those following the model agreements available at <https://health.ny.gov/facilities/adult_care/application/>. Topics listed as **mandated language** must include the exact language in the third column and must appear in the proposed Residency Agreement. The mandated language can be found in the Enriched Housing Program model agreement at <https://health.ny.gov/facilities/adult_care/application/docs/ehp_model_adm_agreement.pdf>. For provisions labeled “Required Provision,” the operator may draft its own language that is consistent with the requirement.

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| **Facility Name** |  | **NYSECON Application or License Number** |  |

| **TOPIC** | **REFERENCE** | **DESCRIPTION OF REQUIREMENT** | **Page** | **Section/ Paragraph** |
| --- | --- | --- | --- | --- |
| **Recitals** | Required Provision | This agreement is made between ***insert Operator’s Name*** (the “Operator”), **insert Resident’s Name** (the “Resident” or “You”), ***insert Name of Resident’s Representative or indicate “Not Applicable”*** (the “Resident’s Representative”, if any) *and* ***insert Name of Resident’s Legal Representative or indicate “Not Applicable”*** (the “Resident’s Legal Representative”, if any).  RECITALS  A. The Operator is licensed by the New York State Department of Health to operate at ***insert facility address and mailing address***, ***if different*** an Assisted Living Residence known as ***Insert the Name of the Facility*** and as an Enriched Housing Program.  Select all that apply:  ☐ The Operator does not have any additional certifications at this location.  ☐ The Operator is certified to operate, at this location, an Enhanced Assisted Living Residence.  ☐ The Operator is certified to operate, at this location, a Special Needs Assisted Living Residence.  B. You have requested to become a Resident at ***Insert the Name of the Facility*** and the Operator has accepted your request. | 3 |  |
| **Housing Accommodations and Services** | Required Provision | Beginning on **MM/DD/YYYY**, the Operator shall provide the following housing accommodations and services to You, subject to the other terms, limitations, and conditions contained in this Agreement. This Agreement will remain in effect until amended or termination by the parties in accordance with the provisions of this Agreement. | 4 |  |
| **Living Space** | Required Provision  10 NYCRR § 1001.8(vi) | Describe the living space, including private or semi-private. | 4 |  |
| **Common Areas** | Required Provision  18 NYCRR § 485.14(b) | Describe common areas and access, including a room available for private meetings and visits. If private access to one or more general purpose rooms is unattainable at your community, then detail the terms for accessing common space including any time limitations. | 4 |  |
| **Common Areas (cont.)** | **Mandated Language**  42 CFR § 441.301(c)(4)  *Note: Common Areas must be available at least 10 hours from 9a to 8p.* | You will be able to use the common areas at the Community between the hours of\_\_\_and\_\_\_\_\_\_for scheduled group activities or unscheduled group or individual recreation. Whenever a common area is temporarily unavailable for maintenance or administrative activities such as staff training, other common areas suitable for recreation will remain available for resident use. | 4 |  |
| **Provision of Furnishings and Appliances** | Required Provision  18 NYCRR § 488.11(f) | Describe and detail in Exhibit(s) \_\_\_\_\_\_ Furnishing and appliances both provided by the Operator and by Resident. Such Exhibit also contains any limitations or conditions concerning what type of appliances are not permitted (e.g., due to amperage concerns, etc.). | 5 |  |
| **Basic Services: Meals, Snacks and Access to Food** | Required Provision  18 NYCRR § 488.8  *EHPs must have a minimum of one hot midday or evening meal daily in a congregate setting.* | Describe the Basic Services – Meals and Snack including number of snacks, access to food 24/7, special diets available. | 6 |  |
| **Basic Services: Activities** | Required Provision  18 NYCRR § 488.7(f) | Describe the Basic Services – Activities –organized and diverse, posting in readily visible area. | 6 |  |
| **Basic Services: Housekeeping** | Required Provision  18 NYCRR § 488.7(g) | Describe the Basic Services – Housekeeping | 7 |  |
| **Basic Services: Linen** | Required Provision  18 NYCRR § 488.7(g) | Describe the Basic Services – Linen Services | 7 |  |
| **Basic Services: Laundry Service** | Required Provision  18 NYCRR § 488.7(g) | Describe the Basic Services – Laundry Services for personal washable clothing | 7 |  |
| **Basic Services: 24-hour Supervision** | Required Provision  18 NYCRR § 488.7(b); 10 §§ NYCRR 1001.8(f)(vi); 1001.10(g) | Describe the Basic Services – 24-hour on-site Supervision and response to urgent or emergency needs or requests | 7 |  |
| **Basic Services: Case Management** | Required Provision  18 NYCRR § 488.7(e); 10 NYCRR §§ 1001.8(f)(vi); 1001.10(i) | Describe the Basic Services – Case Management | 8 |  |
| **Basic Services: Personal Care** | Required Provision  18 NYCRR § 488.7(c); 10 NYCRR § 1001.8(f)(vi) | Describe the Basic Services – Personal Care | 8 |  |
| **Basic Services: Personal Care (cont.)** | **Mandated Language**  18 NYCRR § 488.7(c)(1),(2); 10 NYCRR § 1001.8(f)(vi) | Personal care services available to all ALR residents include some assistance with personal hygiene (including dressing, bathing, and grooming), assisting with self-administration of medications, and as otherwise needed by the individual to carry out the activities of daily living, maintain good health, and participate in the ongoing activities of the enriched housing program. Services for each resident are detailed in the resident’s Individualized Services Plan (ISP). Detailed fees for personal care services are included in this Agreement’s rate or fee schedule. | 8 |  |
| **Basic Services: Development of ISP** | Required Provision  10 NYCRR §§§ 1001.2(k); 1001.7(k) and 1001.10(c) | Describe the Basic Services – Development of ISP initial and revised every 6 months or as often as needed. | 8 |  |
| **Supplemental and Additional Services** | Required Provision | Describe Supplemental/Additional services as those services provided in addition to basic services for which a supplemental/additional fee may apply. Supplemental fees must be a resident’s option for services actually received. Additional fees can be made for services selected by the resident from the fee schedule | 9 |  |
| **Licensure /Certification Status of other providers** | **Mandated Language**  10 NYCRR § 1001.8(f)(4)(iv) | A listing of all providers offering home care or personal care services under an arrangement with the Operator, and a description of the licensure or certification status of each provider is set forth in Exhibit \_\_\_\_\_. of this Agreement. Such exhibit will be updated as frequently as necessary. | 9 |  |
| **Disclosure Statement** | **Mandated Language**  10 NYCRR § 1001.8(f)(4)-(5) | ***Insert the Name of the Operator*** as operator of ***Insert the Name of the Facility*** hereby discloses the following, as required by Public Health Law Section 4658(3):   1. The Consumer Information Guide developed by the Commissioner of Health is hereby attached as Exhibit \_\_\_ of this Agreement 2. ***Insert the Name of the Operator*** is licensed by the New York State Department of Health to operate ***Insert the Name of the Facility*** at ***Insert Facility’s Street Address*** an Assisted Living Residence as well as an Enriched Housing Program.   *Select all that apply:*   * + The Operator does not have any additional certifications at this location.   + The Operator is certified to operate, at this location, an Enhanced Assisted Living Residence.   + The Operator is certified to operate, at this location, a Special Needs Assisted Living Residence.   This additional certification (or these additional certifications) may permit individuals who may develop conditions or needs that would otherwise make them no longer appropriate for continued residence in a basic Assisted Living Residence to be able to continue to reside in **Insert the Name of the Facility** and to receive either Enhanced Assisted Living services or Special Needs Assisted Living services, as long as the other conditions of residency set forth in this Agreement continue to be met.  The Operator is currently approved to provide:   1. Enhanced Assisted Living services for up to a maximum of #\_\_ persons. 2. Special Needs Assisted Living services for up to a maximum of #\_\_ persons.   The Operator will post prominently in ***Insert the Name of the Facility***, on a monthly basis, the then-current number of vacancies under its Enhanced Assisted Living Services and/or Special Needs Assisted Living programs.  **It is important to note that The Operator is currently approved to accommodate within The Enhanced Assisted Living and/or Special Needs Assisted Living programs only up to the numbers of persons stated above**. If You become appropriate for Enhanced Assisted Living Services or Special Needs Assisted Living Services, and one of those units is available, You will be eligible to be admitted into the Enhanced Assisted Living or Special Needs Assisted Living unit (or program). If, however, such units are at capacity and there are no vacancies, the Operator will assist You and Your representatives to identify and obtain other appropriate living arrangements in accordance with New York State’s regulatory requirements.  If you become eligible for the choose to receive services in the Enhanced Assisted Living Residence or Special Needs Assisted Living Residence program within this Residence, it may be necessary for You to change your living space within ***Insert the Name of the Facility.***  Following is a list of other health related licensure or certification status of The Operator or others providing services at ***Insert the Name of the Facility***  *Insert List.* 3.The owner of the real property upon which ***Insert the Name of the Facility*** is located is ***Insert Real Property Owner***. The mailing address of such real property owner is ***Insert business address of the real property owner***. The following individual is authorized to accept personal service on behalf of such real property owner: ***Insert name or title and address***.  4.The Operator of ***Insert the Name of the Facility*** is ***insert name of Operator***. The mailing address of the Operator is ***Insert business address of the Operator***. The following individual is authorized to accept personal service on behalf of the Operator: ***Insert name or title and address***  5.List any ownership interest in excess of ten percent (10%) on the part of The Operator (whether a legal or beneficial interest), in any entity which provides care, material, equipment or other services to residents of ***Insert the Name of the Facility***.  ***Insert List.***   1. List any ownership interest in excess of ten percent (10%) (whether legal or beneficial interest) on the part of any entity which provides care, material, equipment or other services to residents of ***Insert the Name of the Facility***, in the Operator.   *Insert List.*  1. Outside Providers: ***(Provide a statement regarding the ability of residents to receive services from service providers with whom the Operator does not have an arrangement.)***   ***Provide Statement.***   1. Residents shall have the right to choose their healthcare providers, notwithstanding any other agreement to the contrary. 2. Public Funds - ***(Provide a statement regarding the availability of public funds for payment for residential, supportive or home health services, including but not limited to, availability of Medicare coverage of home health services.)*** 3. The New York State Department of Health’s toll-free telephone number for reporting of complaints regarding the services provided by the Operator is 1-866-893-6772. 4. The New York State Long Term Care Ombudsman Program (NYSLTCOP) provides a toll-free number 1-855-582-6769 to request an Ombudsperson to advocate for the resident. The Local LTCOP telephone number is **(###) ###-####**.   The NYSLTCOP web site is [**www.ltcombudsman.ny.gov.**](http://www.ltcombudsman.ny.gov./)   1. New York State’s laws and regulations applicable to adult care facilities and assisted living residences can be found in Article 7 of the Social Services Law, Article 46-B of the Public Health Law, 18 NYCRR sections 485-488 and 10 NYCRR Part 1001. Operators are also subject to certain federal regulations found at 42 CFR 441.301(c)(4). | 9 |  |
| **Fees: A. Basic Rate** | **Mandated Language** | Assisted Living Residences are permitted to charge for services on a flat fee basis, where all Basic Services in Section \_\_\_\_. are included in a single fee, or a tiered fee basis, where charges for Basic Services in Section \_\_\_\_\_\_ are determined by the type of services provided or the number of hours of care provided. This is referred to as the “Basic Rate”. This community/residence operates with ***a flat fee or tiered fee*** Basic Rate.  *Note: Following this provision, operators may add facility specific language further describing their rate.* | 14 |  |
| **Basic Rate – Description** | Required Provision | * State who, if other than the resident will be responsible for the fee * State the amount of the fee here $)\_\_\_\_ per month or $\_\_\_per day or in a chart/exhibit to the agreement * If using a tiered fee, describe your tiered structure here or in an exhibit | 14 |  |
| **Supplemental or Additional Fees** | **Mandated Language**  10 NYCRR § 1001.8(f)(vii) | The Residency Agreement includes a description of supplemental and additional fees from the Operator directly or through arrangements with the Operator, stating who provides such services if not the Operator, and provide a detailed explanation of the services and amenities covered by the rates, fees or charges. See Exhibit \_\_\_\_.  A Supplemental fee is a fee for service, care or amenities that is in addition to those fees included in the Basic Rate  A Supplemental fee must be at the Resident’s option. Any charges for supplemental fees by the Operator shall be made only for services and supplies that are actually supplied to the Resident.  An additional fee can be charged if included in the fee schedule and selected by the resident. In some cases, the law permits the Operator to charge an additional fee without the express written approval of the Resident (See Section \_\_\_\_\_\_\_) | 15 |  |
| **Community Fee (if applicable)** | **Mandated Language (if a community fee is charged)**  10 NYCRR § 1001.8(f)(vii) | Community fee is a one-time fee that the Operator may change at the time of Admission. The operator must clearly inform the prospective Resident what the amount of the Community fee will be as well as any terms regarding refunds of the Community fee. The prospective Resident, once fully informed of the terms of the Community fee, may choose whether to accept the Community fee as a condition of residency in ***Insert Name of Facility*** or to reject the Community fee and thereby reject residency at ***Insert Name of Facility.***  The amount of the one-time community fee is $ \_\_\_.  List any specific conditions for refunds.  Identify any additional conditions regarding the fee. | 15 |  |
| **Rate or Fee Schedule** | **Mandated Language** | Attached as [Attachment/Exhibit \_\_\_\_ ] and made a part of this Agreement is a rate or fee schedule, covering both the Basic Rate and any Additional, Supplemental or Community fees, for services, supplies and amenities provided to You, with a detailed explanation of which services, supplies and amenities are covered by such rates, fees or charges.  *Note: Operators must include an exhibit or attachment detailing the above information.* | 16 |  |
| **Billing and Payment Terms** | Required Provision  10 NYCRR § 1001.8(f)(xiv) | Include your due date for monthly payments, where payments should be directed and if there is a late fee, how much it is and when it would be imposed. | 17 |  |
| **Billing and Payment Term: Inability/Failure to Pay** | **Mandated Language**  10 NYCRR § 1001.8(f)(xv) | In the event the Resident, Resident’s Representative or Resident’s legal representative, as applicable, is no longer able to pay for services provided for in this Agreement or additional services or care needed by the Resident, the Operator may issue a notice of termination, as more fully described in Section \_\_\_\_\_. | 17 |  |
| **Adjustments to Basic Rate or Additional or Supplemental Fee** | **Mandated Language**  10 NYCRR § 1001.8(b)(2)(xvi) | You have the right to written notice of any proposed increase of the Basic Rate or any Additional or Supplemental fees not less than forty-five (45) days prior to the effective date of the rate or fee increase, except in the following circumstances:  a) If You, or Your Resident Representative or Legal Representative agree in writing to a specific Rate or Fee increase, through an amendment of this Agreement.  b) If the Operator provides additional care, services or supplies upon the express written order of Your primary physician, the Operator may, through an amendment to this Agreement, increase the Basic Rate or an Additional or Supplementary fee upon less than forty-five (45) days written notice.  c) In the event of any emergency which affects You, the Operator may assess additional charges for Your benefit as are reasonable and necessary for services, material, equipment and food supplied during such emergency.  Since a Community Fee is a one-time fee, there can be no subsequent increase in a Community Fee charged to You by the Operator, once You have been admitted as a resident. | 17 |  |
| **Bed Reservation (only include if you offer Bed Reservation)** | **Mandated Language (if you offer Bed Reservation)**  18 NYCRR § 488.5(c)(7)(xiii) | The Operator agrees to reserve a residential space as specified in Section \_\_\_\_\_\_\_ above in the event of Your absence. The charge for this reservation is $***Insert Charge*** per ***(indicate day/week/month/year)***. (The total of the daily rate for a one-month period may not exceed the established monthly rate). The maximum length of time the space will be reserved is ***Insert Length of Space Hold.***  A provision to reserve a residential space does not supersede the requirements for termination as set forth in Section \_\_\_\_\_\_\_\_\_ of this agreement. You may choose to terminate this agreement rather than reserve such space but must provide the Operator with any required notice. | 18 |  |
| **Refund/Return of Resident Monies and Property** | **Mandated Language**  10 NYCRR § 1001.8(f)(4)(xvi) | Upon termination of this agreement or at the time of Your discharge, but in no case more than three business days after Your discharge, the Operator must provide You, Your Representative and/or Legal Representative, and any other person designated by You, with a final written statement of Your payment and personal allowance accounts at ***Insert Name of Facility*** , a check for the outstanding balance of any advance payments on the basis of a per diem proration, if any, and any property or things of value held in trust or custody by the operator under Section \_\_\_\_\_\_of this agreement Operator shall also return to You any money that comes into Operator’s possession after your discharge by forwarding such funds to You. The Operator shall contact you to retrieve any property or items of value that come into the possession of the Operator after Your discharge or transfer and allow You at least three (3) days to pick up such items. | 19 |  |
| **Resident Death** | **Mandated Language** | If You die, the Operator must turn over Your property to the legally authorized representative of Your estate.  If You die without a will and the whereabouts of Your next-of-kin is unknown, the Operator shall contact the Surrogate’s Court of the County wherein ***Insert Name of Facility*** is located in order to determine what should be done with property of Your estate. | 20 |  |
| **Transfer of Funds or Property to Operator** | **Mandated Language** | If you wish to voluntarily transfer money, property or things of value to the Operator upon admission or at any time following admission and during Your residency, and the Operator has agreed to accept such transfer, the Operator must enumerate the items given or promised to be given and attached to this agreement a listing of the items given or transferred. Such listing is attached as Exhibit \_\_\_\_ and is made a part of this Agreement. Such listing shall include any agreements made by third parties for Your benefit. | 20 |  |
| **Temporary Hold of Property or items of value held in the Operator’s custody for You** | **Mandated Language** | If, upon admission or any other time, you wish to place property or things of value in the Operator’s custody and the Operator agrees to accept the responsibility of such items, the Operator must enumerate the items so placed and attach to this agreement a listing of such items. Such listing is attached as Exhibit \_\_ of this Agreement | 21 |  |
| **Fiduciary Responsibility for Resident Funds** | **Mandated Language**  10 NYCRR § 1001.9 | If the Operator assumes management responsibility over Your funds, the Operator shall maintain such funds in a fiduciary capacity to You. Any interest on money received and held for You by the Operator shall be Your property. | 21 |  |
| **Tipping** | **Mandated Language**  18 NYCRR § 488.5(c)(7)(ix) | The Operator must not accept, nor allow Residence staff or agents to accept, any tip or gratuity in any form for any services provided or arranged for as required by statues, regulation or agreement. | 21 |  |
| **Personal Allowance Accounts** | **Mandated Language**  18 NYCRR §§§§ 485.12, 488.5(c)(7)(xi), 488.6, and 488.10(f)(2). | Some recipients of Supplemental Security Income (SSI) may be entitled to a monthly personal allowance in accordance with Social Services Law. The Operator agrees to offer to establish a personal allowance account for any Resident who receives either Supplemental Security Income (SSI) or Safety Net Assistance (SNA) payments by executing a Statement of Offering (DOH-5195) with You or Your Representative. You agree to inform the Operator if you receive or have applied for Supplemental Security Income (SSI) or Safety Net Assistance (SNA) funds. SSI is a federal program for those who meet the definition of disabled and have limited income and resources. Information regarding SSI is available at https://otda.ny.gov/programs/disability-determinations/.  SNA provides cash assistance to eligible individuals who meet specific criteria. SNA information is available online at https://otda.ny.gov/programs/temporaryassistance/.  You must complete the following:  ☐ I receive SSI funds OR ☐ I have applied for SSI funds  ☐ I receive SNA funds OR ☐ I have applied for SNA funds  ☐ I do not receive either SSI or SNA funds  If You have a signatory to this agreement besides Yourself and if that signatory does not choose to place Your personal allowance funds in a Residence-maintained account, then that signatory hereby agrees that they will comply with the Supplemental Security Income (SSI) or Safety Net Assistance (SNA) personal allowance requirements. | 22 |  |
| **Admission and Retention Criteria for an Assisted Living Residence** | **Mandated Language**  10 NYCRR § 1001.8(f)(4)(xii)  **Delete EALR and SNALR information in 4, 6, 7 and 8 if you are not certified as EALR, delete paragraph 5 if you are not SNALR**  **Customize EALR retention standard to include only those services you offer. Note, this must be consistent with your EALR addendum.** | 1.The Operator shall not admit any Resident if the Operator is not able to meet the care needs of the Resident, within the scope of services authorized under such 24 law, and within the scope of services determined necessary within the Resident’s Individualized Services Plan. The Operator shall not admit any Resident in need of 24-hour skilled nursing care. An operator shall not exclude an individual on the sole basis that such individual is a person who primarily uses a wheelchair for mobility and shall make reasonable accommodations to the extent necessary to admit such individuals, consistent with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. and with the provisions of those sections.  2. The Operator shall conduct an initial pre-admission evaluation of a prospective Resident to determine whether or not the individual is appropriate for admission.  3. The Operator has conducted such evaluation of Yourself and has determined that You are appropriate for admission to this Residence, and that the Operator is able to meet Your care needs within the scope of services authorized under the law and within the scope of services determined necessary for You under Your Individualized Services Plan.  4. If You are being admitted to a duly certified Enhanced Assisted Living Residence, the additional terms of the “Enhanced Assisted Living Residence Addendum” will apply.  5. If You are being admitted to a Special Needs Assisted Living Residence, the “Special Needs Assisted Living Residence Addendum” will apply.  6. If You are residing in a “Basic” Assisted Living Residence and Your care needs subsequently change in the future to the point that You require either Enhanced Assisted Living Care or 24-hour skilled nursing care, You will no longer be appropriate for residency in this Basic Residence. If this occurs, the Operator will take the appropriate action to terminate this Agreement, pursuant to Section \_\_\_\_\_ of the Agreement. However, if the Operator also has an approved Enhanced Assisted Living Certificate, has a unit available, and is able and willing to meet Your needs in such unit, You may be eligible for residency in such Enhanced Assisted Living unit.  7. Enhanced Assisted Living Care is provided to persons who desire to continue to age in place in an Assisted Living Residence and who: (a) chronically require the physical assistance of another person in order to walk; or (b) chronically require the physical assistance of another person to climb or descend stairs; or (c) are dependent on medical equipment and require more than intermittent or occasional assistance from medical personnel; (d) have chronic unmanaged urinary or bowel incontinence; or (e) who require EALR services offered by the community, which are listed in the EALR addendum.  8. Enhanced Assisted Living Care may also be provided to certain persons who desire to continue to age in place in an Assisted Living Residence and who are evaluated as requiring 24-hour skilled nursing care or medical care and who meet the conditions stated in the Enhanced Assisted Living Residence Addendum. | 23 |  |
| **Rules of the Residence (required if you have rules)** | Required provision | State your rules clearly in the body or state “The Rules of the Residence are set forth in the Resident Handbook that has been provided to You”.  Suggested provision: By signing this Agreement, You acknowledge that you have received a copy of the Community’s Resident Handbook. | 26 |  |
| **Responsibilities of Resident, Resident’s Representative and Resident’s Legal Representative** | Required Provision | Suggested language as follows, you may include other reasonable provisions:  You, or Your Representative or Legal Representative, to the extent specified in this Agreement, are responsible for the following:  1. Payment of the Basic Rate and any authorized Additional and agreed-to Supplemental or Community Fees as detailed in this Agreement.  2. Supply of personal clothing and effects.  3. Payment of all medical expenses including transportation for medical purposes, except when payment is available under Medicare, Medicaid or other third-party coverage.  4. At the time of admission and at least once every twelve (12) months, or more frequently if a change in condition warrants, providing the Operator with a dated and signed medical evaluation that conforms to regulations of the New York State Department of Health.  5. Informing the Operator promptly of any change in health status, change in physician, or change in medications.  6. Informing the Operator promptly of any change of name, address and/or phone number.   1. The Resident’s Representative shall be responsible for the following:   ***Insert for what the Resident’s Representative is responsible.***   1. The Resident’s Legal Representative, if any, shall be responsible for the following:   ***Insert for what the Resident’s Legal Representative is responsible*** | 26 |  |
| **Termination and Discharge** | **Mandated Language**  10 NYCRR § 1001.8(f)(4)(xii) | This Residency Agreement and residency in ***Insert Name of Facility*** may be terminated in any of the following ways:  1. By mutual, written agreement between You and the Operator;  2. Upon **Insert Number in Words (#)** days’ written notice from You or Your Representative to the Operator of Your intention to terminate the Agreement and leave the facility;  3. Upon 30 days’ written notice from the Operator to You, Your Representative, Your next of kin, the person designated in this agreement as the responsible party and/or any person designated by You.  Involuntary termination of a Residency Agreement is permitted only for the following reasons, and if You object to the termination, termination is permissible only if the Operator initiates a proceeding in a court of competent jurisdiction and that court rules in favor of the Operator:  1. You require continual medical or nursing care which ***Insert Name of Facility*** is not permitted by law or regulation to provide.  2. If Your behavior poses imminent risk of death or imminent risk of serious physical harm to You or anyone else.  3. You fail to make timely payment for all authorized charges, expenses and other assessments, if any, for services including use and occupancy of the premises, materials, equipment and food which You have agreed to pay under this Agreement. If Your failure to make timely payment resulted from an interruption in Your receipt of any public benefit to which You are entitled, no involuntary termination of this Agreement can take place unless the Operator, during the thirty (30) day period of notice of termination, assists You in obtaining such public benefits or other available supplemental public benefits. You agree that You will cooperate with such efforts by the Operator to obtain such benefits.  4. You repeatedly behave in a manner that directly impairs the well-being, care or safety of Yourself or any other Resident, or which substantially interferes with the orderly operation of ***Insert Name of Facility***.  5. The Operator has had their operating certificate limited, revoked, temporarily suspended or the Operator has voluntarily surrendered the operation of the facility.  6. A receiver has been appointed pursuant to Section 461-f of the New York State Social Services Law and is providing for the orderly transfer of all residents in ***Insert Name of Facility*** to other residences or is making other provisions for the Residents’ continued safety and care.  If the Operator decides to terminate the Residency Agreement for any of the reasons stated above, the Operator will give You a notice of termination and discharge, the notice will include the date of the termination which must be at least thirty (30) days after delivery of notice, the reason for termination, a statement of Your right to object, and a list of free legal advocacy resources approved by the New York State Department of Health.  You may object to the Operator about the proposed termination and may be represented by an attorney or advocate. If You challenge the termination, the Operator, in order to terminate, must institute a special proceeding in court. You will not be discharged against Your will unless the court rules in favor of the Operator. While legal action is in progress, the Operator must not seek to amend the Residency Agreement in effect as of the date of the notice of termination, fail to provide any of the care and services required by Department regulations and the Residency Agreement, or engage in any action to intimidate or harass You.  Both You and the Operator are free to seek any other judicial relief to which You/the Operator may be entitled.  The Operator must assist You if the Operator proposes to transfer or discharge You to the extent necessary to assure Your placement in a care setting which is adequate, appropriate, and consistent with Your wishes. | 27 |  |
| **Transfer** | **Mandated Language**  10 NYCRR § 1001.8(f)(4)(xii) | Notwithstanding the above, an Operator may seek appropriate evaluation and assistance and may arrange for Your transfer to an appropriate and safe location, prior to termination of a Residency Agreement and without thirty (30)-days’ written notice or court review, for the following reasons:   1. When You develop a communicable disease, medical or mental condition, or sustain an injury such that continual skilled medical or nursing services are required; 2. In the event that Your behavior poses an imminent risk of death or serious physical injury to Yourself or others; or 3. When a Receiver has been appointed under the provisions of New York State Social Services Law and is providing for the orderly transfer of all Residents in ***Insert Name of Facility*** to other residences or is making other provisions for the Residents’ continued safety and care.   If You are transferred, in order to terminate Your Residency Agreement, the Operator must proceed with the termination requirements as set forth in Section \_\_\_\_\_\_\_ of this Agreement, except that the written notice of termination must be delivered to You at the location to which You have been transferred. For residents admitted to the Special Needs Assisted Living Residence or who have a guardian appointed, services will be made to the resident’s representative or next of kin by certified mail, with a copy to the resident by certified mail.  If the basis for the transfer permitted under parts 1 and 2 above of this Section no longer exists, You are deemed appropriate for placement in this Residence and if the Residency Agreement is still in effect, You must be readmitted. | 31 |  |
| **Resident Rights and Responsibility** | **Mandated Language** | Attached as Exhibit \_\_\_\_\_ and made a part of this Agreement is a Statement of Resident Rights and Responsibilities. This Statement will be posted in a readily visible common area in ***Insert Name of Facility***. The Operator agrees to treat You in accordance with such Statement of Resident Rights and Responsibilities. | 32 |  |
| **Complaint Resolution** | **Mandated Language**  10 NYCRR § 1001.8(f)(4)(x). | The Operator’s procedures for receiving and responding to resident grievances and recommendations for change or improvement in ***Insert Name of Facility’s*** operations and programs are attached as Exhibit \_\_\_\_\_\_\_ and made a part of this Agreement. In addition, such procedures will be posted in a readily visible common area of ***Insert Name of Facility***.  The Operator agrees that the Residents of ***Insert Name of Facility*** may organize and maintain councils or such other self-governing body as the Residents may choose. The Operator agrees to address any complaints, problems, issues or suggestions reported by such Residents’ Organization and to provide a written report to the Residents’ Organization that addresses the same.  Complaint handling is a direct service of the Long-Term Care Ombudsman Program. The Long-Term Care Ombudsman is available to identify, investigate and resolve Your complaints in order to assist in the protection and exercise of Your rights | 32 |  |
| **Miscellaneous Provisions** | **Mandated Language** | 1. This Agreement constitutes the entire Agreement of the parties. 2. This Agreement may be amended upon the written agreement of the parties; provided however, that any amendment or provision of this Agreement not consistent with the applicable federal and state statutes and regulations that govern the license of the Operator shall be null and void, and the terms of applicable statutes and/or regulation will control. 3. Waiver by the parties of any provision in this Agreement that is required by statute or regulation shall be null and void. | 33 |  |
| **Agreement Authorization** | Required Provisions | Have appropriate parties sign and date | 34 |  |
| **Personal Guarantee of Payment** (if you include a guarantee provision, this language must be used) | **Mandated Language**  10 NYCRR § 1001.8(f)(4)(xvii) | (Optional) Personal Guarantee of Payment Per regulation at Title 10 of New York Codes, Rules, and Regulations at section 1001.8(f)(4)(xvii), the Operator cannot mandate that a resident or other person agree to a guarantor of payment as a condition of admission unless the Operator has reasonably determined on a case-by-case basis, that the prospective resident would lack either the current capacity to manage financial affairs and/or the financial means to assure payments due under this Residency Agreement. **Insert Name**, personally, guarantees payment of charges for Your Basic Rate. **Insert Name** personally, guarantees payment of charges for the following services, materials, or equipment, provide to You, that are not covered by the Basic Rate: **Insert the services, materials, or equipment** not covered in the Basic Rate for which the Guarantor is responsible.  Date Guarantor’s Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Guarantor’s Name (Print) | 35 |  |
| **Guarantor of Payment of Public Funds** (if you include a guarantee provision, this language must be used) | **Mandated Language** | (Optional) Guarantor of Payment of Public Funds If You have a signatory to this Agreement besides Yourself and that signatory controls all or a portion of Your public funds (SSI, Safety Net, Social Security, Other), and if that signatory does not choose to have such public funds delivered directly to the Operator, then the signatory hereby agrees that he/she will personally guarantee continuity of payment of the Basic Rate and any agreed upon charges above and beyond the Basic Rate from either Your Personal Funds (other than Your Personal Needs Allowance), or SSI, Safety Net, Social Security or other public benefits, to meet Your obligations under this Agreement.  Date Guarantor’s Signature  Guarantor’s Name (Print) | 36 |  |
| **Exhibits** | Required Provision | Include all Exhibits referred to in the body of your agreement, including the Consumer Information Guide |  |  |
| **Detail Additional Provisions Below if applicable** | | | | |
| *Example*  **Second Occupant Rules** | Additional Provision | ***Include a general description of the provision***  Details adjustment made when rate is based on a second occupant that moves out. The Second Occupant must (1) meet all requirements for admission, (2) sign a separate residency agreement, and (3) pay the Second Occupant Fee and any applicable charges set forth in their residency agreement. | 5 | III. D.4 |
|  | Additional Provision |  |  |  |
|  | Additional Provision |  |  |  |
|  | Additional Provision |  |  |  |

Developed: 10/2022