

# Terms & Conditions

applicable only to residents staying in a brighterkind Care Home in Jersey, Channel Islands



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At brighterkind, we recognise that providing high quality care for each resident is achieved by creating the components of a lifestyle that they feel is right for them. Through personal and nursing care, recreation and activities, and quality food and dining, we put our residents' happiness and health at the heart of our philosophy.

These Conditions, together with the Admission Agreement, Home Rules and the policies provided in your 'Welcome Folder', form **this Agreement** governing our relationship with you for the duration of your stay at our Home.

**These Conditions are legally binding on you, your third party contributor and any guarantor who signs them. Therefore, you should read this Agreement carefully, and we recommend that you seek independent legal and financial advice before entering into this Agreement.**

### 1. DEFINITIONS AND INTERPRETATION

The following definitions and rules of interpretation apply in these Conditions.

#### 1.1 Definitions

**Admission Agreement:** the Specification and Terms of Payment for the Services set out above.

**Agreement:** this Agreement between you and us for the supply of care Services in accordance with these Conditions, the Admission Agreement and the Home Rules, together with any additional policies provided to you.

**Assessment:** the assessment of your health and well-being needs carried out by a qualified person.

**Care Manager:** the individual appointed as set out in your Personalised Care Plan.

**Commencement Date:** has the meaning given in clause 2.2

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 18.5.

**Confidential Information:** all confidential information (however recorded or preserved) that is disclosed or made available (in any form or by any method) by you to us in connection with the Services, whether before, on, or after the date of this Agreement. This includes:

- a. the fact that discussions are taking place concerning the Services and the content and status of such discussions;
- b. the terms of this Agreement;
- c. all confidential or proprietary information relating to the Services; and
- d. any other information that is identified as being of a confidential or proprietary nature.

**Controller, processor, data subject, personal data, personal data breach, processing, and appropriate safeguards:** as defined in the Data Protection Legislation.

**Data Protection Legislation:** the Data Protection (Jersey) Law 2018 and any other legislation relating to personal data, and all other legislation and regulatory requirements in force from time to time which apply relating to the use of personal data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

**Deliverables:** the deliverables set out in the Terms of Payment produced by us for you.

**Guarantor:** the person guaranteeing your obligations under this Agreement.

**Home:** the residence named in the Admission Agreement.

**Home Manager:** the manager of the Home.

**Home Rules:** the rules applicable to a Resident living in the Home that form part of this Agreement at Schedule 1.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up goodwill and the right to sue for passing off rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights

to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Nominated Representative:** the person nominated and or duly appointed to act for you or on your behalf whether by power of attorney or otherwise.

**Our Equipment:** materials, equipment, documents, and other property provided by us.

**Permanent Stay:** a stay in the Home for a period of more than 28 days.

**Regulator:** the Jersey Care Commission.

**Relevant Legislation:** means the Nursing and Residential Homes (Jersey) Law 1994, the Residential Homes (General Provisions) (Jersey) Order 1995, the Nursing Homes and Mental Nursing Homes (General Provisions) (Jersey) Order 1995, Capacity and Self Determination (Jersey) Law 2016 and the Regulation of Care (Jersey) Law 2014 and any other applicable legislation in force in Jersey relating to the provision of the Services.

**Resident Default:** has the meaning set out in clause 5.2.

**Residential Fees:** the fees to be paid by you to us for the supply of the Service in accordance with clauses 6, 7, and 8 (Our fees) and the Terms of Payment.

**Respite Stay:** a stay in the Home for a period of 28 days or less.

**Services:** the Services, including the Deliverables, supplied by us to you as indicated in the Specification.

**Specification:** the description of the Services provided by us to you, as set out in the signed Admission Agreement.

**Terms of Payment:** the Terms of Payment for our performance of the Services and your written acceptance of a quotation by us as set out in the signed Admission Agreement.

**Third Party Contributor:** a third party, not being the Resident, the Nominated Representative, or Guarantor, making a contribution to the fees due under this Agreement as set out in the Terms of Payment.

**Trial Period:** the first four weeks of your stay in the Home beginning on the Commencement Date.

**“You”, or “the Resident”:** the person to whom the Service is being provided by us.

1.2. Interpretation:

- a. A reference to a law is a reference to it as amended or re-enacted.
- b. Any words following the terms **including, include, in particular, for example**, or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- c. Any reference to **writing** or **written** includes email.

## 2. BASIS OF AGREEMENT

2.1. The Terms of Payment constitutes an offer by you to purchase Services from us in accordance with these Conditions.

2.2. The Terms of Payment shall only be deemed to be accepted when we sign the Admission Agreement containing the Terms of Payment at which point and on which date this Agreement shall come into existence (the **Commencement Date**).

2.3. Any samples, drawings, descriptive matter or advertising issued by us, and any descriptions or illustrations contained in our catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of this Agreement or have any contractual force.

2.4. These Conditions apply to this Agreement to the exclusion of any other terms that you wish to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## 3. ASSESSMENT OF YOUR NEEDS

3.1. Before your admission to our Home, we will ensure a full assessment of your needs has been carried out by a qualified professional, and the outcome of that assessment reported to you. Admission to the Home will only be permitted if we have confirmed to you that your identified needs can be met.

## 4. OUR STANDARD OF CARE

4.1. We aim to provide quality accommodation and care that meets fundamental standards required by our regulators. In Jersey, the Jersey Care Commission are responsible for ensuring that these standards are met, and they monitor, inspect and regulate these services.

- 4.2. If you have a compliment, complaint, or concern about the Services provided, please let us know through our complaints policy, a copy of which is available in your Welcome Folder.
  - 4.3. We shall supply the Services to you following satisfactory completion of the Assessment, and the execution of this Agreement by both you and us.
  - 4.4. We shall supply the Services to you in accordance with the Specification in all material respects.
  - 4.5. We shall use all reasonable endeavours to meet any performance dates supplied in the Specification.
  - 4.6. We reserve the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement on the standards and frameworks applicable in Jersey, including the Relevant Legislation and the standards set by the Regulator. We will notify you if amendment of the Specification is required.
- e. comply with all applicable laws, including the Relevant Legislation and health and safety laws;
  - f. keep and maintain Our Equipment in good condition until returned to us, and not dispose of or use Our Equipment other than in accordance with our written instructions or authorisation;
  - g. comply with any additional obligations as set out in the Specification.
- 5.2. If our performance of any of our obligations under this Agreement is prevented or delayed by any act or omission by you, or failure by you to perform any relevant obligation (**Resident Default**):
    - a. without limiting or affecting any other right or remedy available to us, we reserve the right to suspend performance of the Services until you remedy the Resident Default, and to rely on the Resident Default to relieve us from the performance of any of our obligations;
    - b. we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as a result of Resident Default;
    - c. you shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from Resident Default.

## 5. YOUR OBLIGATIONS

- 5.1. You shall:
  - a. ensure that the terms of the Terms of Payment and any information in the Specification are complete and accurate;
  - b. ensure that you have undertaken the Assessment;
  - c. co-operate with us in all matters relating to the Services,
  - d. provide us with such information and materials as we may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 5.3. You must ensure that you are registered with a General Practitioner, and that, as a Resident of the Home, you are entitled to receive the services provided by the Government of Jersey for the duration of your residence.

- 5.4. We will have no liability for the advice given or actions taken by any external medical practitioner or health professional.
- 5.5. You may be obliged to provide the relevant member of our team with your medication to be administered to you by them unless you are able to demonstrate that you can administer your medication yourself.
- 5.6. You must notify us of your next of kin and update these details if necessary.
- 5.7. You must notify us of the existence of any advance directives, living wills, or Health and Welfare Lasting Powers of Attorney.
- 5.8. In the event of any serious illness or emergency during your stay at the Home, we will use all practicable reasonable efforts to discuss arrangements with your next of kin. By entering into this Agreement, you agree that we are authorised to make such arrangements for your hospitalisation and/or medical care as we consider to be in your best interests (subject to our knowledge of any existing advance directives, living wills, or Health and Welfare Lasting Powers of Attorney) in the case of an emergency or in the case of deterioration of your medical condition.
- 5.9. You are responsible for insuring to the full replacement value all personal belongings brought into the Home, and ensuring that all belongings are appropriately named.
- 6.2. The Residential Fees for the Services will be calculated in accordance with our fee rate, as set out in the Terms of Payment. We shall be entitled to charge you for any extra expenses reasonably incurred as requested by you in the Terms of Payment.
- 6.3. By you or your Nominated Representative signing the Admission Agreement, you agree to pay the Residential Fees and all other fees due under this Agreement. By your Third Party Contributor signing the Admission Agreement, they agree to pay the "Third Party Top-Up" to the Residential Fees and all other fees due under this Agreement.
- 6.4. We shall invoice you on the Commencement Date and at such other times as we so choose.
- 6.5. You or your Third Party Contributor shall pay each invoice to us in full, or according to the agreed contribution indicated in the Terms of Payment, in advance and by standing order.
- 6.6. In addition to Residential Fees, you must also pay for any extras you request, such as those listed in the Admission Agreement. All 'Extra' charges incurred will be invoiced in arrears by separate invoice, and must be paid on receipt.
- 6.7. Any deposit payable in accordance with the Terms of Payment will be held by us. If this Agreement is terminated, the deposit will first be payable towards any outstanding sums due to us, and the remainder paid back to you.

## **6. OUR FEES**

- 6.1. The Admission Agreement states the Residential Fees for your stay at the Home.
- 6.8. We reserve the right to increase the Residential Fees on an annual basis, this being the 1st January each year, and at any other interval, if:



- a. the cost of providing the Service increases; and/or
  - b. a change is necessary in order to comply with any applicable safety, regulatory, or statutory requirements; and/or
  - c. your needs have changed from those in the Assessment and/or you may wish to pay for an enhanced room.
- 6.9. Any fee increase or reduction under this clause 6 will be notified to you in writing at least 28 days in advance, and will take effect under this Agreement from the date stated in the notice.
- 6.10. If you do not agree to our increased Residential Fees you may terminate this Agreement in accordance with clause 14.3.
- 6.11. In the event that you or your Nominated Representative becomes aware that your available assets total less than one year's worth of weekly fees, you must notify the Home Manager to discuss your options regarding future payment. We recommend that you seek independent legal or financial advice on such matters.
- 6.12. We will not be responsible for your personal finances or funding matters.
- 6.13. In some cases, payment of fees may be delayed while the Judicial Greffe processes a delegation application, or while the power of a Lasting Power of Attorney is enforced. We understand that your fees may not be paid while this process is being completed, and it is important that you or your Nominated Representative makes arrangements to pay all outstanding fees in full once the application is finalised. We may ask your appointed lawyers, if applicable, to confirm in writing that this process is taking place. We have the right to charge interest under clause 6.14 while this process is taking place.
- 6.14. If you fail to make a payment due to us under this Agreement by the due date, then you shall pay interest on the overdue sum from the due date until payment of the sum. Interest under clause 6.13 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 6.15. All amounts payable to us under this Agreement are exclusive of goods and services tax chargeable (**GST**) from time to time. Where any taxable supply for GST purposes is made under this Agreement, you shall, on receipt of a valid GST invoice, pay to us such additional amounts of GST at the same time as payment for the Services is due.
- 6.16. We are entitled to recover all legal, professional and other fees and expenses incurred pursuing any unpaid invoices.

## **7. OUR FEES: RESPITE STAY RESIDENTS**

- 7.1. The period of Respite Stay will be agreed prior to your admission.
- 7.2. All Residential Fees for Respite Stays must be paid in full by bank card or bank transfer in advance of, or on, admission.
- 7.3. All Residential Fees payable for your Respite Stay are calculated at a daily rate as set out in the Admission Agreement, and will include the days of admission and discharge. Where your Respite Stay is being paid for by Public Funding (defined in clause 9.2 below), this may differ.

- 7.4. Fees for Respite Stays are non-refundable, save for termination of this Agreement in accordance with clause 14.3, where you will be entitled to a refund, after deducting any fees payable to us.
- 7.5. All amounts lawfully due to us must be paid on or before the date on which you vacate the Home.

## 8. OUR FEES: PERMANENT STAY RESIDENTS

- 8.1. The initial rate of Residential Fees payable for a Permanent Stay is set out in the Admission Agreement and is subject to change in accordance with these Conditions.
- 8.2. All Residential Fees for Permanent Stays are invoiced in advance and are payable by standing order.
- 8.3. All Residential Fees for Permanent Stays are charged at a weekly rate and payable one month in advance. You are charged for each day of residence, including the days of arrival and departure.
- 8.4. If the length of the stay is shorter than that stated in the order, fees for Permanent Stays are non-refundable. This is save for in the event of termination of this Agreement under clause 14.3 where you will be entitled to a refund, after deducting any fees payable to us.
- 8.5. If your residence at the Home is not being funded by Public Funding (defined below), the following payments must be paid to us before you are admitted for a Permanent Stay (**Admission Upfront Fee**):

- a. the initial advance pro rata payment of Residential Fees stated in your Admission Agreement; and
- b. an amount equal to one weeks' Residential Fees to be held as a deposit, which we shall be entitled to use, at our discretion, towards satisfying any sums owed to us from time to time.

- 8.6. At the end of your residence at the Home, any amount of the deposit referred to in clause 8.5(b)(i) not used by us will be used first towards payment of any sums then due to us, and any remainder will then be repaid to you or your estate. No interest will be paid on such deposit.

## 9. PUBLIC FUNDING CONTRIBUTION OBLIGATIONS

- 9.1. We strongly advise that you and any Third Party Contributors take independent advice in respect of any funding arrangements or agreements.
- 9.2. At the beginning of, or at any time during, your residence in the Home, the Long-Term Care Scheme may be funding or proposing to fund your residence (**Public Funding**).
- 9.3. The Long Term Care Scheme may undertake a financial assessment and decide that you are required to contribute to any fees payable by the Government of Jersey (**Co-Payments**). This is assessed on the amount of weekly income received.



- 9.4. In most cases, the Long-Term Care Scheme will require us to collect the Co-Payment on their behalf, and we will invoice the Co-Payment calendar monthly in arrears payable by standing order.
- 9.5. By signing this Agreement, you consent to us discussing these financial payments with the Government of Jersey or its representatives.
- 9.6. Please note that a Third Party Top-Up Contribution may be required (see clause 10 below), but this is an additional fee and is to be agreed with the Home Manager prior to admission in liaison with the appropriate authority.
- 9.7. We reserve the right to refuse any retrospective or future public funding arrangements, if we deem it, in our absolute discretion, to be unreasonable.

## 10. THIRD PARTY TOP-UP CONTRIBUTIONS

- 10.1. If the Long-Term Care Scheme has agreed to fund your residence in the Home, but they are proposing to pay less than the price of your room, you must ensure a Third Party Contributor enters into an agreement with us to pay the difference (a **Third Party Top-Up Contribution**).
- 10.2. Where applicable, the Admission Agreement sets out the weekly amount of the Third Party Top-Up Contribution. These fees are payable monthly in advance.
- 10.3. If you require any assistance with your Third Party Top-Up arrangements, we strongly advise that you discuss these with your Home Manager.

## 11. DATA PROTECTION RIGHTS

- 11.1. All parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove, or replace, our obligations or your rights under the Data Protection Legislation. In this clause 11, Applicable Laws means the Data Protection Legislation from time to time in force in Jersey, and any other law that applies in Jersey.
- 11.2. Both parties acknowledge that for the purposes of the Data Protection Legislation, we are the controller and you are the data subject.
- 11.3. Without prejudice to the generality of clause 11.1, we will ensure that we have all necessary appropriate consents and notices in place to enable lawful transfer of the personal data for the duration and purposes of this Agreement, including your confirmation that you consent to the recording or photographing of you by us in the course of supplying the Services for the purpose of promotional and training material to be made available both in print and online.
- 11.4. Without prejudice to the generality of clause 11.1, we shall, in relation to any personal data processed in connection with the performance of our obligations under this Agreement:
  - a. ensure that we have in place reasonable, appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the

- nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
- b. ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential except where consent has been otherwise agreed with you;
  - c. Not transfer any personal data outside of Jersey, the United Kingdom, or the European Economic Area unless your prior written consent has been obtained and the following conditions are fulfilled:
    - i. we have provided appropriate safeguards in relation to the transfer;
    - ii. the data subject has enforceable rights and effective legal remedies;
    - iii. we have complied with our obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
    - iv. we comply with reasonable instructions notified to us in advance by you with respect to the processing of the personal data.
  - d. Notify you without undue delay on becoming aware of a personal data breach; and
  - e. At your written direction, delete or return to you personal data and copies thereof on termination of this Agreement unless required by the Applicable Law to store the personal data.

11.5. You consent to us appointing third party processors of personal data under this Agreement. We confirm that we have entered into (or as the case may be, will enter into) with the third party processor a written agreement incorporating terms which are substantially similar to those set out in clause 11 of this Agreement, and in either case which we undertake reflect and will continue to reflect the requirements of the Data Protection Legislation. As between you and us, we shall remain fully liable for all acts or omissions of any third party processor appointed by us pursuant to this clause 11.5.

11.6. Either party may, at any time on not less than 30 days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when attached to this Agreement).

## 12. GUARANTOR'S LIABILITY

12.1. Any person who signs this Agreement as Guarantor guarantees to us the due and punctual performance of all present and future obligations of the Resident under or in connection with this Agreement (**Guaranteed Obligations**).

12.2. The Guarantor agrees to indemnify and keep indemnified us in full and on demand from and against all and any losses, costs and expenses suffered or incurred by us arising out of, or in connection with, any failure of the Resident to perform or discharge the Guaranteed Obligations.

12.3. The Guarantor irrevocably and unconditionally waives any rights it may have under the laws of Jersey or elsewhere at any time (whether or not now existing) which require us to

proceed against or enforce any other rights, security, or other guarantee against, or claim payment from, the Resident or Third Party Contributor before enforcing this Agreement against the Guarantor. This Agreement takes effect without the benefit to the Guarantor of the droit de discussion.

- 12.4. Each Guarantor (where there is more than one Guarantor) agrees that their liability or obligations arising under, pursuant to, or in connection with, this Agreement shall be joint and several without the benefit of the droit de division. Each Guarantor hereby irrevocably and unconditionally waives any such rights whatsoever that they may have under the laws of Jersey or elsewhere at any time (whether or not now existing), in relation to it.

### 13. LIMITATION OF LIABILITY

#### **YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**

- 13.1. Nothing in this Agreement excludes or limits any liability on our part to the extent that it cannot be excluded or limited by law.
- 13.2. Our liability to you shall not exceed the total Residential Fees which have been paid by you to us. Our total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement.
- 13.3. We shall not be liable to persons visiting you in the Home.
- 13.4. We shall not be liable to you in respect of any personal belongings kept at the Home. All personal possessions brought into the Home are done so at your own risk.

- 13.5. Unless you notify us that you intend to make a claim in respect of an event within the notice period, we shall have no liability for that event. The notice period for an event shall start on the day on which you became, or ought to have reasonably become, aware of the event having occurred and shall expire two months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

### 14. TERMINATION

- 14.1. The same conditions apply for termination of both Permanent Stays and Respite Stays.
- 14.2. During the Trial Period, either you or we may terminate this Agreement by giving at least seven days' written notice. In the event of termination under this clause 14.2, you will be entitled to a refund in accordance with clause 7.4 and 8.4. This does not affect any other right or remedy available to you or us.
- 14.3. After the Trial Period, either you or we may terminate this Agreement by:
- a. giving at least 28 days' written notice of termination; or
  - b. giving at least 14 days' written notice of termination, if the other party has commits a material breach of any term of this Agreement, and (if such a breach is remediable), fails to remedy that breach within 30 days of notification in writing to do so.
- This does not affect any other right or remedy available to you or us.
- 14.4. After the Trial Period, we may terminate this Agreement with immediate effect by:
- a. giving to you at least 28 days' written notice of termination; or

- b. giving to you at least seven days' written notice of termination if any amount lawfully due to us is not paid within 30 days of the payment due date; or
- c. giving to you at least 14 days' written notice of termination if, in our sole discretion, we believe we are unable to provide the degree of care required in accordance with your assessed needs; or
- d. giving to you at least 2 days' written notice of termination if, in our opinion, your behaviour or the behaviour of your visitors is or could be detrimental to the welfare or peaceful enjoyments of our other residents or to the welfare of our staff.

14.5. On termination of this Agreement, you must leave the Home immediately. All sums due to us which have not been paid must be paid on, or before, that date.

14.6. It is your responsibility, or that of your Nominated Representative, to ensure that all your personal possessions are collected from the Home within seven days of your departure from the Home. We reserve the right to charge for any storage costs, or dispose of the possessions, after the seven days.

14.7. In the event of your death, this Agreement will terminate immediately. We shall be entitled to charge Residential Fees for seven days following the date of your death. Any pre-paid fees will be refunded to your estate, or your Third Party Contributor (where applicable).

## **15. EFFECT OF TERMINATION**

15.1. Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties to this Agreement that have accrued up to the date of

termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

15.2. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

## **16. TEMPORARY ABSENCES**

16.1. Where you are temporarily absent from the Home, Residential Fees are still payable in full for the first six weeks, after which a 10% discount may apply if agreed with us.

## **17. NO TENANCY AND CHANGE OF ROOM**

17.1. The room you occupy shall be allocated on admission to the Home. The room will be occupied solely for the purpose of the Services and you will not be entitled to exclusive possession of the room or any part of it. Your residence in the Home does not constitute any tenancy or any other property right in relation to your room.

17.2. We reserve the right to relocate you to another room where this assists in the Services or is necessary, in our reasonable opinion, for other operational reasons. We will discuss any relocations with you prior to the relocation and you will, except in cases of emergency, be given at least seven days' notice in writing of any proposed change and the reason for that change. If you are dissatisfied with the new room allocated, you have the right within 28 days after the relocation to terminate this Agreement in accordance with clause 14.3.

## 18. GENERAL

- 18.1. **Force majeure.** We shall not have any liability where any delay in performing, or failure to perform, any of our obligations under this Agreement is beyond our reasonable control. Any obligations that are not affected by any factor beyond our reasonable control will continue to bind us and you.
- 18.2. **Assignment.** We may transfer, assign, charge, sub-contract, delegate or deal in any other manner with all or any of our rights under this Agreement. You, your Third Party Contributor, or Guarantor shall not transfer, assign, sub-contract, delegate or deal in any other manner with any of your rights and obligations under this Agreement without our prior written consent.
- 18.3. **Confidentiality.**
- a. Each party undertakes that it shall not at any time during this Agreement, and for a period of two years after termination of this Agreement, disclose to any person any Confidential Information concerning the business, affairs, or personal information of the other party, except where permitted in clause 18.3(b).
  - b. We may need to disclose your Confidential Information in the following circumstances:
    - i. to our employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the respective obligations under this Agreement. We shall ensure that our employees, officers, representatives, subcontractors or advisers to whom your Confidential Information is disclosed comply with this clause 18.3;
    - ii. as may be required by law, a court of competent jurisdiction, or any governmental or regulatory authority.
  - c. Neither party shall use the other party's Confidential Information for any purpose other than to perform their obligations under this Agreement.
- 18.4. **Entire agreement.**
- a. This Agreement constitutes the entire agreement between us, and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter.
  - b. you and we acknowledge that by entering into this Agreement, neither you nor we shall rely on, and shall have no remedies in respect of, any statement (whether made innocently or negligently) that is not set out in this Agreement. Both parties agree that there can be no claim based on innocent or negligent misrepresentation based on any statement in this Agreement.
- 18.5. **Variation.** Except as set out in these Conditions, no variation of this Agreement shall be effective unless it is in writing and signed by you and us (or any Nominated Representative).
- 18.6. **Waiver.** A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by either you or us to exercise any right or remedy provided under this Agreement

shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict any further exercise of that right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy

18.7. **Severance.** If any provision or part-provision of this Agreement becomes invalid, illegal, or unenforceable, that shall not affect the validity of the remainder of this Agreement.

18.8. Notices.

a. Any notice or communication required to be given to us under this Agreement shall be in writing and delivered personally, or sent by signed for post, recorded delivery, courier, or email.

b. Any notice or communication shall be deemed to have been received:

i. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

ii. if sent by post, at the time recorded by the delivery service; and

iii. if sent by email, at the time of transmission, or, if this time falls outside business hours, when business hours resume. In this clause 18.9(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday.

18.9. Governing law and jurisdiction. This Agreement shall be construed in accordance with the laws of Jersey, and shall be subject to the exclusive jurisdiction of the Courts of Jersey.



# Schedule 1

## Home Rules

### 1. GIFTS

Neither the Home nor any of our team are permitted to accept gifts from any of our residents. However, where gifts are given to the Home generally or to team on a group basis, these should be handed to the Home Manager and will be logged.

### 2. THE SIGNING OF LEGAL DOCUMENTS

We do not authorise any of our team to sign as a witness to any legal documentation relating to you or any other resident.

### 3. CODE OF CONDUCT

The Home is your home for the duration of your stay. It is also home to other residents and is a place of work for our team. Deliberately disruptive behaviour by you, or any of your visitors, cannot be tolerated, for the protection of all the team and residents. All workplace violence (which includes, but is not limited to; assault, aggression, intimidation and harassment of any kind, whether physical or verbal) is unacceptable.

Restrictions and prohibitions on smoking, vaping and e-cigarettes are set out in a policy in your Welcome Folder. Any smoking by you or your visitors in areas not permitted by our policies will be a material breach of this Agreement.

We will take appropriate action against you, or any of your visitors to our premises, in order to protect our team and other residents, where the actions of you or your visitors breach any of the policies referred to in these Home Rules or any other policies contained in your Welcome Folder.

If you wish to make a complaint or raise a concern about the Services, please do so according to the complaints policy.

### 4. VISITING TIMES

Visits by relatives and friends are encouraged. Visiting times are unrestricted. However, all visitors must conduct themselves in such a manner so as not to disturb the peaceful enjoyment of the Home by other residents and team.

### 5. PETS

Pets may only be brought into the Home with prior agreement of the Home Manager, after a risk assessment is performed. In this event, all costs of caring for and feeding your pet must be borne by you.

## 6. PERSONAL POSSESSIONS

The Home has a safe for small items. Items deposited must be signed in and receipted.

We reserve the right to refuse furniture and other items being brought into the Home if, in our opinion, they present a fire risk, health and safety risk, or may disturb the peaceful enjoyment of the Home by other residents and staff.

All electrical items identified to us by you will be given an electrical safety test by our authorised service personnel annually at our cost. If such items fail the test, they must not be used.

All items of soft furnishings brought into the Home by you or by others for you must be certified fire retardant and it is your responsibility to ensure this.

All your clothing must be clearly marked with your name with woven name tapes. It is your responsibility to ensure this or to present them to the Home's team responsible for laundry facilities as soon as practicable, so they can label the clothing to reduce the risk of loss. We agree to provide a laundering service for garments that are machine washable, but this will not include dry cleaning or hand washing of any item. We cannot accept liability for items of clothing that are lost or damaged except in the case of negligence or fraud or breach of this Agreement by us, or any of our team or agents.

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