

## The Cottage of Spring Branch Rental Agreement

1842 Hollister Road • Houston • Texas • 77019

**WELCOME:** We are pleased to welcome you and your loved one to "The Cottage of Spring Branch" [CSB]. Although we have a large and well-trained staff ready to assist you both, our desire is that your loved one live with us as "cared for but care free" as possible.

**YOU ARE MAKING AN INFORMED CHOICE** We are licensed for assisted living and a portion of the building is certified for Alzheimer's care; therefore, some of the entrance doors and gates to the building will be locked and we request your help in keeping them locked at all times.

We provide personal services and do not provide skilled nursing home services. Contained in list agreement is a list of the differences between the two. Please study this carefully because all clinical or medical decisions must be made between your physician(s) and you. Any changes to the service plan, which are invariably due to the natural process of aging, are also the responsibility of you and your physician.

While we strive to provide the utmost in quality care to each resident, you hereby acknowledge that there are certain inherent risks to a facility's resident for which we are not responsible unless at fault:

1. We do not provide one-on-one care 24-hours-per-day.
2. We do not provide skilled nursing care; you must provide that on your own.
3. Residents may accidentally trip and/or fall and/or have trouble moving from a chair or bed. Falls can occur anywhere and at any time because of weakened bones, medication(s), or misjudgment of the environment. We will work with you and your medical advisor to establish methods by which such falls may be reduced with no guarantee that they will, in fact, be reduced.
4. Residents suffering from confusion or some form or level of dementia may wander into an area where there is the possibility of danger. The family should notify us of any changes in mental acuity so that we and your physician can be alert to this possibility, remember we do not provide one-on-one 24-hour care and we permit residents considerable independence. If we cannot manage the problem, a different placement may be needed.
5. It is possible that a resident's property may be damaged or lost. We do not guarantee the safety of such personal property.
6. If SB determines that the resident is of sound mind and, thus, capable of taking his or her own medications without our assistance, then we are not responsible for the residents medication management or any aspect of it.
7. For residents at risk of skin breakdown because of a necessitated sedentary lifestyle in a wheelchair, bed or for other medical reasons, we recommend the purchase of pressure-reducing surfaces for beds or wheelchairs. And we will work with you and your physician to modify the service plan.
8. Every resident is different and may suffer at any time irreversible physical and mental impairment or degeneration. These are the natural processes of aging for which we cannot be held responsible.

**WE PROVIDE:** We provide within the base rate three meals a day plus two snacks; room cleaning & personal laundry as needed; arranging for transportation with a for-hire provider; medication supervision; required assistance with activities of daily living and organized social activities. We will also furnish your room but you are welcome to bring your own furniture and decorations [space permitting]; however, we are not responsible for any of your possessions. You are encouraged to obtain renter's insurance since our insurance does not cover your belongings.

**WE DO NOT PROVIDE:** We do not provide dry cleaning; payment of personal or medical bills; personal assistance above our license limitations; costs for tickets, meals and supplies for the social activity program and payment of spending money advances. We do not provide in the base rent the temporary skilled nursing or special care items described below.

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**PRIOR TO MOVING IN:** You will need to obtain a current [no more than 30 days old] history and physical from your Doctor. We encourage everyone to inventory and mark belongings before arrival and not bring any high value items.

**PHYSICAL ELIGIBILITY:** Your eligibility and services are limited to no more than four [4] baths per week; that you can at least pivot transfer; that you are not combative and you must be able to stay out of your bed for at least six [6] hours per day. In the event your mental health and/or physical condition changes and you become a health and/or safety problem either to yourself or to others in the opinion of the staff, this Agreement will terminate either immediately or upon three [3] days written notice to you by "The Cottage of Spring Branch".

**EMERGENCY EVACUATION:** Attached is a fire evacuation plan, which we will practice on a routine basis; you must cooperate with these drills. Also, our property evacuation plan in the event we must fully evacuate the property due to an emergency such as a hurricane, tornado, flood, etc., is available in the office for your review. Will you  or will you not  be taking the resident home with you thus not requiring us to plan for their evacuation? Please notify us immediately if you change this evacuation decision. Please understand that if you take the resident home with you during an evacuation, you must follow the following rules:

- Inform us as to where you will be during the emergency and how we can get contact you.
- That you will sign out your loved one before the departure time set by the property.
- That you may not return your loved one to the property until we have re-opened the building.
- That we will be charging you the full rent during the evacuation days even though they will be staying with you.
- If you place your loved one in a different property, you must give us a paid thirty-day notice to terminate this rental agreement.

**ADVANCE DIRECTIVES:** Resident has  or has not  authorized an advance directive and, if one has been authorized, a copy has been turned over to CSB. If you don't have an advance directive, you are strongly encouraged to consider authorizing one after you fully discuss this with your family, doctor and attorney. CSB will make a **reasonable** effort to honor any OUT-OF-HOSPITAL DNR and CSB will make a **reasonable** effort to inform emergency caregivers of the DNR. You are also encouraged to register the DNR with all emergency providers.

**RESTRAINTS:** CSB reserves the right to utilize either physical or chemical restraints when authorized by a physician or when a behavior emergency exists. All restraints will be applied by only trained personnel.

**OUR RULES:** You will be provided with an atmosphere that is as home-like as possible. However, because we serve so many residents, some rules must be followed to ensure that a good balance is maintained between your wishes and those of the group. Every effort will be made to keep our rules to a minimum; however, we reserve the right to change our rules at any time. CSB's management policies may be viewed in the business office during normal business hours.

**COMMUNITY FEE:** By signing this agreement, you are paying a \$\_\_\_\_\_ community fee that reserves a space and defers the cost of the admission process and this fee is **non-refundable**. This fee does **not** cover the cost of repairs in the event of damage beyond normal wear and tear.

**RENTAL PAYMENTS AND TERM:** By signing this Agreement, you are committing to rent your bed space on a month-to-month basis with the rent based upon a rate of \$\_\_\_\_\_ per month plus \_\_\_\_\_ per

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\_\_\_\_\_ additional charges agreed to in the Special Services Section of this agreement. Therefore, the total amount due at or before agreement signing is:

Community fee.....\$ _____	paid..... _____
1st Months Rent.....\$ _____	paid..... _____
Special Services.....\$ _____	paid..... _____

Second month rent will be the difference between the a full month rent and special services charges minus any prepayment, if any, resulting from the pro ration of the first months rent. Rent and special service charges may vary during the duration of this agreement if adjusted through a separate addendum. Rental charges end only when you completely vacate your space to include all furniture, furnishings and personal belongs. Except as otherwise provided in this Agreement to the contrary, each party hereto shall have the right upon thirty [30] days written notice, either by personally delivering same or by Certified Mail, Return Receipt Requested, to terminate this Agreement. Only prepaid rent in excess of the thirty-day notice will be refunded.

**LATE CHARGES AND OTHER CHARGES:** Payment is due on the first [1st] of the month and is considered late if not received by the 3rd day. A Late Charge of **\$50.00 per month** will be assessed until paid if the rent is received after the 3rd of the month. Eviction procedures for all residents will be in accordance with the current landlord/tenant laws and will be initiated by the Property Manager on the day after the due date. There is a **\$50.00** processing charge for checks drawn on insufficient funds and rent will be considered late until good funds are received. You are responsible for all damage you cause to our property [buildings, grounds, furnishings, fixtures, equipment or personal property], which is beyond normal wear and tear .

**RESIDENT, FAMILY & GUEST CONDUCT:** You are expected to take direction from Property Manager or their representative and to cooperate with the staff at all times. You are expected not to become abusive, disruptive, or threatening with the residents or staff. You must not willfully damage, abuse, or alter other residents and/or the facility s property. You are to report any accidents, injuries, or changes in health immediately. **THERE IS TO BE NO SMOKING EXCEPT IN APPROVED OUTSIDE SMOKING AREA.** You are not allowed to buy, sell, consume or store illegal drugs or alcohol on this property. We ask you to cooperate with us in conserving energy by turning off lights when they are not in use and by keeping your windows closed when using the air conditioning. As per law, you may be evicted, asked to leave or banned from the property for your improper behavior.

**RIGHT TO ENTER:** CSB reserves the right to enter the room at any time, day or night, to handle an emergency and to inspect for unauthorized drugs, alcohol, weapons and other items deemed to be a danger to the residents or property. CSB reserves to the right to enter the room, as needed and when needed, to perform resident care, housekeeping and maintenance. Families are not to enter any room, install new locks or re-key existing locks without permission of the Property Manager and residents are not allowed to block or bar the doors.

**GUARDIANSHIP OR POWER OF ATTORNEY [complete only if it applies]:**

1. I, \_\_\_\_\_, have been appointed a guardian for \_\_\_\_\_ by the \_\_\_\_\_ Court effective \_\_\_\_\_. This guardianship gives me control over their person [  ], finances [  ] or both person & finances [  ]. I affirm that I understand the obligations and responsibilities of the attached guardianship and I assure CSB that I will carry out the obligations and responsibilities of this guardianship in a proper and timely manner.

2. I, \_\_\_\_\_, have been given a Power of Attorney by \_\_\_\_\_ for health care matters. I affirm that I understand the obligations and responsibilities of the attached power of attorney and I assure CSB that I will carry out the obligations and responsibilities of this power of attorney in a proper and timely manner.

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### RESPONSIBILITIES OF RESPONSIBLE PARTY:

I have assumed the role of responsible party and I affirm that I understand the obligations and responsibilities, as outlined below, and I assure CSB that I will carry out the obligations and responsibilities of this appointment in a proper and timely manner.

- I am financially responsible for the payment of all rental and other charges resident incurs while living at CSB.
- I am responsible for making the payment of all rental and other charges resident incurs while living at CSB.
- I am  or am not  responsible for obtaining all  or part  of the medications for this resident.
- I am  or am not  responsible for arranging all  or part  of the medical treatment for resident.
- I understand that I am responsible for keeping the rest of resident's family informed of all matters and, when a family decision or advice is sought by CSB, I am the one family member who has been appointed by family to give CSB the family's input.
- I understand that I will be receiving all family correspondence from CSB and it is my responsibility to disseminate throughout the family.

**RESIDENT'S & FAMILY'S RIGHT TO COMPLAIN:** Complaints are to be in writing and brought to the office. If the complaint is not resolved in a reasonable amount of time, you may then contact the Property Manager at [713] 461-1500 or send an email to "[info@SRCretirement.com](mailto:info@SRCretirement.com)".

**MANDATORY MEDIATION:** See enclosed agreement.

**ACCESS TO RESIDENT'S FILE:** [During residency] The resident's responsible party may have access to all documents that they have signed i.e. resident's rental agreement, application, service plan agreement, etc. The responsible party may not have access to any working papers i.e. Resident database system, resident monitoring system, medication records, resident's file, etc. [After occupancy but before death of the resident] Same as during occupancy. [All other times] Access is only granted by order of the appropriate Court.

**GOVERNING LAW:** The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas and venue and jurisdiction for any litigation hereunder shall be in Harris County, Texas.

**BENEFITS:** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

**ASSIGNMENT AND SUBLETTING:** Notwithstanding anything provided in this Agreement to the contrary, you may not assign or sublet any portion of the premises covered hereby without our prior written consent. Any such assignment or subletting without such consent shall be void, and shall, at the option of "The Cottage of Spring Branch" Personal Care Facility, terminate this Agreement.

**HOLDING OVER:** Any holding over after the termination of this Agreement shall not further renew and extend same but during such holding over period, you shall merely be a tenant at will of "The Cottage of Spring Branch". **DURING ANY HOLD OVER PERIOD, YOUR HOLD OVER RENTAL RATE WILL BE DOUBLE THE CURRENT AGREEMENT RATE.**

**DEFAULT:** In the event you should fail to pay the full amount of rental charge when due or fail to cure any other defaults within three [3] days after receipt of written notice by you, either by personally delivering such notice to you or by certified mail, return receipt requested, this Agreement shall terminate without

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further notice. In any litigation involving a forcible entry and detainer suit for possession of the premises and suit for delinquent rentals "The Cottage of Spring Branch" shall be entitled to reasonable attorneys fees, Court costs and reasonable costs of collection.

**INDEMNITY:** You agree to indemnify and save harmless "The Cottage of Spring Branch" from all cost, expense, damages and liability arising from injury to persons or damage to property occurring during the term of this Agreement caused by any act or omission of "The Cottage of Spring Branch", it's staff, it's residents, it's guests or your agents or invitees. You agree to allow "The Cottage of Spring Branch" to take your picture [s] and to utilize these picture[s] to either facilitate the management of "The Cottage of Spring Branch" or to be included in the property newsletters, bulletin boards and/or other promotional material.

**CAPTIONS:** The captions inserted at the beginning of each Paragraph of this Agreement are intended for convenience of reference only and shall not be deemed to constitute a part of this Agreement nor be used in the construction or interpretation of this Agreement nor shall such captions be deemed indicative of the intent of any party hereto.

## LANDLORD

Winter Services dba "The Cottage of Spring Branch"

By: \_\_\_\_\_  
Property Manager Signature

## TENANT

\_\_\_\_\_  
Resident

By: \_\_\_\_\_  
Responsible Party Signature

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Cell #: \_\_\_\_\_

Email: \_\_\_\_\_

Date: \_\_\_\_\_

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## SPECIFIC ITEMS:

**MEDICATION ASSISTANCE:** I authorize "The Cottage of Spring Branch" to release my confidential financial and/or medical information to my Doctors, TDADS, care coordinators and health care providers and to assist me with my medication management. CSB will provide either supervision of self-administration of medications; supervision of medications; or administration of medications which ever is appropriate at the time. I will abide by all CSB rules and regulations concerning my medication management. **PLEASE NOTE, WE DON'T PAY FOR YOUR MEDICATIONS, YOU DO. YOU ARE RESPONSIBLE FOR MAKING SURE YOU ALWAYS HAVE THE APPROPRIATE MEDICATIONS AVAILABLE AT ALL TIMES.**

All residents are encouraged to have their medications dispensed through **Pharmhouse Pharmacy** because of their multi-dose preset system. If you have any questions concerning the pharmacy's multi-dose preset system, billing or their operation, please call 713-825-6492. If you choose not to utilize this service, there will be an additional charge of **\$200 per month** for the extra handling that CSB will have to do to accommodate this choice. Residents who get their medications from the Veterans Administration or through the Harris County Health Care system are exempted from this requirement.

CSB may, from time to time, utilized nurse delegation [defined as authorizing an unlicensed person to provide nursing services] in it's medication and health care system. Additionally, CSB may be utilizing unlicensed personnel to order, inventory and pre-set medications. The undersigned understands this and has no objection to this practice.

## RECEIPT OF DOCUMENTS

I, the undersigned, have received a copy of the following document; they have been explained to me and I agree to abide by them:

- "The Cottage of Spring Branch's" Rental Agreement [included in this document]
- "The Cottage of Spring Branch's" Property Disclosure Statement
- "The Cottage of Spring Branch's" Family Handbook
- Resident s & Provider s Bill of Rights [included in this document]
- "The Cottage of Spring Branch's" Emergency Evacuation Plan [included in this document]
- Long-Term Care Ombudsman Program brochure
- Notice of Privacy Practices [included in this document]
- Non-Binding Mediation Agreement [included in this document]
- Information Regarding Electronic Monitoring for Assisted Living Facility [included in this document]

**DOCUMENTS PRODUCED BY RESIDENT:** I, the undersigned, have provided a copy of the following documents on or before move-in

- History & Physical which is no older than 30 days or I will provide one NLT \_\_\_\_\_.
- Proof of TB testing and the results

**TRANSPORTATION DISCLAIMER:** I, the undersigned, understand and agree that neither "The Cottage of Spring Branch" nor any employees, members, or representatives who assist with transportation shall be liable for any accidents or injuries incurred in any phase of the transportation provided to me.

**UTILITIES NOT PROVIDED IN THE BASE RENT:** A private telephone in your room is not provided for within the base rate. You will have to contract for these services directly with the vendors. For your convenience, CSB provides a free phone for local calls .

**SPECIAL SERVICES NOT PROVIDED IN THE BASE RENT:**

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Incontinence program .....	\$300.00 per month
Additional attention program.....	\$400.00 per month
Wound Care .....	\$18.00 per occurrence
Changing of colostomy or foley bag.....	\$18.00 per occurrence
Breathing treatment .....	\$12.00 per occurrence
Sitter or escort service.....	\$18.00 per hour
Skilled nursing service .....	\$50.00 per hour

"The Cottage of Spring Branch" reserves the right to perform all the skilled nursing services utilizing nurse delegation where authorized. "The Cottage of Spring Branch" will bill other items on an individual basis and "The Cottage of Spring Branch" reserves the right to change these amounts, at any time, without notice.

[ ] **MISCELLANEOUS CHARGES NOT PROVIDED FOR IN THE BASE RENT:** Currently, "The Cottage of Spring Branch" is assessing the following charges for these not normal wear and tear items:

Missing or damaged blankets.....	\$20.00 each
Missing or damaged sheets .....	\$5.00 each
Missing or damaged keys.....	\$5.00 each

"The Cottage of Spring Branch" will bill other items on an individual basis and "The Cottage of Spring Branch" reserves the right to change these amounts, at any time, without notice.

[ ] **ITEMS NOT PROVIDED IN YOUR LEASE OR SPECIAL NEEDS PROGRAM:** Currently, "The Cottage of Spring Branch" doesn't provide the following items as part of your rental charge: supplemental dietary aids, medications and medical supplies, treatment supplies, beauty shop charges, personal clothing; personal hygiene items and linens for privately owned beds.

## INFO REGARDING AUTHORIZED ELECTRONIC MONITORING FOR ASSISTED LIVING FACILITY

A resident or the resident's guardian or legal representative is entitled to conduct authorized electronic monitoring (AEM) under Chapter 242 and 247 of the Health and Safety Code. To request AEM, you, your guardian or your legal representative must:

- complete the Request for Authorized Electronic Monitoring form (available from the facility);
- obtain the consent of other residents, if any, in your room, using the Consent to Authorized Electronic Monitoring form (available from the facility); and
- give the form(s) to the facility manager or designee.

Who may request AEM?

- The resident, if the resident has capacity to request AEM and has not been judicially declared to lack the required capacity.
- The guardian of the resident, if the resident has been judicially declared to lack the required capacity.
- The legal representative of the resident, if the resident does not have capacity to request AEM and has not been judicially declared to lack the required capacity.

Who determines if the resident does not have the capacity to request AEM? The resident's physician will make the determination regarding the capacity to request AEM. When the resident's physician has determined the resident lacks capacity to request AEM, a person from the following list, in order of priority, may act as the resident's legal representative for the limited purpose of requesting AEM:

- a person named in the resident's medical power of attorney or other advance directive;
- the resident's spouse;
- an adult child of the resident who has the waiver and consent of all other qualified adult children of the resident to act as the sole decision-maker;
- a majority of the resident's reasonably available adult children;
- the resident's parents; or

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- the individual clearly identified to act for the resident by the resident before the resident became incapacitated or the resident's nearest living relative.

Who may consent to AEM?

- The other resident(s) in the room.
- The guardian of the other resident, if the resident has been judicially declared to lack the required capacity.
- The legal representative of the other resident, if the resident does not have capacity to sign the form, but has not been judicially declared to lack the required capacity. The legal representative is determined by following the procedure for determining a legal representative, as stated above, under "Who determines if the resident does not have the capacity to request AEM?"

Can a resident be discharged or refused admittance for requesting AEM? A facility may not refuse to admit an individual and may not discharge a resident because of a request to conduct AEM. If either of these situations occur, you should report the occurrence to the local office of Long Term Care-Regulatory, Texas Department of Human Services.

What about covert electronic monitoring? A facility may not discharge a resident because covert electronic monitoring is being conducted by or on behalf of a resident. A facility attempting to discharge a resident because of covert electronic monitoring should be reported to the local office of Long Term Care-Regulatory, Texas Department of Human Services.

What is required if a covert electronic monitoring device is discovered? If a covert electronic monitoring device is discovered by a facility and is no longer covert as defined in 40 Texas Administrative Code (TAC) §92.3 (relating to Definitions) the resident must meet all requirements for AEM before monitoring is allowed to continue.

Is notice of AEM required? Anyone conducting AEM must post and maintain a conspicuous notice at the entrance to the resident's room. The notice must state that an electronic monitoring device is monitoring the room.

What is required for the installation of monitoring equipment? The resident or the resident's guardian or legal representative must pay for all costs associated with conducting AEM, including installation in compliance with life safety and electrical codes, maintenance, removal of the equipment, posting and removal of the notice, or repair following removal of the equipment and notice, other than the cost of electricity.

A facility may require an electronic monitoring device to be installed in a manner that is safe for residents, employees, or visitors who may be moving about the room. A facility may also require that AEM be conducted in plain view.

The facility must make reasonable physical accommodation for AEM, which includes providing:

- a reasonably secure place to mount the video surveillance camera or other electronic monitoring device; and
- access to power sources for the video surveillance camera or other electronic monitoring device.

If the facility refuses to permit AEM or fails to make reasonable physical accommodations for AEM, you should report the facility's refusal to the local office of Long Term Care-Regulatory, Texas Department of Human Services.

Are facilities subject to administrative penalties for violations of the electronic monitoring rules? Yes, DHS may assess an administrative penalty (see 40 TAC §92.559 (relating to What is the administrative penalty schedule?)) against a facility for each instance in which the facility:

- refuses to permit a resident or the resident's guardian or legal representative to conduct AEM;
- refuses to admit an individual or discharges a resident because of a request to conduct AEM;
- discharges a resident because covert electronic monitoring is being conducted by or on behalf of the resident; or
- violates any other provision related to AEM.

How does AEM affect the reporting of abuse and neglect? 40 TAC §92.102 (relating to Abuse, Neglect, or Exploitation Reportable to the Texas Department of Human Services (DHS) by Facilities), requires facility

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staff to report abuse or neglect. If abuse or neglect has occurred, the most important thing is to report it. Abuse and neglect cannot be addressed unless reported.

For purposes of the duty to report abuse or neglect, the following apply:

- A person who is conducting electronic monitoring on behalf of a resident is considered to have viewed or listened to a tape or recording made by the electronic monitoring device on or before the 14th day after the date the tape or recording is made.
- If a resident, who has capacity to determine that the resident has been abused or neglected and who is conducting electronic monitoring, gives a tape or recording made by the electronic monitoring device to a person and directs the person to view or listen to the tape or recording to determine whether abuse or neglect has occurred, the person to whom the resident gives the tape or recording is considered to have viewed or listened to the tape or recording on or before the seventh day after the date the person receives the tape or recording.
- A person is required to report abuse based on the person's viewing of or listening to a tape or recording only if the incident of abuse is acquired on the tape or recording. A person is required to report neglect based on the person's viewing of or listening to a tape or recording only if it is clear from viewing or listening to the tape or recording that neglect has occurred.
- If abuse or neglect of the resident is reported to the facility and the facility requests a copy of any relevant tape or recording made by an electronic monitoring device, the person who possesses the tape or recording must provide the facility with a copy at the facility's expense. The cost of the copy cannot exceed the community standard.
- A person who sends more than one tape or recording to DHS must identify each tape or recording on which the person believes an incident of abuse or evidence of neglect may be found. Tapes or recordings should identify the place on the tape or recording that an incident of abuse or evidence of neglect may be found.

What is required for the use of a tape or recording by an agency or court? Subject to applicable rules of evidence and procedure, a tape or recording created through the use of covert monitoring or AEM may be admitted into evidence in a civil or criminal court action or administrative proceeding. A court or administrative agency may not admit into evidence a tape or recording created through the use of covert monitoring or AEM or take or authorize action based on the tape or recording unless:

- the tape or recording shows the time and date the events on the tape or recording occurred, if the tape or recording is a video tape or recording;
- the contents of the tape or recording have not been edited or artificially enhanced; and
- any transfer of the contents of the tape or recording was done by a qualified professional and the contents were not altered, if the contents have been transferred from the original format to another technological format.

Are there additional provisions of the law? A person who places an electronic monitoring device in the room of a resident or who uses or discloses a tape or other recording made by the device may be civilly liable for any unlawful violation of the privacy rights of another.

A person who covertly places an electronic monitoring device in the room of a resident or who consents to or acquiesces in the covert placement of the device in the room of a resident has waived any privacy right the person may have had in connection with images or sounds that may be acquired by the device.

**LANDLORD**

**TENANT**

Winter Services dba "The Cottage of Spring Branch"

By: \_\_\_\_\_  
Property Manager Signature

By: \_\_\_\_\_  
Responsible Party Signature

Date: \_\_\_\_\_

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## NON-BINDING MEDIATION AGREEMENT

The undersigned parties agree to submit to **non-binding mediation as a required prerequisite to the filing of a lawsuit** to resolve any controversy between the parties, including but not limited to, claims for professional negligence, personal injury, breach of an express or implied contract, loss of consortium, wrongful death, or any payment disputes. **The mediation must be completed before filing a lawsuit.**

1. **Mediation Defined.** Mediation is a non-binding process in which an impartial, trained, neutral third-party (the Mediator), facilitates communication between the parties to a dispute in an effort to assist the parties in reaching a mutually acceptable and voluntary settlement of their dispute and to ensure that the parties memorialize whatever settlement they may have reached in a written settlement agreement.

2. **Selection of Mediator.** The parties will choose an acceptable mediator by mutual agreement. In the event that they cannot agree on a mediator, each party will select one mediator for the sole purpose of choosing a third mediator. The third mediator will mediate the claim.

3. **Mediation Fees.** The parties agree that all Mediator fees and costs of mediation will be split evenly between them.

4. **Representation by an Attorney.** The parties may, but are not required, to be represented by their own attorney at the mediation. Each party will bear the cost of their own attorney associated with the mediation.

5. **Parties Must be Present.** **The parties must appear in person at the mediation.** The claimant agrees to appear in person. The Company agrees that its representative who has full authority to settle the dispute will appear in person.

6. **Confidential and Privileged Nature of Mediation Proceedings.** By entering into the mediation process, the parties agree to maintain the confidentiality of the mediation with regard to all oral and written communications made during the course of the mediation. The mediation process will be treated as a compromise or offer to compromise or settle for purposes of the Federal Rules of Evidence and any applicable State Rules of Evidence. Nothing that occurs during the mediation process, nor any submissions made to the Mediator, will be offered as evidence in any proceeding or investigation for any reason or purpose. Any and all discussions and/or statements made by the parties and/or the Mediator regarding any settlement or its terms resulting from the mediation process will remain completely confidential and private. There will be no stenographic or other recording by any means of any portion of the mediation.

7. **Agreement Memorializing Settlement Arising Out of Mediation.** The parties agree that any settlement of the dispute resulting from the mediation will be memorialized in writing immediately upon completion of the mediation. Said written settlement agreement will be enforceable against the parties in a court of competent jurisdiction under the applicable State and Federal laws.

8. **Place of Mediation.** The parties agree that the mediation of the claim will occur within the State where the facility that is the subject of this dispute is located, and, where possible, within sixty (60) miles of the facility.

9. **Governing Law.** This Agreement will be governed by the law of the State of Texas.

### LANDLORD

Winter Services dba "The Cottage of Spring Branch"

### TENANT

By: \_\_\_\_\_  
Property Manager Signature

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Responsible Party Signature

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**CSB Approved Dietary Program:** The TDA Simplified Diet Modification program has been approved for normal use at CSB by CSB's registered dietitian consultant. The Property Manager and the dietitian must approve any changes to this approach in advance. Changes may result in an extra charge.

**INDICATION:** The following simplified diet or liberalized orders are designed for those residents who require minimum dietary modification. A physician's order is required to restrict or modify a diet unless an official policy has been established otherwise that has been approved by the medical staff or the CSB.

**DESCRIPTION:** Regular Diet as Tolerated: Allows foods from the Regular Diet, taking into consideration an individual's need for exclusion of certain food items or addition of preferences.

Mechanically Altered Diet as Tolerated: Allows for patients or clients with varying needs for foods easy to chew and to swallow. Foods may be soft cooked, chopped, ground, or blended, depending on individual needs and tolerances, and must meet National Research Council's Recommended Dietary Allowances.

- Diabetic - No Concentrated Sweets: Allows foods from the regular diet (with a distribution of carbohydrate, protein and fat). For the most part, foods high in concentrated sugar such as regular gelatin dessert, jelly, jam, honey, frosted cakes, pies, cookies, candy, syrup, sweetened juices, and regular soft drinks are generally not allowed. However, some long term care and extended care facilities may incorporate small portions of sweetened foods into the diabetic diets of elderly patients or clients.
- "Diabetic" or "sugar free" desserts may be served regularly as well as unsweetened, canned or fresh fruits. On occasion ice cream, artificially sweetened or lower calorie cobblers, cakes, or cookies may be allowed.
- Regular Diet - No Added Salt: Allows food from the Regular Diet. Additional salt at the table is not allowed at meals. This provides a diet containing approximately four to five grams of sodium per day. Salt substitute should be ONLY if approved by physician's order. Avoid salty foods.
- Regular Diet - No Spicy Foods: Allows a Regular Diet with the exception of highly seasoned foods. Individuals should be interviewed for food preferences and tolerances if in an institutional setting.
- Regular Diet - No Fried Foods: Allows a Regular Diet including margarine but with the exclusion of fried foods, fatty meats, gravies, and cream. Low fat milk (2% or skim milk 1/2% - 1%) to be used instead of whole milk.

**RESIDENT'S BILL OF RIGHTS:** A resident has all the rights, benefits, responsibilities, and privileges granted by the constitution and laws of this state and the United States, except where lawfully restricted. The resident has the right to be free of interference, coercion, discrimination, and reprisal in exercising these civil rights. Each resident in the personal care facility has the right to:

(A) be free from physical and mental abuse, including corporal punishment or physical and chemical restraints that are administered for the purpose of discipline or convenience and not required to treat the resident's medical symptoms. A provider may use physical or chemical restraints only if the use is authorized in writing by a physician and the use is necessary in an emergency to protect the resident or others from injury. A physician's written authorization for the use of restraints must specify the circumstances under which the restraints may be used and the duration for which the restraints may be used. Except in an emergency, restraints may only be administered by qualified medical personnel;

(B) participate in activities of social, religious, or community groups unless the participation interferes with the rights of others;

(C) practice the religion of the resident's choice;

(D) if mentally retarded, with a court-appointed guardian of the person, participate in a behavior modification program involving use of restraints, consistent with subparagraph (A) of this paragraph, or adverse stimuli only with the informed consent of the guardian;

(E) be treated with respect, consideration, and recognition of his or her dignity and individuality, without regard to race, religion, national origin, sex, age, disability, marital status, or source of payment. This means that the resident:

- (i) has the right to make his/her own choices regarding personal affairs, care, benefits, and services;
- (ii) has the right to be free from abuse, neglect, and exploitation; and

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(iii) if protective measures are required, has the right to designate a guardian or representative to ensure the right to quality stewardship of his/her affairs;

(F) a safe and decent living environment;

(G) not be prohibited from communicating in his or her native language with other residents or employees for the purpose of acquiring or providing any type of treatment, care, or services;

(H) complain about the resident's care or treatment. The complaint may be made anonymously or communicated by a person designated by the resident. The provider must promptly respond to resolve the complaint. The provider must not discriminate or take other punitive action against a resident who makes a complaint;

(I) receive and send unopened mail, and the provider must ensure that the resident's mail is sent and delivered promptly;

(J) unrestricted communication, including personal visitation with any person of the resident's choice, including family members and representatives of advocacy groups and community service organizations, at any reasonable hour;

(K) make contacts with the community and to achieve the highest level of independence, autonomy, and interaction with the community of which the resident is capable;

(L) manage his or her financial affairs. The resident may authorize in writing another person to manage his/her money. The resident may choose the manner in which his/her money is managed, including a money management program, a representative payee program, a financial power of attorney, a trust, or a similar method, and the resident may choose the least restrictive of these methods. The resident must be given, upon request of the resident or the resident's representative, but at least quarterly, an accounting of financial transactions made on his or her behalf by the facility should the facility accept his or her written delegation of this responsibility to the facility in conformance with state law;

(M) access the resident's records, which are confidential and may not be released without the resident's consent, except:

(i) to another provider, if the resident transfers residence; or

(ii) if the release is required by another law;

(N) choose and retain a personal physician and to be fully informed in advance about treatment or care that may affect the resident's well-being;

(O) participate in developing his/her individual service plan that describes the resident's medical, nursing, and psychological needs and how the needs will be met;

(P) be given the opportunity to refuse medical treatment or services after the resident:

(i) is advised by the person providing services of the possible consequences of refusing treatment or services; and

(ii) acknowledges that he/she understands the consequences of refusing treatment or services;

(Q) unaccompanied access to a telephone at a reasonable hour or in case of an emergency or personal crisis;

(R) privacy, while attending to personal needs and a private place for receiving visitors or associating with other residents, unless providing privacy would infringe on the rights of other residents. This right applies to medical treatment, written communications, telephone conversations, meeting with family, and access to resident councils. If a resident is married and the spouse is receiving similar services, the couple may share a room;

(S) retain and use personal possessions, including clothing and furnishings, as space permits. The number of personal possessions may be limited for the health and safety of other residents;

(T) determine his or her dress, hair style, or other personal effects according to individual preference, except the resident has the responsibility to maintain personal hygiene;

(U) retain and use personal property in his or her immediate living quarters and to have an individual locked area (cabinet, closet, drawer, footlocker, etc.) in which to keep personal property;

(V) refuse to perform services for the facility, except as contracted for by the resident and operator;

(W) be informed by the provider no later than the 30th day after admission:

(i) whether the resident is entitled to benefits under Medicare or Medicaid; and

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(ii) which items and services are covered by these benefits, including items or services for which the resident may not be charged;

(X) not be transferred or discharged unless:

(i) the transfer is for the resident's welfare, and the resident's needs cannot be met by the facility;

(ii) the resident's health is improved sufficiently so that services are no longer needed;

(iii) the resident's health and safety or the health and safety of another resident would be endangered if the transfer or discharge was not made;

(iv) the provider ceases to operate or to participate in the program that reimburses for the resident's treatment or care;

(v) the resident fails, after reasonable and appropriate notice, to pay for services;

(Y) not be transferred or discharged, except in an emergency, until the 30th day after the date the facility provides written notice to the resident, the resident's legal representative, or a member of the resident's family, stating:

(i) that the facility intends to transfer or discharge the resident;

(ii) the reason for the transfer or discharge;

(iii) the effective date of the transfer or discharge;

(iv) if the resident is to be transferred, the location to which the resident will be transferred; and

(v) any appeal rights available to the resident;

(Z) leave the facility temporarily or permanently, subject to contractual or financial obligations;

(AA) have access to the service of a representative of the State Long Term Care Ombudsman Program, Texas Department on Aging; and

(BB) execute an advance directive, under the Natural Death Act (Chapter 672, Health and Safety Code) or Chapter 135, Civil Practice and Remedies Code, or designate a guardian in advance of need to make decisions regarding the resident's health care should the resident become incapacitated.

**PROVIDER'S BILL OF RIGHTS:** The provider's bill of rights must provide that a provider of personal care services has the right to:

(A) be shown consideration and respect that recognizes the dignity and individuality of the provider and personal care facility;

(B) terminate a resident's contract for just cause after a written 30-day notice;

(C) terminate a contract immediately, after notice to the department, if the provider finds that a resident creates a serious or immediate threat to the health, safety, or welfare of other residents of the personal care facility. During evening hours and on weekends or holidays, notice to DHS must be made to 1-800-458-9858;

(D) present grievances, file complaints, or provide information to state agencies or other persons without threat of reprisal or retaliation;

(E) refuse to perform services for the resident or the resident's family other than those contracted for by the resident and the provider;

(F) contract with the community to achieve the highest level of independence, autonomy, interaction, and services to residents;

(G) access patient information concerning a client referred to the facility, which must remain confidential as provided by law;

(H) refuse a person referred to the facility if the referral is inappropriate;

(I) maintain an environment free of weapons and drugs; and

(J) be made aware of a resident's problems, including self-abuse, violent behavior, alcoholism, or drug abuse.

### NOTICE OF PRIVACY PRACTICES:

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

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"The Cottage of Spring Branch" is required by law to maintain the privacy of your protected health information (PHI) and to provide you with notice of its legal duties and privacy practices with respect to your health information. If you have questions about any part of this notice or if you want more information about the privacy practices at CSB please contact the Privacy Officer, "The Cottage of Spring Branch", 1842 Hollister Road, Houston, TX 77080, 713-461-1500.

Effective Date of This Notice: January 1, 2007.

I. How CSB may Use or Disclose Your Health Information? CSB collects health information from you and stores it in a chart and on a computer. This is your medical record. The medical record is the property of CSB, but the information in the medical record belongs to you. CSB protects the privacy of your health information. The law permits CSB to use or disclose your health information for the following purposes:

1. Treatment. We may disclose your PHI to physicians, nurses, medical students, and other health care personnel who provide you with health care services or are involved in your care. For example, if you re being treated for a knee injury, we may disclose your PHI to the physical therapist in order to coordinate your care.

2. Payment. We may use and disclose your PHI in order to bill and collect payment for the treatment and services provided to you. For example, we may provide portions of your PHI to our billing department and your health plan to get paid for the health care services we provided to you.

3. Regular Health Care Operations. We may disclose your PHI in order to operate this facility. For example, we may use your PHI in order to evaluate the quality of health care services that you received or to evaluate the performance of the health care professionals who provided health care services to you. We may also provide your PHI to our accountants, attorneys, consultants, and others in order to make sure we re complying with the laws that affect us.

4. Directory. We may list your name, where you are located in our facilities, your general medical condition and your religious affiliation in our directory. This information may be provided to members of the clergy. This information, except your religious affiliation, may be provided to other people who ask for you by name. If you do not want us to list this information in our directory and provide it to clergy and others, you must tell us that you object.

5. Notification and communication with family. We may disclose your health information to notify or assist in notifying a family member, your personal representative or another person responsible for your care about your location, your general condition or in the event of your death. If you are able and available to agree or object, we will give you the opportunity to object prior to making this notification. If you are unable or unavailable to agree or object, our health professionals will use their best judgment in communication with your family and others.

6. Required by law. As required by law, we may use and disclose your health information.

7. Public health. As required by law, we may disclose your health information to public health authorities for purposes related to: preventing or controlling disease, injury or disability; reporting child abuse or neglect; reporting domestic violence; reporting to the Food and Drug Administration problems with products and reactions to medications; and reporting disease or infection exposure.

8. Health oversight activities. We may disclose your health information to health agencies during the course of audits, investigations, inspections, license and other proceedings.

9. Judicial and administrative proceedings. We may disclose your health information in the course of any administrative or judicial proceeding.

10. Law enforcement. We may disclose your health information to a law enforcement official for purposes such as identifying or locating a suspect, fugitive, material witness or missing person, complying with a court order or subpoena and other law enforcement purposes.

11. Deceased person information. We may disclose your health information to coroners, medical examiners and funeral directors.

12. Organ donation. We may disclose your health information to organizations involved in procuring, banking or transplanting organs and tissues.

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13. Research. We may disclose your health information to researchers conducting research that has been approved by an Institutional Review Board or CSB's privacy board.

14. Public safety. We may disclose your health information to appropriate persons in order to prevent or lessen a serious and imminent threat to the health or safety of a particular person or the general public.

15. Specialized government functions. We may disclose your health information for military and national security purposes.

16. Worker's compensation. We may disclose your health information as necessary to comply with worker's compensation laws.

17. Marketing. We may contact you to provide appointment reminders or to give you information about other treatments or health-related benefits and services that may be of interest to you.

18. Change of Ownership. In the event that CSB is sold or merged with another organization, your health information/record will become the property of the new owner.

### II. When CSB May Not Use or Disclose Your Health Information:

Except as described in this Notice of Privacy Practices, CSB will not use or disclose your health information without your written authorization. If you do authorize CSB to use or disclose your health information for another purpose, you may revoke your authorization in writing at any time.

### III. Your Health Information Rights

1. You have the right to request restrictions on certain uses and disclosures of your health information. This request must be made in writing; however, CSB is not required to agree to the restriction that you requested. You may not limit the uses and disclosures that we are legally required to make.

2. You have the right to receive your health information through a reasonable alternative means or at an alternative location. For example, you may request that we send your information to an alternate address, or via e-mail instead of regular mail. We must agree to your request as long as we can easily provide it in the format you requested.

3. You have the right to inspect and copy your health information. You must make this request in writing and, in certain situations, we may deny your request. If your request is denied, we will notify you, in writing, our reasons for the denial. There may be charges for copies made.

4. You have a right to request that CSB amend your health information that is incorrect or incomplete. This request must be made in writing. CSB is not required to change your health information and, if your request is denied, we will provide you with information about CSB's denial and how you can disagree with the denial.

5. You have a right to receive an accounting of disclosures of your health information made by CSB except that CSB does not have to account for the disclosures described in parts 1 (treatment), 2 (payment), 3 (health care operations), 4 (information provided to you), 5 (directory listings) and 6 (certain government functions) of section I of this Notice of Privacy Practices.

6. You have a right to a paper copy of this Notice of Privacy Practices.

If you would like to have a more detailed explanation of these rights or if you would like to exercise one or more of these rights, contact the Privacy Officer, "The Cottage of Spring Branch", 1842 Hollister Road, Houston, TX 77080, 713-461-1500.

IV. Changes to this Notice of Privacy Practices. CSB reserves the right to amend this Notice of Privacy Practices at any time in the future, and to make the new provisions effective for all information that it maintains, including information that was created or received prior to the date of such amendment. Until such amendment is made, CSB is required by law to comply with this Notice.

Before CSB makes an important change to our policies, we will promptly change this notice and post a new notice on public bulletin boards located at CSB. You may also request a copy of this notice from the business office at any time.

V. Complaints: Complaints about this Notice of Privacy Practices or how CSB handles your health information should be directed to the Privacy Officer, "The Cottage of Spring Branch", 1842 Hollister Road, Houston, TX 77080, 713-461-1500. If you are not satisfied with the manner in which this office handles a complaint, you may submit a formal complaint to:

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Department of Health and Human Services, Office of Civil Rights, Hubert H. Humphrey Bldg., 200 Independence Avenue, S.W., Room 509F HHH Building, Washington, DC 20201. You may also address your complaint to one of the regional Offices for Civil Rights. A list of these offices can be found online at <http://www.hhs.gov/ocr/regmail.html>.

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## COMMUNITY RULES

[Management reserves the right to change these rules at any time for any reason]

### GENERAL RULES:

#### 1. BUSINESS HOURS

- a. The office is open for business from 9 am to noon and 1 pm to 4 pm. Residents are not to enter this area without an invitation.
- b. Medication room is open 24 hours per day, 7 days per week. Residents and family members are not to enter this area without an invitation.

#### 2. PROPERTY

- a. Residents and family members and their guests are responsible for any damage, beyond normal wear and tear, that they do to CSB's property.
- b. All the gates to the property will be locked at all times. Guests and visitors may go in or out through the front door and gate so long as they make sure both the doors and gate are closed and locked. When leaving the building, please make sure that you are not letting out a resident without notifying the staff.
- c. Residents and family members are not to hang their own draperies; place items in the windows; hang items on the walls of their rooms; make modifications to their room or place items on the walkway without prior written approval of management.

#### 3. DOCTOR APPOINTMENTS & MEDICATIONS

- a. Resident families must immediately notify the Customer Liaison, Med Tech or Property Manager when they have made an appointment for the resident to see a Doctor.
- b. In the event you are leaving the property for an extended period, resident families may sign out the resident and their medications. While you are away from the property, you will be solely responsible for the resident's medication.
- c. Any medication that CSB is to supervise or administer is to be locked-up in our medication room. All medications will be received in the medication room and inventoried before being placed in resident's med box.

#### 4. SMOKING

- a. This is a privilege that can be withheld for health, safety or behavior reasons.
- b. Resident and their family members may only smoke outside of the building in designated smoking areas. Smoking is prohibited anywhere else at "The Cottage of Spring Branch".
- c. No smoking is allowed within 20' of someone who is using oxygen.

#### 5. DRINKING

- a. Possessing and/or drinking of alcoholic beverages on the property is not allowed.

#### 6. SIGNING IN AND OUT

- a. Residents, family members and resident's visitors must sign in and out when entering or leaving the property.

#### 7. PHYSICALS

- a. You must provide us with a History & Physical prior to move-in [not more than 30 days old] or within 14 days of moving in.
- b. History and Physicals from your doctor must be updated each year.

### SPECIFIC RULES

#### 1. Fire and Safety

- a. In the event of a fire or other emergency, residents, family members and guests are expected to follow all the directions given by the staff.
- b. Residents, families and guests are expected to fully participate in all fire drills regardless of the time of day or night.

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c. Residents, families and guests are not allowed to smoke in the building and they may only smoke outside in the smoking area.

d. Resident families are to report any accidents, no matter how small, to the Property Manager.

### 2. Pets

a. No pets are allowed.

### 3. Behavior

a. Residents, families and guests are not to become combative to the point that their health and/or safety or that of the other residents or staff is in danger.

b. Residents, families and guests are not to use abusive language.

c. Residents, families and guests are to stay in public areas and they are to follow directions given by the staff.

d. Residents, families and guests are not to consume alcoholic beverages or use non prescription, mind altering drugs while on the property.

### 4. Personal Hygiene

a. Residents are required to take a bath in accordance with their approved plan of care.

b. Residents are to have sufficient clothing that is in good repair and is presentable.

c. Residents are not to store personal items in the bathroom except in designated locked area.

### 5. Dining Room Manners

a. Participation in group meals is a privilege that can be withheld for health, safety or behavior reasons.

b. There is to be no eating or drinking in their rooms; nor is food to be stored there.

### 6. Activities

a. Participation in this is a privilege that can be withheld for health, safety or behavior reasons.

b. Each sanctioned activity will have a CSB employee in charge of the activity and all participants, including families and guests, are to follow their direction.

c. You need to pay any up-front money when you sign-up to attend the activity.

d. All participants need to stay with the group at all time.

### 7. Family Overnight Stays [charge is \$150/night]

a. Authorization for a family member overnight stay in the resident's room is a privilege that can be withheld for health, safety or behavior reasons.

b. The Property Manager must approve family overnight stays IN ADVANCE.

c. Family members staying overnight are subject to the same rules and regulations as the residents.

d. Overnight stays in roommate rooms are subject to the roommate's family agreeing to the stay.

# The Cottage of Spring Branch Fire Evacuation Plan

