

II.

PARTIES

2. Plaintiff is an individual residing at the ARC, a continuing care retirement community (“CCRC”) located at 7400 Crestway, in San Antonio, Texas. Plaintiff is a retired San Antonio business man who served honorably in the U.S. Air Force and retired from military service as a Lt. Colonel. In addition to being a resident of the ARC, Plaintiff and his family have made substantial charitable donations to the ARC.

3. ARRF is a non-profit corporation incorporated under the laws of the District of Columbia and authorized to do business in the State of Texas. It is also a tax-exempt charity under §501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). ARRF does business as the ARC. ARRF may be served with process through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

4. Supporting Foundation is a non-profit corporation incorporated under the laws of Texas and authorized to do business in the State of Texas. It is also a tax-exempt charity under §501(c)(3) of the Code. Supporting Foundation is located at 10000 Rhineland, in San Antonio, Texas. The Supporting Foundation provides financial support for the exclusive benefit of ARRF. Supporting Foundation may be served with process through its registered agent, Bruce G. Furbish, at 7400 Crestway, San Antonio, Texas 78239, or wherever he may be found.

5. Dolly Baker (“Baker”) is an individual resident in Texas. She may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever she may be found. Baker is a member of ARRF’s Board of Directors.

6. Jessie S. Brewer (“Brewer”) is an individual resident in Texas. She may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever she may be found. Brewers is a member of ARRF’s Board of Directors.

7. Herb Coley (“Coley”) is an individual resident in Texas. He may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever he may be found. Coley is a member of ARRF’s Board of Directors.

8. David Hayes (“Hayes”) is an individual resident in Texas. He may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever he may be found. Hayes is a member of ARRF’s Board of Directors.

9. Roy S. Johnson, III (“Johnson”) is an individual resident in Texas. He may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever he may be found. Johnson is a member of ARRF’s Board of Directors.

10. Clarence Maxwell (“Maxwell”) is an individual resident in Texas. He may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever he may be found. Maxwell is a member of ARRF’s Board of Directors.

11. Dan Mills (“Mills”) is an individual resident in Texas. He may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever he may be found. Mills is a member of ARRF’s Board of Directors.

12. Charles H. Reding (“Reding”) is an individual resident in Texas. He may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever he may be found. Reding is a member of ARRF’s Board of Directors.

13. James G. Solomon (“Solomon”) is an individual resident in Texas. He may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever he may be found. Solomon is a member and President of ARRF’s Board of Directors.

14. James B. Stubblefield (“Stubblefield”) is an individual resident in Texas. He may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever he may be found. Stubblefield is a member of ARRF’s Board of Directors.

15. Mike Weimer (“Weimer”) is an individual resident in Texas. He may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever he may be found. Weimer is a member of ARRF’s Board of Directors.

16. Donna Wright (“Wright”) is an individual resident in Texas. She may be served with process at 7400 Crestway, San Antonio, Texas 78239; or wherever she may be found. Wright is a member of ARRF’s Board of Directors.

III.

JURISDICTION

17. The Court has subject-matter jurisdiction over the lawsuit because the amount in controversy exceeds the Court’s minimum jurisdictional requirements, and the actions which form the basis of this Petition occurred in whole or in part in Texas.

18. The Court has personal jurisdiction over Defendants because the events giving rise to this Petition involved Plaintiff.

IV.

VENUE

19. Venue is proper in Bexar County under Texas Civil Practice & Remedies Code § 15.002 because it is the county in which the events giving rise to the claims occurred.

V.

BACKGROUND

20. Plaintiff brings this suit as a result of Defendants' inability and/or unwillingness to manage and operate the ARC retirement community in a competent and reasonable manner. Defendants have managed and operated the ARC below the standard of ordinary care, have engaged in bad faith actions, and have not acted in the best interests of the resident senior citizens, all of whom are retired military veterans and/or their spouses, widows, or widowers, and who have come to call the ARC their home. Defendants' mismanagement constitutes a material breach of a written agreement between Plaintiff and the ARC.

21. Residents of the ARC, including Plaintiff, have borne the cost of Defendants' mismanagement and continue to do so. Residents of the ARC live in an environment of fear and anxiety as a result of Defendants' mismanagement. The negative environment has caused many of the ARC's residents to vacate their residences, which has raised vacancy rates and reduced occupancy rates. As a result, the ARC's management has attempted to correct its loss of revenue from the decline in resident fees by increasing the fees charged to remaining residents. Such actions have only exacerbated the problem by driving more residents away. Those who remain, including Plaintiff, pay increasing resident fees and face additional risk to their financial investment in the ARC.

A. Continuing Care Retirement Communities

22. Continuing Care Retirement Communities (CCRCs), such as the ARC, offer a range of housing and medical services targeted to older adults, sometimes referred to as a continuum of care. Typically, CCRCs provide housing, health-care services, and other amenities through long-term service and care contracts.

23. Because their financial structure is often complex, the National Investment Center and the American Seniors Housing Association recommend that CCRCs provide sufficient information and resources to help potential residents decide whether to enter into long-term service and care contracts with a CCRC. The National Investment Center and the American Seniors Housing Association also recommend that CCRCs regularly provide financial information and updates on operations, so as to foster resident confidence and a sense of community.

24. Because CCRCs frequently offer prepaid or shared-risk medical benefit programs, they are subject to regulation by state agencies. These agencies protect residents by requiring CCRCs to report financial, operating, and governance information to the state and to residents. In Texas, the Texas Department of Insurance regulates CCRCs and requires CCRCs to be licensed.

25. The National Investment Center and the American Seniors Housing Association recommend that CCRCs provide sufficient financial information to residents to permit them to understand the CCRC's overall financial condition. Recommended types of information include, but are not limited to, audited financial reports, financial data—such as, among others, liquidity measures, debt obligations, cash reserves—to ascertain the CCRC's ability to meet obligations to residents, financial forecasts, occupancy trends, and key contractual provisions regarding refunds of entrance fees.

26. The National Investment Center and the American Seniors Housing Association recommend that residents of CCRCs have access to management. To provide and encourage access, CCRCs are to schedule regular meetings between residents and CCRC leadership.

CCRCs also are to develop policies and practices to ensure regular, open communications with residents and allow residents to address concerns to management on an individual basis.

B. The ARC

27. The ARC is located in northeast San Antonio, between Fort Sam Houston and Randolph Air Force Base. The ARC is a CCRC for veteran career officers, their spouses, widows, and widowers. The term “officer” includes Regular, Reserve, and National Guard commissioned and warrant officers. The term “career” means either a minimum of 20 years military service (active or reserve component) of which at least 10 years must have been as a commissioned or warrant officer, or retirement for a physical disability suffered while on active duty as a commissioned or warrant officer. Each “career” officer must be listed on the official Military Retired Roles.

28. The ARC occupies an area of approximately 143 acres and is comprised of high-rise apartments, cottages, assisted living facilities, a skilled nursing center called ARC’s health care center, a memory unit serving residents with memory issues, and a number of amenities—all designed to provide a continuum of care to the ARC’s residents.

29. Residents have the option to live in apartments or cottages and have access to the spectrum of health care services and facilities that are available to them if needed. The ARC is home to approximately 750 residents who are retired career military officers, spouses, widows, and widowers. The ARC’s residents represent honorably served, retired officers from all branches of U.S. military service.

30. The ARC is managed by ARRF in conjunction with the Supporting Foundation. The Supporting Foundation owns the real property on which the ARC is located and is responsible for payment on tax-exempt bonds issued to finance the ownership of the ARC. Bond

proceeds have been used to acquire the property where the ARC is located and the construction of the buildings located at the ARC.

31. Residents who wish to live at the ARC must pay an entrance fee to the Supporting Foundation in exchange for a life estate in real property—e.g., apartments and cottages—at the ARC. The entrance fees, which can exceed \$300,000, are not refundable to residents, except under certain limited circumstances.

32. ARRF manages services and day-to-day operations at the ARC. Residents must pay a monthly fee to ARRF for those services. A portion of the resident fees paid to the ARC are, in turn, then paid to Supporting Foundation in order to pay the debt service on the outstanding bonds, which currently amount to approximately \$90 million.

33. On November 28, 2011, Plaintiff entered into a valid and enforceable contract (the “Resident Contract”) with the ARC. *See* Exhibit A. The ARC requires all residents to enter into a Resident Contract.

34. Pursuant to the Resident Contract, as amended on June 5, 2013, Plaintiff paid \$297,300 for a two-bedroom living unit at the ARC. Also pursuant to the Resident Contract, Plaintiff paid an entrance fee, which is not refundable after 43 months.

35. The Resident Contract provides Plaintiff with the right to “[l]ive in a facility dedicated to respecting the dignity of its occupants at all times.” The Resident Contract provides further that the ARC is responsible for the following:

- a. The smooth and efficient operation of the [ARC] Community.
- b. Prudent management while being responsive to the desires of Residents, all within the limits of sound business practices and fairness to Residents.

- c. Reviewing rates and fees periodically and adjusting them, as necessary, to accurately reflect the costs of operating the [ARC] Community.
- d. Diligently striving to lease Residences as they become vacant to maintain a sound financial base.
- e. Creating and maintaining an image and environment that fits the status of a high quality active retirement Community.

36. ARRF's Board of Directors is currently comprised of retired military officers and the spouse of retired military officer, none of whom is a resident of the ARC. At the present, no residents of the ARC serve on the Board. ARRF's current Directors include individual Defendants Baker, Brewer, Coley, Hayes, Johnson, Maxwell, Mills, Reding, Stubblefield, Weimer, Wright, and Board President Solomon.

37. Both ARRF and Supporting Foundation are nonprofit organizations under §501(c)(3) of the Code, which allows for a federal tax exemption for nonprofit organizations, specifically those that are considered public charities, private foundations or private operating foundations. They are regulated by the U.S. Department of Treasury through the Internal Revenue Service.

38. §501(c)(3) organizations are highly regulated entities. Both the activities and the governance of these organizations are subject to strict rules. No part of the activities or the net earnings can unfairly benefit any director, officer, or any private individual.

39. A charity may not pay more than reasonable compensation for services rendered. Although the Code does not require charities to follow a particular process in determining the amount of compensation to pay, the compensation of officers, directors, trustees, key employees, and others in a position to exercise substantial influence over the affairs of the charity should be

determined by persons who are knowledgeable in compensation matters and who have no financial interest in the determination. The process used to determine the compensation of an organization's top management official and other officers and key employees should include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision.

C. Mismanagement of the ARC

40. Defendants have mismanaged the ARC's affairs, resulting in financial losses, increased resident fees, and an environment of mistrust and loss of confidence in management, including the Board of Directors, and the resulting anxiety of residents.

41. Despite recommended best practices, ARC residents are not provided with sufficient financial information to understand the ARC's overall financial condition, which is in jeopardy due to mismanagement by Defendants.

42. Evidence of mismanagement by Defendants is demonstrated by the handling of reported financial malfeasance by the ARC's Chief Financial Officer ("CFO"). Upon learning of reported financial malfeasance by the CFO—malfeasance which involved an off-the-books deferred compensation plan totaling \$535,000 to \$750,000—Defendants ignored the reports and instead defended the CFO's actions to the ARC's staff members. In fact, when an accountant from ARRF discovered and reported the off-the-books deal and alerted management, she was terminated. Not until the malfeasance became known among the ARC's residents did the ARC's leadership initiate any reasonable action to address the matter. Had Defendants not been pressured to act, it would likely have resulted in a financial loss of \$535,000 to \$750,000.

43. Defendants also failed to disclose overpayments to a Florida-based financial advisory firm. Defendants made duplicate payments to the Florida-based firm for loan

origination fees, resulting in overpayments of \$57,000. Defendants did not disclose the overpayments to the ARC's residents.

44. Many of the retired veterans, spouses, widows, and widowers who reside at the ARC are on government pensions, but the fees they pay to ARRF are increasing disproportionately. Fees have been rising as a result of a downturn in revenue at the ARC. Based upon standards well known among CCRCs, the ARC must maintain an occupancy rate of at least 90–92 percent in order for Supporting Foundation to satisfy the debt service requirement on its bonds and even its operating expenses. The ARC's occupancy rate is currently about 91 percent and declining, with 29 high-rise apartment vacancies and 14 cottage vacancies. Further, five residences are now being vacated by residents because, in most cases, of dissatisfaction caused by the mismanagement of the ARC.

45. The decline in occupancy has been affected by management's failed marketing efforts and the adverse reaction of prospective residents who decide not to reside at the ARC because of the evident dissatisfaction of current residents at the ARC. Based on past experience at the ARC, one of the keys to attracting new residents is based on recommendations from current residents, but many current residents are now declining to recommend the ARC to their friends and other prospects because of their dissatisfaction with the management of the ARC. With the reduction of revenues from resident fees because of the declining occupancy rates, management has increased the resident fees, and the practice of passing on to residents the adverse consequences of management's underperformance is expected to continue. As a result, residents of the ARC live in an environment of fear and anxiety: they face increasing resident fees, greater risk to the financial investment they have made in the ARC, and a tense atmosphere.

46. Despite recommended best practices specifying that residents of CCRCs have access to management, including regular meetings between residents and management, Defendants have failed to provide residents with key information vital to the ARC's financial future. In addition to the concealed deferred compensation plan and overpayments discussed above, Defendants infrequently conduct town hall meetings with ARC residents, and they refuse to make minutes of Board meetings available to residents.

47. As a result of Defendants' mismanagement, over 300 residents of the ARC recently signed and delivered to the ARC Board of Directors a petition which stated, "*We, the undersigned, have determined that it is in the best interests of the Army Retirement Community and its residents that we replace the current CEO/Executive Director.*" Some of the residents declined to sign the petition because of their fear of reprisal from the ARC's management. As indicated by the petition, residents of the ARC have expressed their lack of confidence in Defendants' leadership as well as their own associated anxieties regarding the effects of the declining occupancy rates and the related effects on their resident fees, and their frustration with Defendants' overall lack of responsiveness and transparency, all of which puts the future of the ARC at risk. In many cases, residents have consumed a large portion of their remaining financial resources to pay their non-refundable initial entrance fee to the ARC, and putting them at significant financial risk.

48. Further evidence of mismanagement is the workplace environment for the staff at the ARC. Prior to the current management, the attitude of the staff toward the residents was felt to be warm and caring. The attitude of the staff has undergone a negative change because of their relationship with management and concern for their jobs. Valued staff members are voluntarily leaving their employment with the ARC because of the negative environment.

49. After receipt of the resident petition, described above, the executive director of the ARC pressured the staff to submit reports about any positive events at the ARC, which puts staff members in an indefensible position and creates concern about their continued employment if they fail or refuse to respond favorably.

50. Plaintiff has exhausted all other reasonable remedies available to him prior to filing this suit.

CAUSES OF ACTION

A. Count One: Breach of Contract

51. Plaintiff incorporates the assertions contained in the foregoing paragraphs.

52. At Article X of the Resident Contract, the ARC agreed to the following responsibilities:

- a. The smooth and efficient operation of the [ARC] Community.
- b. Prudent management while being responsive to the desires of Residents, all within the limits of sound business practices and fairness to Residents.
- c. Reviewing rates and fees periodically and adjusting them, as necessary, to accurately reflect the costs of operating the [ARC] Community.
- d. Diligently striving to lease Residences as they become vacant to maintain a sound financial base.
- e. Creating and maintaining an image and environment that fits the status of a high quality active retirement Community.

53. The ARC breached the terms of the Resident Contract by:

- a. Failing to operate the ARC smoothly and efficiently.
- b. Failing to manage the ARC in a prudent manner.
- c. Failing to lease residences as they become vacant.

- d. Failing to maintain a sound financial base.
- e. Failing to maintain an image and environment that fits the status of a high quality active retirement Community.

54. The ARC's breaches are demonstrated by Defendants' failure to prevent the financial malfeasance of the ARC's CFO, failure act on reports of the financial malfeasance (worth hundreds of thousands of dollars), termination of the employee who reported the financial malfeasance, and failure to report hundreds of thousands of dollars in deferred compensation liabilities. Such failures and actions constitute a failure to operate the ARC smoothly and efficiently, a failure to manage the ARC in a prudent manner, and a failure to maintain a sound financial base.

55. Moreover, Defendants' actions and failures have created an environment of fear and anxiety on the part of the ARC's residents. The negative environment has caused many of the ARC's residents to vacate their residences, leaving the ARC with an increased vacancy rate and a declining occupancy rate. The result is a reduction of revenues from resident fees, which the ARC's management has attempted to correct by increasing resident fees. Such actions, including the practice of passing on to residents the adverse consequences of management's underperformance, constitute a failure to lease residences as they become vacant, a failure to maintain a sound financial base, and a failure to maintain an image and environment that fits the status of a high quality active retirement Community.

56. Pursuant to the explicit terms of the Resident Contract, Plaintiff has the right to live in a facility dedicated to respecting the dignity of its occupants at all times. Defendants have breached the Resident Contract by creating an environment of fear and anxiety, thus denying Plaintiff the benefit of his mutually agreed upon rights.

57. The breaches discussed above have had a direct financial impact on Plaintiff by causing higher resident fees and putting his financial investment in the ARC at significant risk.

58. Plaintiff performed his obligations under the Resident Contract.

B. Count Two: Breach of Fiduciary Duty

59. Plaintiff incorporates the assertions contained in the foregoing paragraphs.

60. Defendants failed to act in good faith by putting the needs of ARRF and the Supporting Foundation above the needs of the ARC's residents, including failing to address reported malfeasance by high-level management until pressured by the ARC's residents. Defendants' refusal to adopt recommended practices of transparency and communications with residents exemplifies their lack of good faith and furthers an environment of mistrust and anxiety.

61. Defendants failed to act with ordinary care by failing to act on reports of malfeasance worth hundreds of thousands of dollars, terminating the employee who reported the malfeasance, failing to report substantial liabilities arising from a deferred compensation plan and overpayment for financial services, and refusing to adopt CCRC practices recommended by the National Investment Center and the American Seniors Housing Association.

62. Defendants failed to act in a manner believed to be in the best interests of the ARC and its residents. Defendants increased the resident fees to compensate for operating shortfalls. Increased fees, in turn, drive residents away and dissuade potential residents from moving in. Thus, Defendants' actions have caused a downward spiral in which the ARC and its residents ultimately lose money.

63. These actions constitute Defendants' breaches of fiduciary duty to the ARC, its residents, and the State of Texas.

64. Plaintiff seeks a recovery of the actual and consequential damages resulting from Defendants' breaches of fiduciary duty.

C. Count Three: Elder Exploitation

65. Plaintiff incorporates the assertions contained in the foregoing paragraphs.

66. Plaintiff, like most residents of the ARC, is an elderly person.

67. Chapter 48 of the Texas Human Resources Code prohibits exploitation of elderly persons by any improper act that involves attempting to use the resources of an elderly person for monetary or personal benefit, profit, or gain.

68. ARC's CFO violated the Human Resources Code and committed elder exploitation by improperly brokering—for his personal gain—an off-the-books deferred compensation plan valued at up to \$750,000.

69. Moreover, by failing to take reasonable actions in response to the discovery of the plan—indeed, Defendants terminated the employee who discovered and reported the plan—Defendants have created an environment of fear and anxiety on the part of the ARC's residents. Because of the resulting fear and anxiety, many of the ARC's residents have vacated their residences, resulting in a reduced occupancy rate. Consequently, the ARC faces a reduction of revenues from resident fees, a reduction that Defendants have passed on to remaining residents in the form of increased resident fees.

70. Defendants are liable for the actions of the ARC's CFO under the theory of respondeat superior.

D. Count Four: Negligence

71. Plaintiff incorporates the assertions contained in the foregoing paragraphs.

72. Defendants owed Plaintiff a duty of care.

73. Defendants breached that duty by failing to act on reports of malfeasance worth hundreds of thousands of dollars, terminating the employee who reported the malfeasance, failing to report hundreds of thousands of dollars in deferred compensation liabilities, negligently overpaying financial services advisors in the tens of thousands of dollars, and refusing to adopt CCRC practices recommended by the National Investment Center and the American Seniors Housing Association.

74. As a result of Defendants' breach, Plaintiff has suffered harm. Defendants have raised resident fees to make up for negligently squandered assets. The increase in fees far exceeds the cost of living adjustment that applies to residents' retirement income, including Plaintiff's.

E. Count Five: Negligence Per Se

75. Plaintiff incorporates the assertions contained in the foregoing paragraphs.

76. The Texas Human Resources Code prohibits exploitation of elderly persons by any improper act that involves attempting to use the resources of an elderly person for monetary or personal benefit, profit, or gain.

77. Further, the Texas Human Resources Code imposes upon Defendants a statutory duty to report the elder exploitation described above.

78. Defendants breached their statutory duty by failing to report the elder exploitation committed by the ARC's CFO.

79. Plaintiff is a member of the class of persons the Texas Human Resources Code was designed to protect (i.e., elderly persons), and the exploitation was of the type the Texas Human Resources Code was designed to prevent.

80. Defendants' violation of the Texas Human Resources Code proximately caused damage to Plaintiff, including increased resident fees and a living environment characterized by fear and anxiety.

COSTS, FEES, AND INTEREST

81. To the extent allowed by law, including but not limited to Section 37.009 of the Texas Civil Practice & Remedies Code, and Section 101.461 of the Texas Business Organizations code, the Plaintiff also seeks to recover of the Defendants, jointly and severally, all of the attorneys fees, costs, and expenses incurred in the prosecution of this claim, together with such pre and post judgment interest as allowed by law.

82. Furthermore, Plaintiff has incurred legal fees and expenses to enforce the Resident Contract. Under Chapter 38 of the Texas Civil Practice & Remedies Code, Plaintiff seeks recovery of his reasonable and necessary attorneys' fees and costs incurred in this action to enforce the Resident Contract and through all appeals.

CONDITIONS PRECEDENT

83. All conditions precedent to Plaintiffs' right to recover have occurred.

JURY DEMAND

84. Plaintiff demands a jury trial and tenders the appropriate fee with this Petition.

REQUEST FOR DISCLOSURE

85. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

PRAYER

WHEREFORE, Plaintiff, acting in his capacity as member of the ARC, asks the Court to award a judgment against Defendants for all of the damages suffered or incurred by Plaintiff as

described herein, and recover from Defendants the amounts so transferred, attorney fees and costs, pre- and post-judgment interest as allowed by law, and such other and further relief to which he is entitled.

Dated: February 2 , 2017

Respectfully submitted,

DYKEMA COX SMITH

By: /s/ Phil Hardberger

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COUNSEL FOR PLAINTIFF

Exhibit A

RESIDENT CONTRACT



**THE ARMY RESIDENCE
COMMUNITY**

Resident Contract

This Contract is entered into this 28th day of November, 2011,
by and between The Army Retirement Residence Foundation - San Antonio, Inc. (the Foundation),
a non-profit corporation organized and existing under the laws of the District of Columbia
and authorized under a Certificate of Authority to transact business in the State of Texas,
and LTC (Ret) Charles E., Jr. & Nancy J. Cheever (the Resident).
WC *NJC*

Witnesseth:

Whereas, the Foundation has established at San Antonio, Texas, a residential retirement facility known as The Army Residence Community - San Antonio (the Community) for retired career military officers and their spouses and for widows and widowers of such officers. (The term "officer" includes Regular, Reserve and National Guard commissioned and warrant officers from any branch of U.S. military service. The term "career" means either a minimum 20 years military service [active or reserve component] of which at least 10 years must have been as a commissioned or warrant officer, or retirement for a physical disability suffered while on active duty as a commissioned or warrant officer. Each "career" officer must be listed on the official Military Retired Rolls.)

Whereas, the Resident desires to reside in the Community in accordance with the provisions of this contract. (The term "Resident" applies to a single Resident or to a couple. In case of a couple, both parties must sign and agree to the terms of this contract.)

Now, therefore, in consideration of the premises and mutual promises set forth herein, the parties agree as follows:

ARTICLE I: Residence

The Resident has reserved Residence number #918, ~~a cottage~~ apartment type Residence in the Community and desires to reside therein.

7. Maintenance of the Residences, public spaces, and Community-owned items. This will also include upkeep of the grounds and custodial functions.
8. Transportation in Community vehicles to a grocery store, shopping center, Brooke Army Medical Center and to nearby military installations, on a scheduled basis.
9. Emergency Call System (activated by the Resident) in each Residence connected directly to the front desk. In the event of a medical emergency, Community personnel will be dispatched without delay.
10. Emergency nursing care in the event of medical emergencies occurring on the Community grounds. This is restricted to those services that can be provided by a licensed nurse from the Health Care Center.
11. Minor outpatient health care services provided by the nursing staff to Residents who go to the Health Care Center i.e., taking blood pressure and assisting with medications and treatments. Supplies used in the delivery of outpatient care may be charged to the Resident.
12. Weekly cleaning of the Residence by the Community's housekeeping staff.
13. Use of the Community's facilities and common areas, plus participation in Community religious and social events, as desired.
14. Assurance of a Health Care Center bed if ordered by a physician and approved by the Community's Advisory Physician as long as the diagnosis is within the scope of the Health Care Center's capabilities. Medical problems that are beyond the scope of the Health Care Center include, but are not limited to, conditions that require ventilator care, blood transfusions, dialysis and chemotherapy.
15. Residents are assured of reduced rates in the Health Care Center should a stay be necessary.

ARTICLE V: Additional Services

The Foundation may offer the Resident certain services in addition to those listed in Article IV, for which a separate and additional charge shall be assessed to the Resident. These services would include, but are not limited to: guest meals; cable television charges; unscheduled use of Community transportation; extra housekeeping or maintenance service; expendable supplies used in arts and crafts; room charges for guest rooms; copy service; catering for private parties; health care expenses not included in the Resident Health Care Center Rate; meals not included in this Contract; personal property taxes on items owned by the Resident; and personal liability and personal property insurance for those items owned by the Resident.

ARTICLE VI: Community Health Care Center

The Foundation has a Health Care Center that is a non-profit, private pay facility which includes two skilled nursing care wings and a 30-unit assisted living wing, licensed by the Texas Department of Human Services and accredited by the Continuing Care Commission. A new secured dementia wing will further expand services to Residents. The Foundation reserves the right to allow non-residents access to the Health Care Center on a space available basis; however, Residents will have first priority on all Health Care Center beds and no Resident shall be denied space in favor of a non-resident. The Foundation warrants that it will operate the Health Care Center in compliance with federal and state statutes, laws, and directives governing nursing home facilities.

6.01 Health Care Center Charges

The Health Care Center rates cover a bed in a semi-private room, meals, linens and bedding, nursing care and limited laundry service. Extra charges may include, but are not limited to: guest meals, certain medical equipment and supplies, transportation charges, long distance phone services, nutritional supplements, special nursing care, and fees for beauty | barber services.

Charges for a personal physician, podiatrist, dentist, physical therapist, pharmacy, laboratory, x-ray, etc., are normally billed to the patient directly by the provider.

The Health Care Center has two rates:

Daily Health Care Center Rate. This is the rate a non-resident will be required to pay for the use of a Health Care Center bed in a semi-private room if available. This rate covers the costs of nursing care, meals, linens, bedding and limited laundry service.

Resident Health Care Rate. The monthly rate will be equal to the average of the current "first person" Monthly Maintenance Fee for all Community Residences. Daily charges, as a proration of the monthly rate, will be made. This Resident Health Care Center Rate is the rate applicable for a semi-private room. There will be an additional charge for a private room.

The following describes specific circumstances:

Single Resident - Temporary Stay

Should a single Resident require temporary care, the Monthly Maintenance Fee for the Residence would continue, minus the cost of meals contracted for but not taken. The Resident also would pay the Resident Health Care Center Rate for each day spent in the Center.

Single Resident - long Term Stay

Should it be determined that the Resident can no longer live independently (in consultation with the Community's advisory physician, the Resident's physician, family and, if applicable, the Resident), the Resident may:

- a. Turn his or her Residence back to the Community to be leased anew and continue paying the Resident Health Care Center Rate. Once the Residence is vacated, the Monthly Maintenance Fee ceases; or
- b. Retain the Residence by continuing to pay the Monthly Maintenance Fee, minus the cost of meals contracted for but not taken. The daily Health Care Center Rate for non-residents would apply.

Two Residents - Temporary Stay

When two Residents share a Residence and:

- a. One enters the Health Care Center for a temporary stay, that person pays the Resident Health Care Center Rate. The remaining Resident is charged the single person Monthly Maintenance Fee for living in the Residence.
- b. Both Residents enter the Health Care Center for a temporary stay, the single person Monthly Maintenance Fee is assessed, minus the cost of meals contracted for but not taken. Each Resident also pays the Resident Health Care Center Rate.

Two Residents - long Term Stay

When two Residents occupy a Residence and:

- a. One of them requires a long-term stay in the Health Care Center, that person is charged the Resident Health Care Center Rate. The remaining Resident is charged the single person Monthly Maintenance Fee for continuing to live in the Community.
- b. Both require a long-term stay in the Health Care Center, the Residents may:
 1. Turn their Residence back to the Community to be leased anew and continue paying the Resident Health Care Center Rate. Once the Residence is vacated, the Monthly Maintenance Fee ceases, or they may
 2. Retain the Residence by continuing to pay the single person Monthly Maintenance Fee, minus the cost of meals contracted for but not taken. Each Resident pays the daily Health Care Center rate for non-residents.

6.02 Health Care Insurance

Each Resident must agree to maintain Medicare Part A (Hospital), Medicare Part B (Physician Services), or be insured by a Health Maintenance Organization (HMO), and if eligible, be enrolled in the Defense Enrollment Eligibility Reporting System (DEERS). The Foundation may request and the Resident shall furnish evidence of such coverage. If this coverage is not maintained, or if a Resident shall refuse medical treatment, which in the opinion of the Community's Advisory Physician is required for the health of the Resident, or the health and | or safety of other Residents, the Foundation may terminate this Contract.

6.03 Recovery from a long-Term Stay

Should a Resident relinquish a Residence to enter the Health Care Center for a long-term stay and be later judged by the Medical Panel of the Foundation to be capable of living independently again, the Resident will be given the next available Residence of the type and size equivalent to that originally occupied.

ARTICLE VII: Change In Resident Status •

7.01 Marriage of Two Residents

Should two Residents marry, one may terminate his or her contract, turn the Residence back to the Community, receive any refund due, and become party to the new spouse's contract. Maintenance Fees terminate for the surrendered unit when it is vacated and the Maintenance Fee for the retained Residence is simultaneously raised to the double occupancy rate.

7.02 Marriage to a Non-Resident

When an individual moves into the Community as a single Resident and later marries a non-resident: If the non-resident satisfies the guidelines for acceptance as a Resident, he or she will be offered the opportunity to become party to the Resident's contract. This offer, if accepted, will not incur an additional Entrance Fee inasmuch as the single Resident previously paid a full Entrance Fee.

If a married couple moves into the Community, divorce or death occurs, and the remaining Resident marries a non-resident: If the non-resident satisfies the guidelines for acceptance as a Resident, he or she will be offered the opportunity to become party to the Resident's contract. This offer, if accepted, will incur an additional Entrance Fee to offset the costs to the Community of granting full Resident status to a third party on an existing contract.

Should the non-resident refuse to become a party to the contract in either of these scenarios, or not meet the guidelines for acceptance, he or she may share the Residence as a non-resident occupant if the couple agrees to pay the Monthly Maintenance Fee for double occupancy.

A non-resident spouse (or other non-resident occupant; see Section 7.03, Non-Resident Occupants) is entitled to all rights and privileges granted to Residents, except that space in the Health Care Center is not guaranteed, and any stay in the Health Care Unit will be charged at the prevailing daily Health Care Center Rate, rather than the Resident Health Care Center Rate. In the event of the Resident's death, or should the Resident permanently move to the Health Care Center or otherwise vacate the Residence, the non-resident may be asked to vacate the Residence within thirty (30) days and relinquish all rights, benefits and privileges of the Community.

A non-resident contract must be signed by both the Resident and the non-resident occupant.

7.03 Non-Resident Occupants

Should a Resident wish to share a Residence with an individual who is not eligible to be a Resident, the Foundation Board of Directors, upon review of the circumstances, may grant non - resident occupant status to that individual. (See Section 7.02, Marriage to a Non-Resident; same Fee structure and restrictions are applicable).

7.04 Exchange of Residences

Residents who wish to move from one Residence to another, of either larger or smaller size, may submit a request to do so. The Community does not allow lateral moves into a same size | same cost Residence, regardless of differences in remodeling improvements or location. If the request to exchange Residences is approved, there will be a one-time charge for painting, repairing and cleaning the Residence being vacated. Any charges that are incurred must be paid prior to occupancy of the new Residence.

Upgrading. Should the Resident move from the current Residence to a larger one, the Resident will pay the difference in Entrance Fees from the current Entrance Fee then in effect for the smaller Residence to the Entrance Fee then in effect for the larger Residence on Plan O. The calculation for any refunds will be based on the original Entrance Fee paid for the smaller Residence. The Monthly Maintenance Fee will be increased to that of the larger Residence, immediately effective upon occupancy of the larger Residence.

Downgrading. If the Resident moves from the current Residence to a smaller Residence, there will not be a reduction in the Entrance Fee paid. Any refund due at the time the smaller Residence is vacated, however, will be calculated based on the original Entrance Fee Paid. The Resident's Monthly Maintenance Fee will be lowered to that of the smaller Residence at the time the larger Residence is vacated.

ARTICLE VIII: Entrance Fee Refund Program

Listed in 8.02 are the three (3) different refund programs offered to Residents of the Community. Only the one that is initialed by the Resident(s) signing this Contract will apply to this Contract. The other two options will be crossed out and initialed by both parties.

8.01 Introductory Period

The first five (5) months following the date of execution of this Contract shall be known as the Introductory Period. Should the Resident leave the Community for any reason during that period, and terminate this Contract, the Resident will forfeit five percent (5%) of the Entrance Fee noted in Article II. This Introductory Period is common to all of the Entrance Fee Refund programs noted in 8.02 below.

8.02 Entrance Fee Refund Program Options

(Only One Shall Apply)

NOTE: All refunds due are made minus any sums owed to the Community.

Plan 50

Should this Contract be terminated by either party, the Resident, or, if applicable, the Resident's estate, will receive a refund of the Entrance Fee less five percent (5%) during the five (5) month Introductory Period and one and one-half percent (1.5%) per month thereafter for thirty (30) additional months. After that time, the refund amount will remain unchanged at fifty percent (50%) of the original Entrance Fee, regardless of the length of time the Resident retains the Residence. This program is restricted to those Residents who have not attained the age of eighty-one (81) by the date of payment of the entire Entrance Fee. In the case of two Residents in the Residence, neither may have attained the age of eighty-one (81) by the date of payment of the entire Entrance Fee.

Plan 95

Should this Contract be terminated by either party, the Resident, or, if applicable, the Resident's estate, will receive a refund of the Entrance Fee less five percent (5%) during the five (5) month Introductory Period. After the reduction of five percent (5) for the five (5) month Introductory Period, there is no additional decrease in the amount refunded. It will remain constant at ninety-five percent (95%) of the Entrance Fee, regardless of the length of time the Resident retains the Residence. This program is restricted to those Residents who have not attained the age of seventy-one (71) by the date of payment of the entire Entrance Fee. In the case of two Residents in the Residence, neither may have attained the age of seventy-one (71) by the date of payment of the entire Entrance Fee.

Plan 0 *Plan* *and* *NIC*

Should this Contract be terminated by either party, the Resident, or, if applicable, the Resident's estate, will receive a refund of the Entrance Fee less five percent (5%) during the five (5) month Introductory Period. There will be no refund in the event of death after the initial five (5) month Introductory Period. However, should this Contract be terminated for any reason other than death of the Resident, the Entrance Fee will be refunded less five percent (5%) during the Introductory Period and two and one-half percent (2-1/2%) per month thereafter for thirty-eight (38) additional months. After that time, there will be no refund made to the Resident for any reason. This program option is open to any Resident.

8.03 Changes to Entrance Fee Refund Program

The Entrance Fee Refund Program selected herein remains binding on both parties and cannot be changed during the life of this Contract.

8.04 Payment of Refunds

- a. All refunds due under the Entrance Fee Refund Program selected herein will be made at the time the Residence is re-leased or the Resident leaves the Health Care Center, whichever is later.
- b. Upon the death of a Resident, these provisions shall apply if the Resident was a single occupant. Should there be a surviving Resident, no refunds shall be due until and unless the surviving Resident vacates the Residence and the Residence is re-leased, or the surviving Resident leaves the Health Care Center, whichever is later.
- c. Before the Community can release the Entrance Fee refund to any heir, the heir must provide a certified copy of the death certificate and legal proof that he or she is legitimately entitled to the refund.

- d. In complex estate arrangements (multiple marriages, step-families, etc.), Residents are required to provide a legal statement from their attorney regarding the single entity or heir to whom they wish the refund to be distributed.

ARTICLE IX: Resident Cancellation Rights

The Resident may terminate this Resident Contract at any time, and for any reason, by providing the Foundation with a sixty (60) day written notice. The Resident will continue to be responsible for the Monthly Maintenance Fee until all of the Resident's possessions are removed from the Residence or the sixty (60) day period expires, whichever is later.

ARTICLE X: Responsibilities and Rights of the Foundation

10.01 Responsibilities of the Foundation

In addition to those responsibilities noted elsewhere in this Contract, the Foundation is responsible for:

- a. The smooth and efficient operation of the Community.
- b. Prudent management while being responsive to the desires of Residents, all within the limits of sound business practices and fairness to Residents.
- c. Reviewing rates and fees periodically and adjusting them, as necessary, to accurately reflect the costs of operating the Community.
- d. Diligently striving to lease Residences as they become vacant to maintain a sound financial base.
- e. Creating and maintaining an image and environment that fits the status of a high quality active retirement Community.

10.02 Rights of the Foundation

In addition to the other rights and privileges of the Foundation noted elsewhere in this Contract, the Foundation shall have the following rights in order to honor its responsibilities:

The right to request and receive data from the Residents, such as:

1. Names, addresses and telephone numbers of those to be contacted in emergencies;
2. Name, address and telephone of a preferred physician;
3. Name, address and telephone of current executor of each Resident's estate; and
4. Other such material and information that the Community needs to react efficiently on the Resident's behalf in an emergency.

The right to terminate the contract for any Resident who:

1. Provides inaccurate or misleading information on the Confidential Data Application;

2. Provides inaccurate or misleading information to the physician who completed the Pre-Entrance Physical Examination;
3. Fails to make required payments if capable of doing so;
4. Fails to live harmoniously within the Community; or
5. Develops permanent medical problems that are beyond the capabilities of the Health Care Center to treat or control. This decision would be made by the Board of Directors of the Foundation upon recommendation of the Community's Advisory Physician after he has consulted with the Resident's physician of choice, family, and, if applicable, the Resident.

ARTICLE XI: Responsibilities and Rights of the Resident

11.01 Responsibilities of the Resident

In addition to those responsibilities noted elsewhere in this Contract, the Resident is responsible for:

- a. Paying undisputed billings by the Community in a timely manner.
- b. Insuring that he, his guests and non-resident occupants respect the rights of other Residents.
- c. Assisting the Community in keeping the facility a pleasant place in which to live. The Community asks Residents to report maintenance problems, staff errors, and other items that the staff can correct.

11.02 Rights of the Resident

In addition to the other rights and privileges of the Resident noted elsewhere in this Contract, each Resident will have the right to:

- a. The quiet enjoyment of his or her Residence, with the right to privacy respected by management, staff and other Residents.
- b. Use of the Community amenities and services on an equal basis with all other Residents.
- c. Participate or not participate in any planned activity, class or function sponsored by the Community.
- d. Live in a facility dedicated to respecting the dignity of its occupants at all times.

ARTICLE XII: Non-Payment of Fees

12.01 Circumstances Beyond Resident's Control

If the Resident becomes unable to pay the Monthly Maintenance Fee for reasons other than willful dissipation of assets, the Foundation, in its sole judgement, may elect to assist the Resident financially. Any sums so expended by the Foundation, plus interest at the prime rate as established by the Chase Manhattan Bank in New York, will represent a claim against any refund due at the time this Contract is terminated. Such assistance will be provided only if such action does not jeopardize the financial

stability of the Community. Additionally, the Foundation may assist the Resident in the identification of and arrangement for funds from sources including, but not limited to, public assistance from local, state, and federal governments. The Resident agrees to assist the Foundation in the application for such support and to execute reasonable and necessary documents for this purpose.

12.02 Voluntary Non-Payment

If, in the sole opinion of the Foundation, the Resident voluntarily fails to pay all amounts due the Foundation within thirty (30) days after receiving a bill, the Foundation may give the Resident written notice that payment must be made within fifteen (15) days. If the Resident fails to comply with such notice, the Foundation may terminate this Contract and require the Resident to vacate the Community.

12.03 Charges

The amount of any refund due the Resident at termination of this Contract shall be reduced by any amounts due, including interest, as a result of the Resident's failure to make required payment to the Foundation and | or the Community. The Foundation shall present a claim to the Resident's estate or other available resources for any amount due, including interest, which is not satisfied by a set -off against a refund.

ARTICLE XIII: Termination

This Contract shall not be terminated nor shall the Resident or the Resident's personal representative be requested to transfer the Resident for reasons of health associated with the normal process of aging, provided the care required by the Resident is within the licensure provisions and the level of care available in the Health Care Center.

This Contract shall terminate at the time the Resident becomes entitled to a refund pursuant to Article VIII or as called for in Article XIV. However, if there are two (2) Residents in the Residence, a termination of this Contract with respect to one individual shall not affect the continuation of this Contract with the respect to the other individual.

ARTICLE XIV: Dismissal or Discharge

The Resident shall be required to move out of the Community under any of the following circumstances:

- a. Upon termination of this Contract;

- b. In the event the Resident becomes mentally or emotionally disturbed, or contracts any form of illness which constitutes a threat to the health, peaceful living, or welfare of the other Residents of the Community. The decision will be made by the Board of Directors of the Foundation upon recommendations of the Community's Advisory Physician after consulting with the Resident's physician of choice, family, and, if applicable, the Resident.

ARTICLE XV: Modification of Residence

The Foundation reserves the right to determine the serviceability and condition of carpeting, appliances, mini-blinds, and all similar items provided by the Community. If the Resident receives the advance written approval of the Foundation, the Resident may make minor modifications to the Residence at the Resident's own expense. Modifications which result in permanent installation, such as shelving and drapery rods, shall become the property of the Foundation upon installation and shall remain in the Residence when the Resident moves from the Community. As listed in the conditions of approval, the Resident (or his estate) must accept liability for the cost of modifications and the cost of returning the Residence to its original condition when the Residence is returned to the Community.

ARTICLE XVI: Personal Property

The Foundation shall not be responsible for the loss of any property belonging to the Resident due to fire, theft, disappearance or any other cause not due to negligence of the Foundation or its employees.

Within sixty (60) days after the death of a Resident or, if there are two (2) Residents in the Residence, within sixty (60) days after the death of the survivor, the tangible personal property of the Resident shall be removed from the Community by the legally appointed representative of the Resident's estate. Should any such property remain within the Community after that date, the Foundation shall have the right to remove the property from the Residence and store it at the expense of the Resident or at the expense of the Resident's estate.

ARTICLE XVII: Subleasing and Commercial Activities

17.01 Subleasing

Residents may not sublease the assigned Residence.

17.02 Commercial Activities

Residents may not conduct any commercial activity within the Community without the written prior approval of the Board of Directors of the Foundation.

ARTICLE XVIII: Miscellaneous

18.01 Administrative Policies and Procedures

The Foundation shall have the right to adopt reasonable administrative policies and procedures for economical and efficient operations, management and harmony within the Community. Administrative policies and procedures may be amended from time to time as required by circumstances without prior notice to the Resident. A copy of the current and amended administrative policies will be available to the Residents in the Community Library. The Foundation shall have the responsibility and authority for the management and operation of the Community. The Resident, by execution hereof, agrees to accept the reasonable management decisions and administrative policies and procedures of the Foundation as binding and final in all respects.

18.02 Exclusions

The Foundation will not assume any responsibility at any time for:

- a. Personal debts of the Resident;
- b. Hospitalization or medical services administered outside of the Community;
- c. Medical expenses incurred for items other than those included in the Residential Health Care Rate.

18.03 Assignment

This Contract may be assigned in whole or in part by the Foundation, either outright or as security. The Resident agrees to exercise instruments necessary or incident thereto. This Contract may not be assigned by the Resident.

18.04 Subordination to Mortgage Financing

The Resident accepts this Contract subject and subordinate to the rights of any lender under any mortgage or other security agreement which now or hereafter comprises a lien upon the Community.

18.05 Binding Effect

The rights and obligations contained in this Contract shall be binding upon and for the benefit of the Resident and the Foundation and the Foundation's successors or assigns, specifically including any lender, mortgagee or assignee of the Foundation.

18.06 Complete Understanding

The Foundation and the Resident shall have only the rights and obligations set forth in the Contract, the Down Payment Agreement, the Confidential Data Application, the Pre-Entrance Physical Examination Form, and any other Document delivered by the party to the other concurrently with the execution hereof (the Documents). The Documents set forth the entire understanding of the parties and supersede any and all prior agreements, arrangements, and understandings related to the subject matter hereof. No representation, promise, inducement, or statement of intention has been made by either party which is not embodied in the Documents, and neither party shall be bound by, or liable for, any alleged representation, promise, inducement or statement of intention not embodied herein or therein. The Down Payment Agreement, the Confidential Data Application, and the Pre-Entrance Physical Examination Form executed by the Resident are made a part of this Contract by this reference.

18.07 Counterpart

For the convenience of the parties hereto, this Contract may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, and all such counterparts shall together constitute the same Contract.

18.08 Required Disclosures

- a. You may cancel this Contract at any time prior to midnight of the seventh day, or a later day if specified in the Contract, after the date on which you sign this Contract or you receive the facility's Disclosure Statement, whichever occurs later. If you elect to cancel the Contract, you must do so by written notice and you will be entitled to receive a refund of all assets transferred other than periodic charges applicable to your occupancy of a Residence.
- b. A Resident who executes a Continuing Care Contract may not be required to move into the facility before the expiration of the seven (7) day rescission period.
- c. If the Continuing Care Contract is rescinded under this section, any money or property transferred to the provider, other than periodic charges specified in the Contract and applicable only to the period a Residence was actually occupied by the Resident, shall be refunded not later than the 30th day of rescission.
- d. If a Resident dies before occupying a Residence in the facility - or if illness, injury, or incapacity should preclude a Resident from occupying a Residence in the facility under the terms of the Contract for Continuing Care - the Contract is automatically canceled. Under these circumstances, the Resident or his | her | their legal representative is entitled to a refund of

money previously paid to the Community. Refunds must be requested by the Resident or legal representative as per the terms of the Contract or an Addendum to the Contract, which has been signed by the Resident. A reasonable service fee will be imposed on refunds, not to exceed the greater of \$1,000.00 or 2% of the Entrance Fee.

- e. This Document, if executed, constitutes a legal and binding Contract between you and The Army Retirement Residence Foundation - San Antonio. You may wish to consult a legal or financial advisor before signing, although it is not required that you do so to make this Contract binding.

18.09 Arbitration

The Foundation and the Resident hereby agree that any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by binding arbitration by a single arbitrator under rules and procedures administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and any judgement on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

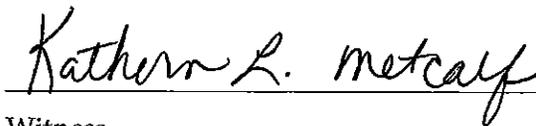
In Witness Whereof, the parties have caused this Contract to be duly executed the day, month and year first written on page 3.

The Army Retirement Residence Foundation
San Antonio, Texas

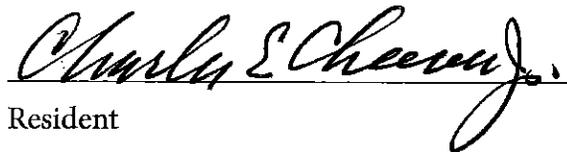


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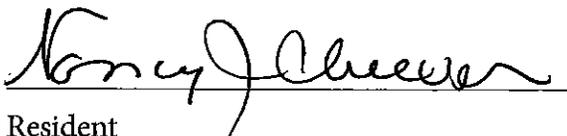
Witness



Witness



Resident



Resident



THE ARMY RESIDENCE COMMUNITY

7400 Crestway | San Antonio, Texas 78239-3098
(210) 646-5316 | 1-800-725-0083
www.armyresidence.com



A Commitment to Excellence

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REVISED JANUARY 2003



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SAN ANTONIO**

AMENDMENT

*Charles purchase of 11112 Main
already owned #918 Studio*

The contract between the Army Residence Community and LTC Charles E. Cheever, Jr., and Mrs. Nancy J. Cheever dated November 28, 2011, under Plan 0, is amended this date as follows:

Under the provision of Article VII, paragraph 7.04a, Colonel and Mrs. Cheever have elected to change their living unit from a 670 sf Studio Apartment #918 "G" to a 2BR/2BA/Study, 2,264 sf Cottage "J2" #11112. Colonel and Mrs. Cheever have paid the 10% down payment of \$23,270 and agrees to the remaining balance of \$209,430.00 plus the increased monthly maintenance fees.

\$297,300	#11101 (includes waterfront)
- 64,600	#918
<u>232,700</u>	
- 23,270	10% down payment
<u>\$ 209,430</u>	Total Balance Due

Charles E. Cheever, Jr.
LTC (Ret) Charles E. Cheever, Jr.
Resident

Bruce G. Furbish
Bruce G. Furbish
COL, USA (Retired)
Executive Director

Mrs. Nancy J. Cheever
Mrs. Nancy J. Cheever
Resident

Kathleen Z. Metcalf
Witness

June 5, 2013
Date