

**IN THE COURT OF COMMON PLEAS OF  
MONTGOMERY COUNTY, PENNSYLVANIA**

Daniel Baer and  
Rose Baer,  
through Stephen Baer  
as their Agent with  
Power of Attorney

for themselves and  
all others similarly situated,

Plaintiffs,

v.

Shannondell, Inc., and  
Dell Retirement Services, Inc.  
10000 Shannondell Drive  
Audubon, PA 19403

Defendants

Civil Action

No. 2018-13760

CLASS ACTION

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSON AT A REDUCED FEE OR AT NO FEE.**

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JURY TRIAL DEMANDED

**FOURTH AMENDED COMPLAINT -- CLASS**

(Redesignating Dell Management Services, Inc. as Dell Retirement Services, Inc.)

**ACTION Preliminary Statement**

1. This is a class action against Shannondell, Inc., operator of the Shannondell at Valley Forge continuing care retirement community, for its deceptive practice and breach of contract in dealing with all former residents of its independent living units who signed the

Residence and Care Agreement (“RCA”) used by Shannondell through at least 2012. Shannondell deceived those former residents by misleading them, or more often, due to their death or medical condition, their representatives, to believe years after their RCA’s were signed that a charge of up to \$7,500 as an Appliance Depreciation Fee was “STANDARD.” It breached its contract with its former residents not only by charging such a fee, but also by charging them thousands of dollars more to replace appliances, kitchen cabinets, counters, faucets and other material in their units after they were gone. These additional charges were imposed on the former residents even though the RCA provided that all appliances were included in their unit and that Shannondell was responsible for replacing all of its property and equipment.

2. Shannondell imposed these charges on hundreds of former residents by deducting them from the refund it was required to make of the hundreds of thousands of dollars which each resident of an independent living unit paid as an “Entrance Fee.” That refund was sent to the resident or his representative months after the resident was no longer living at Shannondell either due to medical disability or death, most often at least several years after the departed resident had signed his Residence & Care Agreement. Upon suddenly receiving a check for hundreds of thousands of dollars, the recipient typically did not question a relatively small deduction of up to \$7,500 for the bogus “STANDARD” Appliance Depreciation Fee and did not realize that the charges for new appliances and other new material were for replacement of property that was Shannondell’s contractual responsibility.

3. In this way Shannondell is liable, inter alia, for treble damages for violation of the Pennsylvania Unfair Trade and Consumer Protection Law to those it misled regarding the Appliance Depreciation Fee and for breach of contract to those it charged for replacing appliances or the other property it owned.

### **Class Action Allegations**

4. Defendant Shannondell, Inc. (“Shannondell”) is a for profit corporation with its principal place of business in Montgomery County at 10000 Shannondell Drive, Audubon, Pennsylvania. As the operator and administrator of Shannondell at Valley Forge (“SVP”) at that same address, it is subject to the Pennsylvania Continuing Care Registration and Disclosure Act, 40 Pa. Cons. Stat. §3201 *et. seq.*

5. SVP began operations in 2003 when it had 502 independent living units. It has since built additional facilities such that it now consists of buildings with at least 1100 independent living units and additional buildings with 190 skilled care beds, 70 assisted living beds and 34 dementia beds. As of December 31, 2016 there were approximately 1,228 residents at SVF. A person must be 55 or older to live there and most residents live there well into their seventies and beyond.

6. 7. Plaintiff Stephen Baer is the son of Daniel Baer, now deceased, and Rose Baer, age 96, who lived in the same independent living unit from 2007 until November 2016, when, for health related reasons, they vacated their unit. Stephen Baer is proceeding with this lawsuit as the agent of each of his parents by virtue of a Power of Attorney executed by each of them.

7. Plaintiffs bring this suit as a class action on behalf of all former residents of SVF independent living units who signed a Residence and Care Agreement with Shannondell before 2013.

8. The class consists of hundreds of individuals and is therefore so numerous that joinder of all members is impracticable.

9. There are questions of law and fact common to the class, with respect to the deceptive charging of an Appliance Depreciation Fee, viz

- a) whether the RCA used by Shannondell before 2013 provided that that “[r]esidences are furnished with a kitchen which includes a refrigerator, range, microwave, sink, cabinets, dishwasher and garbage disposal;”
- b) whether Shannondell had a practice of charging former residents of independent living units an Appliance Depreciation Fee of up to \$7,500;
- c) whether Shannondell had a practice of calculating the Appliance Depreciation fee by charging 75 cents per square foot of apartment space annually up to a maximum of \$7500;
- d) whether Shannondell had a practice of representing in writing to former residents on a Residence Refurbishment statement sent to the resident or his surviving representative with his refund check that the charge of the Appliance Depreciation fee was “STANDARD;”
- e) whether the resident or his surviving representative receiving the refund justifiably relied on the representation of the Appliance Depreciation Fee as “STANDARD” in acquiescing to the deduction by depositing the refund check;
- f) whether, under the circumstances surrounding its receipt by the resident or his surviving representative, the representation of the Appliance Depreciation Fee of up to \$7,500 as “STANDARD” created a likelihood of confusion or of misunderstanding as to whether it was properly deductible from the Entrance Fee refund;
- g) whether such conduct constituted a violation of the Pennsylvania Unfair Trade and Consumer Protection Law; and
- h) whether deducting an Appliance Depreciation Fee from the Entrance Fee refund was a breach of the RCA term that “[r]esidences are furnished with a kitchen which includes a refrigerator, range, microwave, sink, cabinets, dishwasher and garbage disposal.”

10. There are questions of law and fact common to the class with respect to charges for replacement of appliances or other material after the resident vacated the unit, viz

- a) whether the RCA used by Shannondell through 2012 provided that “We will be responsible for all necessary repairs, maintenance and replacement of property and equipment owned by Shannondell at Valley Forge.”
- b) whether after a resident vacated his unit, Shannondell had a practice of itemizing on the Refurbishment Sheet sent to residents with the refund of their Entrance Fees, deductions from the refunds for the cost of replacing kitchen

cabinets, counter tops, faucets, shower doors, medicine cabinets and other property owned by Shannondell; and

- c) whether making such deductions was a breach of the RCA term that Shannondell “will be responsible for all necessary repairs, maintenance and replacement of property and equipment owned by SVP.

11. The claims of the representative plaintiffs are typical of the claims of the members of the class in that they, like other former residents, were parties to a Residence and Care Agreement signed before 2013 and had both an Appliance Depreciation Fee and a charge for replacement of property owned by Shannondell deducted from their Entrance Fee refund.

12. The plaintiffs will fairly and adequately assert and protect the interests of the class. Their attorney is experienced in complex commercial litigation, including class action litigation, and is capable of vigorously pursuing their interests and the interests of the class.

13. A class action provides a fair and efficient method for adjudication of the controversy.

### **Facts**

14. Through at least December 2012, all residents moving into independent care units at SVP became parties to a Residence and Care Agreement (the “RCA”) with Shannondell, Plaintiffs’ copy of which, provided by Defendant in discovery in this case, is attached as Exhibit A.

15. Pursuant to paragraph 3 on page i of the RCA, in addition to a monthly fee for the various services provided, each Resident paid a “100 per cent refundable Entrance Fee for the use and occupancy of the unit” in an amount depending on the size and type of unit to be occupied. The Entrance Fees ranged from approximately \$95,000 to \$700,000.

16. The “General Conditions of Residence” which is appended to and part of the RCA (“Conditions”)” states that

- a) “Residences are furnished with a kitchen which includes a refrigerator, range, microwave, sink, cabinets, dishwasher and garbage disposal. A washer and dryer are located in each Residence.” § II B
- b) “Unless otherwise notified, the services described in this Section III will be paid for through the Monthly Fee. . .

“Maintenance and Repair

We will be responsible for all necessary repairs, maintenance and replacement of property and equipment owned by Shannondell at Valley Forge.” §III D.

17. Section VII(3) in the Conditions describes the terms governing the refund of the Entrance Fee. It provides that after a Resident pays one monthly fee, if the RCA is “terminated for any reason, including death,” the Entrance Fee will be refunded “less . . . a Vacancy Fee.” It further states:

“The Vacancy Fee will be used to cover the reasonable costs of cleaning and refurbishing the residence, including but not limited to cleaning or replacement of carpeting, spackling and/or painting of walls, any other appropriate repairs and general restoration of the residence to its original condition.”

The phrase “general restoration of the residence to its original condition” is a reference back to similar wording in section II C of the RCA stating that if the resident makes “alterations, renovations and/or additions” to the unit, and it can not be re-marketed without removing them, then “the cost of restoration to the original condition will be deducted from the Entrance Fee refund.”

18. Contrary to section IIB of the Conditions that kitchen appliances and cabinets are included with the furnishings of the unit and section III D that Shannondell is responsible for replacing all property it owns, when the refund was paid there was a deduction for either an “Appliance Depreciation Fee” or “Appliance Replacement” and additional deductions for replacement of property owned by Shannondell such as kitchen cabinets, countertops, medicine

cabinets, and bathroom vanities and, shower doors. All these deductions were itemized on a statement titled “Shannondell – Residence Refurbishment” which accompanies the refund check (“Statement”).

19. In October 2017, ten months after his parents vacated their unit, Stephen Baer, as their agent, received a Statement (Exhibit B) with a \$323,356 Entrance Fee refund check payable to his parents. A Statement sent to other former residents with their Entrance Fee refund check for \$378,304 is attached as Exhibit C.

20. The Statement charged Plaintiffs \$989 to replace Mobile Glass for the shower and \$703 to replace medicine cabinets and faucets, charges which were Shannondell responsibility under section III D of the RCA.

21. An Appliance Depreciation Fee of \$7500 was the last line item on Exhibit B under the heading “Items Repaired.” It stated that the Appliance Depreciation Fee was “STANDARD” and calculated annually at 75 cents per square foot of the vacated unit up to a maximum of \$7500.

22. When, over 10 years after his parents had signed their RCA, Mr. Baer received the \$323,356 refund check, he did not have a copy of the RCA describing what could be deducted from the Entrance Fee refund. He justifiably and reasonably relied on the inclusion of an Appliance Depreciation Fee among the deductions -- and the representation that that Fee was “STANDARD” -- to mean that the deduction was proper. He looked at the Statement accompanying the check and deposited the check.

23. The description of an “Appliance Depreciation Fee” as “STANDARD” in the Statements was false and misleading because

- a. Notwithstanding that the RCA provided that kitchen appliances were included in their units, the deduction years later from the refund of a



“STANDARD Appliance Depreciation Fee” led residents or their representatives to believe they had a contractual responsibility for paying for them.

b. The Appliance Depreciation Fee had nothing to do with depreciation and was instead actually an appliance usage fee prohibited by the terms of the RCA.

That is so because

- i) Shannondell financial statements show that it has assets only in the form of cash and cash equivalents. The Appliance Depreciation Fee was therefore deducted from refunds even though Shannondell did not even own any appliances or other assets that could be depreciated; and
- ii) The Appliance Depreciation Fee was calculated based on the size of the unit, a method which is not a proper way to determine depreciation.

24. As a condition of admission to Shannondell, prospective Residents filled out and gave Shannondell a Confidential Data Application to keep on file. The Application required the Residents to give Shannondell the names and contact information of their children or closest relative. The Application required the Residents to provide for both themselves and their children or closest relatives a confidential listing of their assets by specifying the amounts of the equity in their residence, savings, CD's, Stocks, Bonds, Trust & Estate equity, other real estate equity, other assets and insurance. It required the Residents to provide for both themselves and their children or closest relatives a confidential listing of their income sources by specifying monthly amounts received from Social Security, savings, CD's, stocks, bonds, trust and estate equity, pension and

retirement accounts, annuities and any other sources. It required the Residents to provide for both themselves and their children or closest relatives a list of any liabilities over \$5000.

25. Residents' Entrance Fees were often funded by the sale of their homes. The use of those sales proceeds was often intended to provide for their future home and medical care as the last major investment of their lives.

26. Residents gave their entrance fee to Shannondell with the agreement that Shannondell would hold it and return it when the Resident vacated. Nothing in the RCA addressed what Shannondell would do with the money. Per the RCA, the Residents would entrust Shannondell with entrance fees for hundreds of thousands of dollars until Shannondell had to give the money back after the Resident died or otherwise vacated the unit.

27. Residence at Shannondell was invariably a Resident's final abode. Residents averaged approximately 85 years of age when they either died or became so physically or mentally infirm that they had to move to a facility providing assisted living or memory, dementia or other 24 hour nursing care.

28. Upon the death or move of the Resident, the keys to his unit had to be returned to Shannondell. An average of at least 6 months then lapsed after the Resident's death or move from the unit until his Entrance Fee check was issued. During that interval, other than the time it took to clean out the Resident's personal property, no one on behalf of the Resident had access to the unit.

29. Defendants then had sole discretion and sole possession of information needed to decide the extent to which appliances, HVAC equipment, or other property in the unit would be replaced. Residents or their representatives had no information and had no input into that decision. When Defendants finally issued the refund of the Entrance Fee accompanied by the Statement

showing deductions, Defendants alone had the information regarding the condition of the replaced or depreciated property which led to the deductions.

30. The refund check for hundreds of thousands of dollars was generally a windfall in the nature of an inheritance to the ultimate recipient. But since the total deductions for appliance depreciation or replacement of appliances or other property did not exceed \$7500, the deductions were relatively small compared to the amount of the refund. Recipients who cashed the checks placed trust and confidence in the Defendants that the information in their exclusive possession supported their discretionary decision that the relatively small deductions were proper.

**Count I -- Violation of the Pennsylvania Unfair Trade  
Practices and Consumer Protection Law  
(against Shannondell, Inc. and Dell Retirement Services, Inc.**

31. The allegations of paragraphs 1 – 30 above are incorporated by reference.

32. Defendant Dell Retirement Services, Inc. (“Dell”) is a corporation with offices at the above captioned address. Dell at all times material managed all operations and facilities of Shannondell pursuant to a Management Agreement with Shannondell.

33. As a consequence of the Management Agreement, Dell was the agent of Shannondell. Shannondell, as Dell’s principal, was responsible for all conduct of Dell.

34. Dell was not a party to any RCA. It had no contract with any Resident.

35. Shannondell has no employees. Dell, in its capacity as Shannondell’s agent and pursuant to the Management Agreement, used only its own employees to perform all its functions as manager of Shannondell. All of the conduct alleged herein was performed only by Dell. Dell purchased the appliances used by Residents and accounted for the purchase and any depreciation

or replacement of the appliances in its own books and records and on its own financial statements. It was Dell that decided to charge Residents for appliance depreciation or replacement and for replacement of cabinets and other property.

36. Defendants confused and deceived Residents and their representatives into accepting deductions from their Entrance Fee refunds that were not permitted by their RCA's. They did so by providing deceptive information and not disclosing information either to Residents and the Pennsylvania Insurance Department (paragraphs 39 below) or to Residents' representatives in the Statements accompanying the refunds (paragraphs 43-48 below). The information, if disclosed or not presented in a deceptive manner, would have exposed how their RCA's did not permit the deductions.

37. Versions of the RCA dated before February 1, 2013 provided that Shannondell was responsible for the repair, maintenance and replacement of its property. They did not provide that the Vacancy Fee would include a deduction for "appliance depreciation not to exceed actual replacement costs."

38. Effective February 1, 2013 Defendants changed the terms of the RCA. The revised RCA removed their obligation for the replacement of property and included a deduction for "appliance depreciation not to exceed actual replacement costs."

39. Defendants annually filed materials with the Insurance Department of the Commonwealth of Pennsylvania to purportedly comply with requirements of the Pennsylvania Continuing Care Providers Registration and Disclosure Act, 40 Pa. Cons. Stat. §3201 et seq and the regulations implementing that Act, 151 Pa. Code §151.1 et seq. Notwithstanding that they had made critical changes to the RCA effective February 1, 2013, Defendants never disclosed those changes in their filings. Instead they actively concealed the changes by sending the Insurance

Department a “No change in Resident’s Agreement statement.” Nor did they note those changes in the Disclosure Statement filed with the Department.

40. Defendants also did not otherwise disclose the change in the language to Residents who had signed the pre February 1, 2013 versions. By not doing so they concealed their own belief -- and the fact -- that the earlier versions did not excuse Shannondell from paying for the replacement of their appliances and did not allow an appliance depreciation or replacement cost to be deducted as part of the Vacancy Fee.

41. In approximately January of 2019 Defendants offered all current Residents, including those who had signed a version of the RCA before February 1, 2013, the opportunity to change the Vacancy Fee term of their RCA. They offered to make the Vacancy Fee a flat 5% of the Entrance Fee rather than the sum of specific deductions. In their communications with Residents on the subject, they did not disclose the existence of this lawsuit which had been filed in May 2018. They therefor concealed from current Residents who had signed a pre February 2013 version of the RCA that Plaintiff’s had challenged Defendants right to include appliance depreciation or replacement in the total sum of the Vacancy Fee. Defendants thereby blocked Residents or their representatives from learning information that later could have prompted challenges to the charging of those fees.

42. A copy of the RCA was provided to a Resident as part of the application process. It was not until years later after the Resident died that Shannondell processed the Entrance Fee refund and prepared the Statement listing the deductions. The check and the Statement were sent to the Resident’s representative. At that time Defendants did not also send for the benefit of the representative a copy of the RCA or the language in the RCA which purportedly provided the contractual basis for the deductions or any other explanation of the deductions.

43. There was nothing on the Statement saying, as provided for in the section of the RCA which supposedly allowed the deductions, that the deductions involved either painting and carpeting or “any other appropriate repairs and general restoration of the residence to its original condition.” Nor did the Statements say that deductions considered part of the “general restoration” included the lower of appliance depreciation or replacement with a cap of \$7500.

44. Instead, the Statement attached invoices showing the purchase and amount deducted for new appliances, cabinetry or other property and, when listing a deduction for an Appliance Depreciation Fee, simply said that such a deduction was “STANDARD.”

45. By not providing the representative with a copy of the RCA at the same time, Defendants prevented the representative from questioning how depreciation, merely an accounting concept, was a “repair;” how depreciation had anything to do with the physical activity involved in a “general restoration of the residence to its original condition;” and why Shannondell was referring to an Appliance Depreciation Fee as “STANDARD.” By attaching vendor invoices for replaced property, they misled the representative into believing that Shannodell was entitled to reimbursement for the payment of the invoices.

46. By not providing the representative with a copy of the RCA, Defendants concealed that the language “restore the residence to its original condition” in the Vacancy Fee definition was virtually identical to earlier language in the RCA. Section II.C2(b) said that if Shannondell in its sole discretion decided that modifications to the unit made by the Resident had to be “removed prior to re-marketing the residence, the cost of restoration to the original condition will be deducted from the entrance fee refund.” Defendants therefore concealed that the Vacancy Fee definition allowing them to “restore the residence to its original condition” referred only to the cost of restoring the unit to its pre-modification appearance or structure, not to charging the

deceased resident with all new kitchen appliances.

47. Defendants concealed from Residents and did not disclose in the Statements that Vacancy Fee deductions were charged at the lower of appliance depreciation or replacement, subject to a \$7500 cap. They also concealed that Defendants considered the HVAC equipment consisting of a dedicated rooftop compressor for each unit to be an appliance. HVAC equipment is not an appliance.

48. At all times material all kitchen appliances in a unit could be replaced for between \$4000 and \$5000. Replacement HVAC equipment also cost \$4000-\$5000. By adding the \$4000-\$5000 cost of what Defendants in their sole discretion perceived to be the need for replacing HVAC equipment to the \$4000-\$5000 cost of replacing kitchen appliances, total “appliance” replacement costs would invariably exceed depreciation capped at \$7500. By concealing this information, and indicating that a flat fee depreciation had been deducted, Shannondell avoided scrutiny of its improper Vacancy Fee practices.

49. In the foregoing manner Defendants created a likelihood of confusion and misunderstanding through their concealment of information necessary for Residents representative’s to determine if a Vacancy Fee was excessive. They therefore committed unfair or deceptive acts or practices in violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-2(4)(xxi) (“UTPCLP.)

50. For the reasons stated in paragraphs 24-30 above, Defendants owed a fiduciary duty to Plaintiffs in connection with the refunding of their Entrance Fees. As a result of the trust and confidence Plaintiff placed in Defendants, Plaintiffs justifiably and reasonably relied on the Defendants deception when, through their act of cashing the refund checks, they acquiesced to the deductions. They suffered an ascertainable loss in the amount of those deductions which flowed

from and was the direct result of Defendants deceptive acts and practices.



WHEREFORE Plaintiffs pray

- A) as permitted by the UTPCPL, for treble the actual amount of damages they sustained as a result of having the Appliance Fee deducted from their Entrance Fee refund, plus interest;
- B) as permitted by the UTPCPL, for costs and attorneys fees;
- C) for injunctive relief prohibiting Shannondell from deducting any Appliance Depreciation Fee from the Entrance Fee refunds which have not yet been paid to former residents of an SVF independent living unit; and
- D) for such other relief as the court deems just and proper.

**Count II – Violation of the Pennsylvania Continuing  
Care Providers Registration and Disclosure Act  
(against Shannondell Inc., and Dell Management Services Inc.)**

51. The allegations of paragraphs 1 - 50 above are incorporated by reference. Pursuant to the Pennsylvania Continuing Care Providers Registration and Disclosure Act, 40. Pa. Cons. Stat. §3201 et seq., Shannondell must file with the Pennsylvania Insurance Department and provide to each prospective resident at Shannondell at Valley Forge a Disclosure Statement.

52. Pursuant to 40. Pa. Cons. Stat. §3207(a)(6), (7) and (13), the Disclosure Statement provided to prospective residents must include, inter alia, a description of the services provided and all fees required of residents, including the Entrance Fee; and it must include as an exhibit the standard form of contract for continuing care used by the provider.

53. Any Disclosure Statement and accompanying form RCA provided to prospective residents did not include or otherwise describe fees charged by Shannondell for appliance depreciation or for replacement of appliances, HVAC and other property or for cleaning air ducts when the unit was vacated. Defendants in violation of 40 Pa. Cons. Stat. §3217(a)(3) thereby

rendered misleading both the description of the Entrance Fee, the statement in the RCA that their units were furnished with kitchen appliances, and its statement that it was responsible for replacement of any property in the unit which it owned.

54. Pursuant to 40. Pa. Cons. Stat. §3207(a)(9), the Disclosure Statement must include, certified financial statements of the provider, including: i) a balance sheet as of the end of the two most recent fiscal years; and (ii) income statements of the provider for the two most recent fiscal years. Defendants did not include any certified financial statements in their Disclosure Statement.

55. Effective February 1, 2013, Defendants made changes in their Residence and Care Agreement eliminating their responsibility for the replacement of their property and adding to the Vacancy Fee definition a deduction for the lower of appliance depreciation or replacement. Thereafter, in annual filings with the Pennsylvania Insurance Department dated April 29, 2014, April 29, 2015, April 28, 2016 and April 27, 2017, Defendants included a “No change in Residence Agreement statement.” Defendants thereby failed to report important changes in the RCA which would have exposed that the versions of the RCA used before February 1, 2013 did not permit these deductions.

WHEREFORE Plaintiffs pray for

A) damages determined to have been sustained as a result of said violation;

B) interest, costs and attorneys fees; and

C) such other relief as the court deems just and proper.

**Count III – Breach of Contract**  
**(against Shannondell, Inc.)**

56. The allegations of paragraphs 1 - 55 above are incorporated by reference.

57. Shannondell breached sections II B, III D and VII(3) o the RCA with Plaintiffs by deducting from Entrance Fee refunds the Appliance Depreciation Fee, the costs of replacing appliances and other property it owned and a fee for cleaning air ducts.

WHEREFORE Plaintiffs pray for

A) damages in the amount of the deductions from Entrance Fee refunds for Appliance Depreciation Fees, charges for replacement of appliances and other property owned by Shannondell and fees for cleaning air ducts.

B) interest, costs and such other relief as the court deems just and proper.

Dated: December 9, 2022

Larry Spector P.C.

By: /s/ Larry Spector  
Larry Spector

Law Office of Jeremy Spiegel

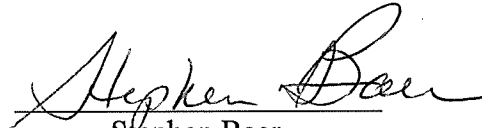
By: /s/ Jeremy Spiegel  
Jeremy Spiegel

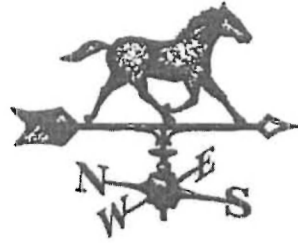
Attorneys for Plaintiffs

VERIFICATION

The facts set forth in the foregoing Third Amended Complaint are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Dated: December 9, 2022

  
Stephen Baer



Shannondell  
AT VALLEY FORGE

RESIDENCE  
& CARE  
AGREEMENT



**RESIDENCE AND CARE AGREEMENT**  
**T A B L E O F C O N T E N T S**

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**SHANNONDELL AT VALLEY FORGE  
RESIDENCE AND CARE AGREEMENT**

This Agreement, made this 5 day of October, 2006, is between M/M Donald Bauer (hereinafter called "you" or "resident") and Shannondell, Inc., a Pennsylvania business corporation serving as the Provider for Shannondell at Valley Forge (hereinafter referred to as "Shannondell" or "Shannondell at Valley Forge"). If husband and wife or two other persons sharing a Residence are parties to this Agreement, the words "you" or "Resident" shall apply jointly and severally where the context permits.

Resident has applied to become a resident of Shannondell at Valley Forge, "A Continuing Care Retirement Community" and Resident's application having been approved and accepted by Shannondell at Valley Forge, subject to signing of this Agreement, Resident and Shannondell at Valley Forge, intending to be legally bound, hereby agree to the following terms and conditions:

**1. Application Fee**

The application fee of \$150 is not refundable.

**2. Residence Identified**

You have selected Residence number: 322H.

**3. Entrance Fee**

*20/5/07*  
*AY*  
*AB*  
*367,150 CR*  
*20,750 SIC*

You agree to pay to pay Shannondell at Valley Forge a 100% refundable Entrance Fee of \$387,900 for the use and occupancy of the identified Residence. The Entrance Fee is payable as follows:

- (1) A deposit of the Entrance Fee payable as follows:
  - (A) \$ 15,000 upon signing this Agreement.
- (2) The balance of the Entrance Fee, payable on or before the date your unit is ready for occupancy. Shannondell at Valley Forge will provide you with at least 30 days prior notification of the date your unit will be available for occupancy.

Once paid, your Entrance Fee for the residence identified above will not be increased.

**4. Residence and Services**

From and after the date you occupy the Residence identified in Paragraph 2, we will provide the facilities and services (subject to all the terms of this Agreement) specified in the attached General Conditions for Residence.

**5. Monthly Fee**

2701-15

From and after the date the Residence is available for occupancy, you agree to pay to Shannondell at Valley Forge a Monthly Fee. The initial Monthly Fee for the Residence will be \$ 2763. If two people occupy the Residence, this amount includes the monthly double occupancy fee. The Monthly Fee is subject to change as set forth in the attached General Conditions for Residence. Two persons occupying a Residence are jointly and severally responsible for payment of the fees and charges associated with this agreement. The average annual cost to provide the services covered by this Agreement is \$ 3554.

**6. Entire Agreement**

The attached General Conditions for Residence, Application for Admission, financial statement, medical records (if required) and any addenda, are each, by this reference, made a part of this Agreement which constitutes the entire agreement between Shannondell at Valley Forge and you. It is understood that Shannondell at Valley Forge will rely on the information provided in your Application for Admission, financial statement and medical records (if required) and you warrant that all statements are true and complete. This Agreement may not be modified except in writing signed by you and Shannondell at Valley Forge. This Agreement may not be assigned by you. The provisions of Act 82, the Continuing Care Provider Registration and Disclosure Act, may not be waived by this Agreement.

**7. Changes in Your Condition**

You agree to disclose immediately to Shannondell at Valley Forge any material change in your physical, financial or mental condition prior to residency.

**8. Notices**

Notices, when required by this Agreement, shall be given to Shannondell at Valley Forge at its Administrative office and to you at your then current residence.

Judy Bonner  
Witness

Denise Baer 10-5-06  
Resident Date

Judy Bonner  
Witness

Bonnie Baer 10-5-06  
Resident Date

Shannondell, Inc./Shannondell at Valley Forge

Amy Sheef  
Attest

By: Jim [Signature] 10/16/06  
CEO Date



## GENERAL CONDITIONS OF RESIDENCE

These General Conditions of Residence are part of the Residence and Care Agreement entered into this 5 day of October, 2006 between M/M Daniel Baer hereinafter called "you" or "Resident") and Shannondell, Inc. (herein after called "we" or "Shannondell").

From the occupancy date until termination of this Agreement, we will furnish to you the facilities and services as provided in this Agreement.

### I. DEFINITION OF TERMS

"Agreement" means the Residence and Care Agreement including these General Conditions of Residence. The Application for Admission, financial statement, medical records (if required) and any addenda to this agreement are incorporated by reference.

"Assisted Living unit" means the licensed personal care unit at Shannondell at Valley Forge.

"Entrance Fee" means the fee paid by residents to Shannondell at Valley Forge prior to entering Shannondell as set forth in paragraph 3 of the Residence and Care Agreement.

"Chief Executive Officer" means the person who is designated by Shannondell at Valley Forge's Board of Directors to serve as the administrator of the Shannondell at Valley Forge and Shannondell.

"Home Care Services" means those licensed personal care services which may be provided to you in your Residence, by Shannondell at Valley Forge, for an additional charge.

"Medical Director" means the physician appointed from time to time by Shannondell at Valley Forge to assist in coordinating the medical affairs of Shannondell.

"Monthly Fee" means the fee paid by residents to Shannondell at Valley Forge as set forth in Section V.A. of these General Conditions of Residence.

"Nursing Center" means the licensed skilled and intermediate nursing unit at Shannondell at Valley Forge.

"Residence" means the apartment unit designated for occupancy by Resident in this Agreement, or any other unit to which Resident may be later transferred.

"Vacate" means to cease to occupy a Residence and the removal of all of Resident's possessions therefrom.

## II. FACILITIES PROVIDED BY SHANNONDELL AT VALLEY FORGE

### A. Residence

You have selected the following Residence: 323H. We agree that you will have a personal and non-assignable right to live in that Residence until your death or earlier termination of this Agreement, or until a transfer in accordance with other parts of this Agreement.

### B. Furnishings

Your Residence will be furnished with wall-to-wall carpeting (except in the kitchen and bath areas), emergency call system, smoke and fire detectors, sprinkler system, and assist bars in bath area.

Residences are furnished with a kitchen which includes a refrigerator, range, microwave, sink, cabinets, dishwasher and garbage disposal. A washer and dryer are located in each Residence.

All other furnishings are to be provided by you and will remain your personal property.

### C. Modifications to Your Residence

1. Any optional items that you have requested to be added to the basic Residence are set forth in an addendum to this Agreement, which is signed by both parties. Payment for these optional items is required prior to work commencing.
2. Should you request alterations, renovations and/or additions to your Residence after occupancy, such changes must be approved in advance by Shannondell at Valley Forge, in our sole discretion. The cost for approved alterations, renovations and/or additions are your responsibility. All alterations, renovations and/or additions are subject to the following conditions:
  - a. The work will be performed by Shannondell's staff, its designee or an approved licensed contractor. The costs must be paid prior to work commencing.
  - b. When the residence is vacated, Shannondell will determine whether the residence can be re-marketed without such alterations, renovations and/or additions being removed. If Shannondell, in its sole discretion, determines that the alterations, renovations and/or additions must be removed prior to re-marketing the residence, the cost of restoration to the original condition will be deducted from the entrance fee refund.

Neither the cost of the optional items requested prior to occupancy nor the cost of alterations, renovations and/or additions requested after occupancy are refundable upon termination of this Agreement. In addition, such costs are not added to nor considered a part of the Entrance Fee.

#### **D. Common Facilities**

You are entitled to share with all other residents the use of the common facilities, and to reserve areas for special occasions in accordance with the Resident Policies and Procedures of Shannondell. You will receive a copy of the Resident Policies and Procedures upon move-in.

### **III. SERVICES PROVIDED BY SHANNONDELL AT VALLEY FORGE**

Unless otherwise notified, the services described in this Section III will be paid for through the Monthly Fee. (See Section V.A.)

#### **A. Buildings and Common Areas**

We will maintain all community buildings and common areas, including lawns, walkways and driveways.

#### **B. Emergency Call System and Security**

Your Residence will be equipped with an emergency call system by which you can contact personnel who will be available to respond to your call 24 hours a day, seven days a week. Any medical services which may be provided in response to an emergency call will be billed to you, separately, by the provider of such service.

#### **C. Housecleaning**

We will be responsible for the housecleaning in all public areas. In addition, housecleaning will be provided for each apartment, once every other week. Additional housecleaning services are available to you for an additional published fee.

Shannondell at Valley Forge reserves the right to inspect Residences, after proper notice to you and, if the Residence appears to be in need of cleaning, you will be charged for this service.

#### **D. Maintenance and Repair**

We will be responsible for all necessary repairs, maintenance and replacement of property and equipment owned by Shannondell at Valley Forge.

Except in an emergency, maintenance and repair services will be provided during normal working hours, Monday through Friday.

You are responsible for maintenance and repair of your own personal property and/or furnishings.

Shannondell at Valley Forge will have the right to charge you for any repairs, maintenance or replacement required as a result of your negligence or intentional acts or of your guests.

#### **E. Meals**

Meals will be available in the dining room(s). The Monthly Fee for residents includes twenty (20) meals per month per person residing in your Residence (you may choose from lunch or dinner). Meals, in addition to those included in the Monthly Fee as well as meals for guests, are available for an additional published charge.

#### **F. Programs and Activities**

Social, educational, cultural, recreational and wellness activities are available for those who wish to participate. There may be an additional charge for certain special activities offered outside of Shannondell at Valley Forge. You are encouraged to participate in the programming of activities.

#### **G. Real Estate Taxes**

Your Monthly Fee also includes any real estate taxes which may be applicable to your residence (including an apportionment of the real estate taxes for other portions of Shannondell at Valley Forge).

#### **H. Transportation**

Scheduled transportation is provided to local shopping centers and medical facilities.

#### **I. Trash and Garbage**

You are responsible for bringing trash to the collection points as determined by Shannondell at Valley Forge.

#### **J. Utilities**

Water, sewer, electricity, and basic cable television service are included in the Monthly Fee. The unit will be telephone and cable ready. The costs of installation and service for telephone, internet connection and premium cable television are your responsibility.

## **K. Services Subject to Change**

Shannondell at Valley Forge is committed to providing the quality and quantity of services described in this Section III; however, services and fees, including the Monthly Fee, are subject to change upon 30 days' advance written notice. Changes to the Monthly Fee will be based upon factors which include, but which are not limited to: changes in the Consumer Price Index, operating income and expenses, government regulations affecting Shannondell at Valley Forge, the imposition of taxes on Shannondell or any portion of Shannondell at Valley Forge, and maintenance of necessary reserve funds and to insure the financial stability of Shannondell.

## **IV. HEALTH SERVICES**

### **A. Wellness and Health Promotion**

Shannondell at Valley Forge encourages residents to remain healthy and active. Programs promoting wellness, health education and health screenings will be offered by or through Shannondell at Valley Forge from time to time. If there are any charges for these services (and if you utilize such services), you will be responsible for such costs and charges.

### **B. Emergency Services**

Shannondell at Valley Forge will coordinate response to the emergency call system on a 24 hour basis. Any medical services which may be provided in response to an emergency call will be billed to you, separately, by the provider of such service.

### **C. Assisted Living and Nursing Care**

You may request to be transferred from your residence to the Assisted Living Unit for personal care services or the Nursing Center for skilled or intermediate nursing care. Transfers will be made in accordance with Shannondell at Valley Forge's policies as are from time to time promulgated and amended, except that you shall have priority over non-residents for admission to the Assisted Living Unit and the Nursing Center.

If you transfer temporarily to the Assisted Living Unit or the Nursing Center, you will be charged on the basis of the Assisted Living Unit's or Nursing Center's prevailing rates for per diem or respite stays. The prevailing rates include room and board charges, assistance with activities of daily living (in assisted living) and nursing services (in the Nursing Center) but do not include physician fees, therapeutic services, medicines, medical supplies and other medical services. You will also be responsible for the payment of the Monthly Fee for your residence.

If you are determined to be a permanent resident of the Assisted Living Unit or the Nursing Center your responsibility for payment of the monthly fee for your Residence will cease when the Residence has been vacated, and you will be responsible, thereafter, for the ongoing costs of assisted living and/or nursing care only.

If you are one of two residents sharing a Residence and are transferred on a permanent basis to the Assisted Living unit or the Nursing Center, the resident remaining in your Residence will continue to be responsible for the monthly fees for the Residence, at the single occupancy rate.

Depending upon the nature of your need, Shannondell at Valley Forge may also provide or make available a limited amount of Home Care Services to you, in your Residence. There is an additional published fee for Home Care Services provided in your Residence.

#### **D. Health Care Costs**

You will be responsible for the costs and charges relating to the cost of any other health care services which you may require.

### **V. FINANCIAL CONDITIONS**

#### **A. Monthly Fee**

**1. Amount.** For the services described in Section III (except as otherwise noted), you agree to pay a Monthly Fee billed in advance by Shannondell at Valley Forge. The Monthly Fee is determined by the type of Residence and the number of persons occupying the Residence. Your initial Monthly Fee is set forth in the Resident Agreement.

**2. Monthly Statement.** Shannondell at Valley Forge will present you with a detailed monthly statement including:

- a. The Monthly Fee for the following month.
- b. Any credits.
- c. Charges for additional services rendered (including any daily charges for temporary or permanent transfers to the Assisted Living Unit or Nursing Center).
- d. Any other amounts due for optional or other services provided by or through Shannondell at Valley Forge.
- e. Payments received.

**3. Payment of Charges on Monthly Statement.** The monthly charges shall be paid to Shannondell at Valley Forge by the 5th day of each month. If you fail to do so within thirty (30) days after receipt of the statement, Shannondell at Valley Forge may give written notice that you must make payment immediately upon receipt of such notice. If you fail to comply Shannondell at Valley Forge may terminate this Agreement, in accordance with Section VI. Late payments are subject to a penalty.

**4. Changes to the Monthly Fee.** The Monthly Fee may be increased or decreased by Shannondell at Valley Forge upon written notice to you at least thirty (30) days prior to the effective date of any change in the Monthly Fee.

**5. Transfer or Death of One of Two Residents Sharing a Residence.** If one of two residents occupying a Residence transfers permanently to the Assisted Living Unit, the Nursing Center, an off-site assisted living facility or a nursing care facility, other off-campus residence or dies, the remaining Resident will pay the single occupancy Monthly Fee.

## **B. Financial Inability to Pay**

1. Without in any way qualifying the right of Shannondell at Valley Forge to terminate this Agreement, if through no fault of yours you do not have adequate resources to pay the fees and costs of continued residency at Shannondell, the Executive Director (or designee) will review the matter with you. If you present to Shannondell at Valley Forge facts which, in Shannondell at Valley Forge's sole opinion, justify special financial consideration (including the fact that the sole reason for your inability to pay is insufficient funds beyond your control), Shannondell at Valley Forge may endeavor to partly or wholly subsidize the monthly charges, provided that such subsidy can be granted or continued without impairing the ability of Shannondell at Valley Forge to attain its objectives while operating on a sound financial basis (as determined by Shannondell at Valley Forge). All determinations made by Shannondell at Valley Forge concerning the granting or continuing of special financial consideration shall be final and binding on you. Any such determination shall be regarded as a confidential transaction between you and Shannondell at Valley Forge except for reports required to be made to organizations providing assistance to you, to financial institutions lending monies to Shannondell at Valley Forge and to regulatory or other governmental bodies.
2. **Your Responsibility.** As a condition of receiving a subsidy, you must: (a) not have made any gift of cash or property in contemplation of the execution of this Agreement; and (b) agree that you will make no such gift or transfer without receiving fair consideration subsequent to the grant of a subsidy which would further impair your ability or the ability of your estate to satisfy your financial obligations under this Agreement. If your sources of income are found to be inadequate to meet your responsibilities to Shannondell at Valley Forge and to pay personal and incidental expenses, you agree to make every effort to obtain assistance from your family or other available sources and, if you can qualify, to take the necessary steps to obtain county, state, or Federal aid or assistance. If your monthly charges are subsidized wholly or partly by Shannondell at Valley Forge, you agree to supply Shannondell at Valley Forge from time to time, at its request, with financial statements and copies of tax returns.
3. **Recovery of Shannondell at Valley Forge's Subsidy.** If your monthly charges have been subsidized wholly or partly by Shannondell at Valley Forge, then upon your death, your estate shall be liable to Shannondell at Valley Forge for the full amount of the subsidy received by you along with interest calculated at the legal rate. This Agreement shall operate as a lifetime assignment, transfer and conveyance to Shannondell at Valley Forge for so much of your property (including any refund of the Entrance Fee to which you would otherwise be entitled) as is necessary to cover such liability. This paragraph shall apply whether or not you reside at Shannondell at Valley Forge at the time of your death.



4. **Medical Assistance.** Pursuant to current regulatory restrictions, Shannondell may not accept Medical Assistance (also known as "Medicaid") for payment of monthly fees for Shannondell's Assisted Living Unit, Nursing Center or other living accommodations. If these regulatory restrictions are revised, you also agree to apply for Medical Assistance if you can qualify. You agree to execute any and all documents necessary to make and perfect such claims or rights.

## **VI. TERMINATION**

### **A. Prior to the Payment of the First Monthly Fee**

This Agreement may be terminated prior to the payment of the first Monthly Fee for the following reasons:

1. By you, for any reason, upon written notification to Shannondell at Valley Forge.
2. Your death, except in the case where two people have signed this Agreement, in which case the survivor may elect to continue the Agreement.
3. By Shannondell at Valley Forge if you fail to make an Entrance Fee payment, or any other payment, when due under this Agreement.
4. By Shannondell at Valley Forge if the Executive Director determines that your financial condition has changed to the extent that you are no longer able to pay the Entrance Fee and Monthly Fee .
5. By Shannondell at Valley Forge if the Executive Director determines that your physical, mental or behavioral condition has changed to the extent that you are not capable of living in an apartment.

Notice of termination shall be provided in writing by certified mail with return receipt requested.

### **B. After Payment of the First Monthly Fee and prior to Death**

1. **Termination by Resident.** After payment of the first Monthly Fee and prior to death, you have the right to terminate this Agreement by advising Shannondell at Valley Forge in writing by certified mail with return receipt requested at least thirty (30) days in advance of the date that you intend to leave Shannondell at Valley Forge. Your obligations under this Agreement shall continue until the date that you actually vacate the Residence.

**2. Termination by Shannondell at Valley Forge.** In addition to the other reasons for termination stated in Section V. of this of Agreement, Shannondell at Valley Forge may terminate this Agreement for just cause, which includes, but is not limited to, the following:

- a. You omitted or falsified information on the application form.
- b. You have repeatedly failed to follow the Resident Policies and Procedures of Shannondell at Valley Forge.
- c. Your actions and/or your physical, mental or medical condition threaten the safety, peace, health or well-being of you or the other residents.
- d. You have breached any provision of this agreement.

If this Agreement is terminated by Shannondell at Valley Forge, you will receive at least thirty (30) days advance written notice of such termination by certified mail with return receipt requested. If this Agreement is terminated pursuant to Section VI.B.2.c. and there has been a good faith determination, in writing, signed by the Medical Director and the Executive Director, that you are danger to yourself or others, only such notice as is reasonable under the circumstances will be required.

**3. Permanent Transfer to Assisted Living, Nursing Center or Other Facility.** If you are permanently transferred to an off-site Assisted Living facility, Nursing Center or other facility because such facilities provide care that is unavailable at Shannondell, and if such transfer results in your residence being vacated, this Agreement will terminate, as of the date of the permanent transfer. When the agreement is terminated, all obligations of Shannondell at Valley Forge under this Agreement shall cease. If the residence is not vacated within the thirty (30) days, the Monthly Fee will continue to accrue until the residence is vacated. Permanent transfer to Shannondell's Assisted Living or Nursing Center does not terminate this Agreement which will remain in full force and effect though you may be required by the Pennsylvania Department of Health or Department of Public Welfare to execute a separate agreement for nursing services or assisted living.

### **C. Termination by Death**

Unless sooner terminated in accordance with its provisions, this Agreement shall terminate upon your death, whereupon all obligations of Shannondell at Valley Forge under this Agreement shall cease, except for those relating to the provisions of this paragraph. If you are one of two people executing this Agreement, this Agreement will terminate upon the death of both individuals executing the Agreement.

Your Residence must be vacated by your family or estate within thirty (30) days of death. If the Residence is not vacated within the thirty (30) days, the Monthly Fee will continue to accrue until the Residence is vacated.

**D. Permanent Transfer or Death of One of Two Residents**

If the Entrance Fee has been paid on behalf of two residents, then upon the permanent transfer (as discussed above) or death of one of them, the second person Monthly Fee shall be discontinued. The remaining or surviving resident may elect to continue this Agreement or terminate this Agreement according to its terms. The remaining or surviving resident may also choose to remain in the same Residence or transfer to another Residence as provided in this Agreement.

**E. Vacating the Residence**

If you do not vacate the residence within the time period specified above or, in the event of termination by Shannondell, within the required time from the notice of termination as provided in Section B.2, Shannondell shall have the right to store your possessions in a general storage area at the Community or to arrange for storage in a commercial storage facility, all at your expense until disposition can be made. Shannondell assumes no responsibility for your stored possessions.

**VII. REFUND OF ENTRANCE FEE**

You are entitled to a refund of the Entrance Fee you paid for your Residence after the termination of this agreement, under the following circumstances:

**1. Refund during seven (7) day rescission period.**

If you terminate this agreement during the seven (7) day rescission period following the date of execution of this Agreement you will receive a refund of the Entrance Fee paid, without interest, less any expense actually incurred by Shannondell at Valley Forge at your specific request for custom improvements to the Residence as stated in an addendum to this agreement.

**2. Refund prior to payment of the first Monthly Fee.**

If you voluntarily terminate this agreement after the seven (7) day rescission period but prior to payment of the first Monthly Fee you will receive a refund of the Entrance Fee paid, without interest, less any expense actually incurred by Shannondell at Valley Forge at your specific request for custom improvements to your Residence as stated in the addendum to this agreement.

### **3. Refund after payment of the first Monthly Fee.**

If this agreement is terminated after payment of the first Monthly Fee for any reason, including death, you will be entitled to a refund of an amount equal to the Entrance Fee paid less any subsidy provided pursuant to Section V.B. and a Vacancy Fee. The Vacancy Fee will be used to cover the reasonable costs of cleaning and refurbishing the residence, including but not limited to cleaning or replacement of carpeting, spackling and/or painting of walls, any other appropriate repairs and general restoration of the residence to its original condition. If you transfer from your Residence to an Assisted Living Unit or the Nursing Care Center on campus, the Vacancy Fee incurred at the time you transfer permanently from your Residence to the Assisted Living Unit or Nursing Care Center will be subtracted from the Entrance Fee refund at the time it is paid. No refund, however, shall be due or payable so long as a resident occupies an assisted living unit or nursing room at Shannondell.

If one of two residents covered by this Agreement remains in the Residence, in the Assisted Living unit or in the Nursing Care Center after the other resident's death, permanent transfer to an off-site Assisted Living Facility or Nursing Care Center, or voluntary move from Shannondell at Valley Forge, the refund of the Entrance Fee will be paid only after the surviving or remaining spouse or other resident has vacated the Residence, Assisted Living Unit or Nursing Care Center. In that event, the amount of the refund will be based upon the calculation set forth in Section VII.C. above. The Entrance Fee refund shall be paid as provided in Section E of this Section and will be divided equally between the two residents or their personal representatives unless the residents were married or if other arrangements have been set forth in an addendum to this Agreement.

### **4. When refund is paid.**

Shannondell at Valley Forge will pay any refund to which you are entitled under this agreement upon the reassignment of the Residence and the receipt of the new Entrance Fee for the Residence.

## **VIII. TRANSFER TO ANOTHER RESIDENCE**

### **A. Transfer To Another Apartment At Resident's Request**

You may request to be transferred from one Residence to another. If the Residence you desire is available, and if the transfer is approved by Shannondell at Valley Forge, the following will apply:

1. A determination will be made as to whether an additional Entrance Fee Payment is due or whether a refund is due to you. The determination will be based upon the following: a. The then current Entrance Fee for the new Residence; and b. The Entrance Fee you paid for your current Residence.

If "b" is less than "a" you will be required to pay the amount of such difference to Shannondell at Valley Forge prior to your move to the new residence.

If "a" is less than "b" you will not be entitled to a refund of the difference.

2. You will be responsible for the cost of the move as well as the actual cost of preparing the vacated Residence for occupancy by a new resident.

#### **B. At the Discretion of Shannondell at Valley Forge**

Shannondell at Valley Forge may relocate you to another Residence (or to the Assisted Living Unit or Nursing Center) if it determines, in its sole discretion, that such a move should be made for your health and safety, or the general welfare of the other residents (which may include consideration of your financial condition and your ability to pay the Monthly Fee). In determining to make such a transfer, Shannondell at Valley Forge will consult with you, your family, the Medical Director and/or your personal physician (if appropriate). You agree to pay the Monthly Fee applicable to the Residence you occupy. If you are transferred to another Apartment, no additional Entrance Fee will be charged.

### **IX. MARRIAGE**

#### **A. Marriage to a Nonresident**

If you marry a nonresident and wish to reside in your Residence, the nonresident spouse may become a resident of Shannondell at Valley Forge if the nonresident spouse meets all admission requirements of Shannondell and the couple assumes the Monthly Fee for double occupancy.

If you marry a nonresident who does not meet the admission requirements, you may terminate this Agreement in accordance with the terms of this Agreement.

#### **B. Marriage to a Resident**

If you marry another resident and intend to reside in one of the Residences, the resident who is relinquishing his or her Residence will cease paying the monthly service fee for the Residence when it is vacated and all furniture and personal possessions are removed. At that time, the Residents will begin to pay the double occupancy Monthly Fee for the Residence in which they are residing.

The Resident(s) shall pay the Vacancy Fee which covers the reasonable costs of cleaning and refurbishing the residence, including but not limited to cleaning or replacement of carpeting, spackling and/or painting of walls, and any other appropriate repairs and general restoration of the residence to its original condition. The Residence and Care Agreements will remain in effect and neither resident will be entitled to a refund of any Entrance Fee paid solely as a result of the above.

#### **X. POWER OF ATTORNEY**

You agree to supply, prior to occupying your Residence, a true and correct copy of a signed and notarized Power of Attorney naming a third party of your own choosing as Attorney-In-Fact to conduct business and financial transactions in the event of your incapacity or disability. Thereafter, you agree to advise Shannondell at Valley Forge of any changes in the Power of Attorney and agree to promptly file a copy with Shannondell. Shannondell at Valley Forge retains the right to institute guardianship proceedings if you are unable to care for your person or property and have not designated someone to do so. You will be responsible for the cost of such proceedings.

#### **XI. RESIDENT'S RIGHTS AND OBLIGATIONS AS TO PROPERTY**

##### **A. Right of Entry**

Shannondell at Valley Forge recognizes your right to privacy and its responsibility to limit entry to your Residence to legitimate emergencies and, with notice, for routine inspection, housecleaning and maintenance services. You recognize and accept the right of Shannondell at Valley Forge to enter your Residence in order to carry out the purpose and intent of this Agreement. Such entry includes, but is not limited to: response to the emergency call system; entry by authorized personnel in the event you are reported missing or do not respond to calls; housecleaning; and maintenance and security procedures.

##### **B. Right of Property**

The rights and privileges granted to you by this Agreement do not include any right, title or interest in any part of the personal property, land, buildings, and improvements constituting Shannondell and/or Shannondell at Valley Forge, and are not intended to create a leasehold interest in the Residence. All rights, privileges, or benefits under this Agreement shall be subordinate to any mortgage, deed of trust, or security interest on or in any of the land, premises, fixtures, equipment, or furnishings of Shannondell at Valley Forge, and to all amendments, modifications, replacements, or refinancing of any such documents. You agree that upon request you will execute and deliver any document which is required by Shannondell at Valley Forge or by the holder of any such mortgage, deed of trust or security interest, to effect such subordination or give evidence of it.

## **XII. RESPONSIBILITY FOR DAMAGES**

Any loss or damage to real or personal property of Shannondell at Valley Forge caused by you shall be paid by you. Shannondell at Valley Forge assumes no responsibility for any harm done to you by another resident and you hereby release and discharge Shannondell at Valley Forge from all liability or responsibility for injury or damage to you or to your personal property caused by the fault or negligence of other residents.

## **XIII. RESPONSIBILITY FOR PROTECTION OF RESIDENT'S PROPERTY**

Shannondell at Valley Forge will not be responsible for the loss of any personal property belonging to you due to theft, fire, or any other cause. You shall have the responsibility, at your own expense, to insure your property against such risks.

## **XIV. RESIDENT POLICIES AND PROCEDURES**

Shannondell at Valley Forge reserves the right to establish Resident Policies and Procedures to carry out the purposes of this Agreement and to promote the convenience, comfort, safety and security of all residents of Shannondell at Valley Forge and Shannondell. Shannondell at Valley Forge also reserves the right to make all necessary arrangements and adjustments regarding residency not otherwise specifically provided for in this Agreement.

## **XV. NON-DISCRIMINATION**

All applications for residency will be considered equally without regard to the individual's race, religion, sex, national origin, creed, or marital status.

## **XVI. MINIMUM AGE**

Resident must have reached their fifty-fifth (55th) birthday prior to becoming a resident at Shannondell at Valley Forge.

## **XVII. GUEST PRIVILEGES**

You have the right to have guests visit your Residence, but such visits shall be in accordance with the Resident Policies and Procedures.

## **XVIII. NO WAIVER AND SEVERABILITY**

Shannondell at Valley Forge's failure to enforce any part of this Agreement does not constitute a waiver and does not prevent Shannondell at Valley Forge from enforcing the Agreement as to later violations. If any provision or portion of this Agreement is found to be invalid, void or unenforceable the remaining provisions nevertheless shall continue in full force and effect without impairment and this Agreement shall be reformed so as to give the fullest possible effect to the purposes of this Agreement.

## **XIX. SUCCESSORS AND ASSIGNS**

Shannondell at Valley Forge shall have the right to assign its rights and obligations hereunder without your written approval or consent.

## **XX. RESIDENT'S ASSOCIATION**

Residents at Shannondell at Valley Forge and Shannondell have the right of self-organization and you are encouraged to participate in the Residents' Council.

## **XXI. PETS**

Domesticated pets (i.e. dog, cat, bird, etc.) are permitted so long as you owned the pet at the time you moved to Shannondell at Valley Forge. Pets may not be replaced upon their death or other departure from Shannondell. The resident handbook will include rules concerning pets living at Shannondell.

## **XXII. SMOKING**

To ensure the safety of all residents of Shannondell, smoking is prohibited in all indoor common areas.

## **XXIII. INSURANCE**

In order to insure proper protection for you and Shannondell, you will be required to maintain and provide proof of insurance for the following types of insurance coverage. You agree to notify Shannondell of any changes to your insurance coverage.

- **Auto Insurance (if applicable)** - Coverage as required by the Commonwealth of Pennsylvania.
- **Homeowners Insurance - Tenant Coverage.**
- **Health Insurance** - Medicare Part A and B along with a supplemental program or HMO coverage under a program approved by HCFA and the Insurance Department as a comprehensive substitute for Medicare A/B and Medicare Supplement insurance.

## **XXIV. VENUE**

It is agreed that venue for any legal action relating to the terms of this agreement shall be heard in Montgomery County, Pennsylvania.



## **EXHIBIT B**

## SHANNONDELL - RESIDENCE REFURBISHMENT

<b>UNIT: 322-H Baer</b>				
<u>ITEMS REPAIRED</u>	<u>DATE</u>	<u>WORK DONE BY</u>	<u>COST</u>	<u>COMMENTS</u>
PAINT - Labor	01/22/17	G&C Painting	\$ 2,575.00	Entire Unit
PAINT- Supplies	01/06/17	Sherwin Williams	252.46	Entire Unit
FLOORING	01/30/17	Jim Wood	3,547.22	Entire Unit
INTERIOR	12/06/16	Mobile Glass	989.00	Shower Install
INTERIOR	Various	Duff Company	703.90	Nutone medicine cabinets, Delta faucets
INTERIOR	-----	-----	-----	
AIR DUCTS& VENTS	TBD	SelectPro	318.00	Clean & Sanitization of Air Ducts & Dryer Vent
SHANNONDELL APPLIANCE DEPRECIATION FEE	11/30/16	STANDARD	7,500.00	75 Cents per square foot of apartment space annually. Apartment Model - Mirabelle (1, 151 Square Feet) 1,151 x .75 = \$863.25 per year (\$71.93 per month) x 115 months (May 2007 - November 2016) = \$8,271.95 (\$7,500 Maximum Charge)
INTERIOR	-----	-----	-----	
		<b>TOTAL</b>	<b>\$ 15,885.58</b>	
		<b>Entrance Fee</b>	<b>\$ 367,150.00</b>	
		<b>Due to DRS</b>	<b>\$ (15,885.58)</b>	Dell Retirement Services - Refurbishment Costs
<b>** Entrance Fee Refund will be reduced by any outstanding balance due to the Meadows at Shannondell</b>		<b>Due to Meadows</b>	<b>\$ -</b>	Meadows at Shannondell - Balance Due on Account
		<b>Due to Shannondell</b>	<b>\$ (17,908.17)</b>	Balance due on Account
		<b>Due to Shannondell</b>	<b>\$ (10,000.00)</b>	Balance due on Garage Spot #51
		<b>Balance of Refund</b>	<b>\$ 323,356.25</b>	Balance of Entrance Fee Due as Refund
		<b>Balance - Elliot Stone</b>	<b>\$ 30,240.00</b>	
		<b>Balance - Daniel &amp; Rose Baer</b>	<b>\$ 293,116.25</b>	

## **EXHIBIT C**

## SHANNONDELL - RESIDENCE REFURBISHMENT

<b>UNIT: 501-1 Tessler</b>				
ITEMS REPAIRED	DATE	WORK DONE BY	COST	COMMENTS
PAINT- Labor	06/10/17	Estire	\$ 3,500.00	Entire Unit
PAINT - Supplies	06/06/17	Sherwin Williams	167.27	Entire Unit
FLOORING	Various	Jim Wood	4,288.97	Entire Unit
INTERIOR	06/14/17	Tague Lumber	2,854.47	Supply cabinet/cultured marble tops
INTERIOR	06/19/17	SDJ Construction	1,000.00	Remove/Install kitchen cabinets, bath vanities and tops
INTERIOR				
INTERIOR				
INTERIOR				
AIR DUCTS & VENTS	05/31/17	Select Pro	318.00	Clean & Sanitization of Air Ducts & Dryer Vent
APPLIANCES	05/31/17	Queen Appliance	4,016.34	Appliance Replacement
		<b>TOTAL</b>	<b>\$ 16,145.05</b>	
		<b>Entrance Fee</b>	<b>\$ 394,450.00</b>	
		<b>Due to DRS</b>	<b>\$ (16,145.05)</b>	Dell Retirement Services - Refurbishment Costs
<b>** Entrance Fee Refund will be reduced by any outstanding balance due to the Meadows at Shannondell</b>		Due to Meadows	\$ .	Meadows at Shannondell - Balance Due on Account
		Due to Shauoudell	\$ .	Balance Due on Account
		<b>Balance of Refund</b>	<b>\$ 378,304.95</b>	Balance of Entrance Fee Due as Refund

of 25% will be deducted on all merchandise returned for credit. Merchandise not regularly stocked by us and procured for a customer's order is not returnable. All products liable to defacement are not returnable. We are not responsible for shortages or damaged material reported after delivery ticket is signed.

Delivery beyond sidewalk at owner's risk. See reverse side for additional terms and conditions.  
I received the above material in good condition

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TOTAL

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503794

INVOICE 06/13/17 503794

QUEEN APPLIANCE WHOLESALE  
600 S. HENDERSON ROAD  
KING OF PRUSSIA PA 19406  
610-265-9493

TERMS: NET 30 DAYS 11:00 AM

RETISH  
SHANNONDELL RETIREMENT  
10000 SHANNONDELL DR

STORE:5 PAGE: 1  
SHANNONDELL RETIREMENT  
10000 SHANNONDELL DR

AUDUBON PA 19403

AUDUBON PA 19403 OP#: 26  
26

DUE-DATE ZONE SHIP-VIA  
06/20/17 00001 OUR TRUCK

SLIP# OS TELEPHONE# s-ID: KARRINE ABERTS  
0 A 610-728-5200

MODEL#	BRAND DESCRIPTION SERIAL#	QTY QTY		PRICE	EXT-AMT
		S/L	ORD TAKEN		
D-GIE18HSHSS	GE REFRIGERATOR	1		730.00	730.00
D-GDF510PSJSS	GE DISHWASHER	1		402.00	402.00
D-GFC525V	GE DISPOSER	1		85.00	85.00
D-JS630SFSS	GE RANGE	1		1257.00	1257.00
D-GTW460ASJWW	GE WASHER	1		493.00	493.00
D-GTD42EASJWW	GE DRYER	1		508.00	508.00
C-JVM6175SKSS	GE MICROWAVE OVEN	1		279.00	279.00
C-DLV.DIRECT	DELIVERY CHARGE	1		35.00	35.00

DLV CHARGE SPLIT BETWEEN 5 INVOICES GOING  
TO 2 DIFFERENT DOCKS  
APT 501i  
PO #4765  
DOCK DROP AT BRADFORD

only Mfg. warranties Apply

TOTAL PIECES\* 7

TAX CODE 101

TAX% 6.000

SUB-TOTAL 3789.00  
SALES TAX 227.34  
TOTAL AMOUNT 4016.34

C U S T O M E R C O P Y

Okune

-Jp\.-c.u