

OCCUPANCY AGREEMENT/PROPRIETARY LEASE

Between

BROOKSIDE SENIOR CITIZENS COOPERATIVE COMMUNITY, INC.

And

Revised 11 2012 – 15 Pages

THIS AGREEMENT made this _____ day of _____ by and between Brookside Senior Citizens Cooperative Community, Inc., a New York Corporation (called the Cooperative in this Agreement) with its principal office of business at c/o RJB Community Management, 27B West Market Street, PO Box 306, Red Hook, New York 12571 and

_____ (called the Member or Tenant in this Agreement).

WHEREAS, the Cooperative is a cooperative corporation organized and operated as a limited equity cooperative, for the purpose of providing decent, affordable mobile home sites for residential use as well as appropriate services, facilities, and improvements on a cooperative non-profit basis exclusively to resident members of the cooperative corporation who are natural persons of modest economic means.

WHEREAS, the Cooperative has required ownership to land located in the Town of Phillipstown, County of Putnam and State of New York upon which the Cooperative has made and is making sites available for mobile homes of its members which shall be known as called Brookside in this Agreement:

WHEREAS, the member is the owner of one share issued by the Cooperative which ownership entitles the Member to be a party to this Agreement and which shares accompany _____ at Brookside;

WHEREAS, the Member has certified to accuracy of the statements in his/her application and agrees and understands that family income and other eligibility requirements are substantial and material requirements to his/her initial and continuing occupancy.

NOW THEREFORE, in consideration of the above, the cooperative hereby leases to the Member and the Member hereby takes from the Cooperative mobile site# _____ (called the site in this Agreement) commencing on the date first written above for a term that expires on _____, _____ unless sooner terminated or canceled as provided in this Agreement;

As used in this Agreement site means the specific physical space within Brookside described on the attached map to this Agreement and made part of this Agreement that is allocated for the exclusive use of the Member and his/her household. The site is supplied with electric, water and sewage system hook-up.

As used in this Agreement the word Cooperative shall encompass and refer to the action or the decision of the Board of Directors of the Cooperative except when it is otherwise specifically stated.

TO HAVE AND TO HOLD the site unto Member, his/her executor, administrators and authorized assigns, on the terms and conditions set forth in this Agreement and in the Certificate of Incorporation and By-laws and any rules and regulations of the Cooperative now or hereafter adopted by the Cooperative, from the date of this Agreement.

BROOKSIDE SENIOR CITIZENS COOPERATIVE COMMUNITY, INC.

OCCUPANCY AGREEMENT

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BROOKSIDE SENIOR CITIZENS COOPERATIVE COMMUNITY, INC.

OCCUPANCY AGREEMENT

1.0 Payments to Cooperative

1.1 Occupancy Charges.

Beginning on the date indicated in this Agreement, the Member agrees to pay to the Cooperative a monthly sum referred to in this Agreement as Occupancy Charges, which are equal to be one-twelfth of the Member's proportionate share of the total sum estimated to be needed by the Cooperative to meet the annual expenses of the Cooperative. This total sum will include but not to be limited to the following items:

- 1.1.1 Operating expenses and costs of services furnished.
- 1.1.2 Necessary management and administration expenses;
- 1.1.3 Taxes and assessments levied against Brookside or the Cooperative;
- 1.1.4 Fire and extended coverage insurance on the improvements owned by Cooperative;
- 1.1.5 Cost of furnishings any water, garbage and trash collection, and other utilities if furnished by the Cooperative;
- 1.1.6 Payments to reserve and contingency funds;
- 1.1.7 Estimated costs for repairs, maintenance, and replacements of property to be made by the Cooperative;
- 1.1.8 Amount of principal, interest and other required payments on any indebtedness of the Cooperative including any loan made; and
- 1.1.9 Any other expenses of the Cooperative approved by the board of Directors, including costs to operate, maintain, repair and improve commercial properties of the Cooperative; and operating deficiencies, if any for prior periods.

The Board of Directors shall determine the amount of the total Occupancy Charges annually, but may do so more frequently, should circumstances so require. No Member shall be charged with more than his/her proportionate share of the Occupancy Charges as determine by the Board of directors or its Managing Agent.

In its determination of a "Member's proportionate share" of occupancy charges of the Board of Directors shall apply the following standards: first, that portion of the Member's proportionate share of all expenditures except for the real estate taxes assessed against the value of the mobile homes at the Property shall be determined the dividing burden equally among all the Members, unless the terms of this agreement specify otherwise; second, that portion of the Member's proportionate share of the total real estate tax assessed to the value of all the mobile homes at the Property shall be equal to the actual assessment and levy made of the mobile home occupied by the Member.

The amount of the Occupancy Charges required for the payment o the principal of any mortgagee of the Cooperative shall be credited upon the books of the Cooperative as a capital contribution by the Members.

1.2 When Payment of Occupancy Charges to Begin.

Upon acceptance of occupancy by Member, Member shall be obligated to pay Occupancy Charges for any expired balance of the month. Thereafter, Member shall pay Occupancy Charges in advance o the first day of each month.

1.3 Late Charges.

Members agrees to pay a Late Charge to the cooperative for each month in which the Occupancy Charge for the Additional Charge has not been paid in full on or before the 10th day of that month. This Late Charge shall be **five percent (5%)** of the charges due and payable. Unless waived by the Board of Directors, it shall be paid in addition to all other sums, which are due under the terms of this agreement.

1.4 Additional Charges.

Members agrees that when he/ she is obligated to pay other charges under this Agreement, such charges shall be paid within ten (10) days of the billing, except when especially granted a longer period to pay.

1.5 Method of Payment.

Members will pay Occupancy Charges and Additional Charges by check or money order. Charges are payable to the Corporation. Check or money order is to be delivered or sent to the managing agent or mailed to the address on the coupon book. The board may designate an additional charge for checks returned for insufficient funds.

2.0 COVENANTS and AGREEMENTS of COOPERATIVE.

2.1 Quiet Enjoyment

The Member, upon paying the occupancy charges and complying with terms of this Agreement, shall peaceably hold and enjoy the site during the full term of this Agreement, subject however, to any and all mortgages and underlying leases of the land, if any.

2.2 Management, Taxes and Insurance.

The Cooperative shall provide necessary management, operation and administration of Brookside; pay or provide for the payment of all taxes or assessments levied against Brookside; procure and pay or provide for the payment of public liability insurance for events occurring upon the common areas as well as fire insurance and extended coverage and other insurance as the Cooperative deems as advisable. The Cooperative will not, however, provide insurance on the Member's mobile home, any personal property of the Member, the site itself, or for acts for which the member is liable which are committed at the site.

2.3 Services

The cooperative shall maintain and manage Brookside as a mobile home park well-suited for the residential occupation. It shall maintain the water distribution system within the parking such a manner as to not deprive site of an adequate and safe supply of water from the Village of Fishkill. It shall maintain the subsurface disposal system (park septic system) in such a manner as to provide site with adequate septic facilities. It shall use its best efforts to negotiate with the Central Hudson Gas and Electric Company for adequate electrical service to the site hook-up.

The Cooperative shall provide garbage and trash removal from site by private contractor except for items refused by such contractor for pick-up.

Cooperative will be responsible for the maintenance of the park-owned common roadways including snow removal, paved parking lots and all common areas.

2.4 Repairs and Replacement.

Cooperative agrees to make at its own expense all repairs, alterations and improvements required: to water system to water valve hook-up the site; to sewer system below ground level; to any parking areas and common areas roadways within boundaries of Brookside; to common grounds, and to commercial property owner by Cooperative (if commercial tenant not obligated to do so).

2.5 Tax Abatement; Senior Citizens and Veterans.

If the site is possessed by a senior citizen or a veteran and as a result qualifies for a real estate exemption under the section 468 or 458 of the real property Tax law (RPTL) respectively that a person must apply to have his/her site separately assessed in which situation the mobile home will be assessed directly to the individual Member. The Cooperative will undertake reasonable efforts to reduce the occupancy charges assessed against such qualifying individual by a sum equal to the amount by which the real property taxes assessed against the Cooperative have been reduced as a result of such qualifying tax abatement.

3.0 COVENANT and AGREEMENTS of MEMBER

3.1 Use of Site.

- 3.1.1 Use as Residence. The Member shall not, without the written consent of the Cooperative and on such conditions as the Cooperative may prescribe, occupy or use a mobile home upon the site or permit the mobile home or the site or any part of it to be occupied or used for any purpose other than as a private residential dwelling [except that the home-based business may be conducted if application is made and approved as granted below or any other ancillary use permitted by the Zoning Code of the Town of Phillipstown in the areas zoned for home parks] for the Member and the Member's household as described to the Cooperative in Member's application for Membership with the Cooperative or any subsequent modification filed by Member with the Cooperative. The Cooperative shall upon application for a home-based business grant approval if the following conditions are met: (1) the name of the Corporation or the mobile home park is not used in the business address or advertisements, (2) the business will not materially burden cooperatively paid for resources, (3) does not interfere with the rights of other members and (4) does not attract customers to the Property and (5) any necessary governmental permits are secured for such activity.
- 3.1.2 Guests. In no event shall a guest or an additional person occupy a mobile home upon the site for more than thirty (30) days without notice to and the express consent of the Cooperative. **No** guest may occupy a mobile home upon a site unless one or more of the permitted adult residents (Member) are then in occupancy or unless consented to in writing by the Cooperative. (Board of Director approval may not be unreasonably withheld). Such thirty day period is to be cumulative for each guest on a calendar year basis. Member acknowledges that this is a Senior Citizen Park and to the extent permitted by law, the refusal of the Board of Directors to consent to a guest under the age of 55 is reasonable. In order to comply with safety or health guidelines, provisions or restrictions of federal, state, or local laws pertaining to square foot capacity limitation of inhabitants of mobile homes, the Cooperative may limit the number of occupants in a mobile home. A violation of this covenant shall constitute a default and breach of this Agreement.
- 3.1.3 Vacant. In the event a mobile home or member's site shall be vacant for a period in excess of two (2) weeks during the winter months such member shall maintain all utilities with automatic fuel delivery to ensure the operation of heating equipment with the mobile home at a minimum temperature of sixty degrees Fahrenheit (60) during the period same is to be vacant. The term winter months shall be defined as the period from November 1 of the calendar year to April 30 of the following calendar year. During such time the member shall also deposit a key to the mobile home with the Board for access in case of an emergency. As an alternative for maintaining the heating plant within the mobile home during the period the mobile home shall be vacant, the member must winterize the mobile home and have the potable water supply disconnected by a licensed plumber to prevent freezing of the above ground water supply line. The purpose of this provision is to prevent water waste and burst supply lines due to freezing.

3.2 Insurance

- 3.2.1 Homeowners Insurance. Member shall maintain homeowner's insurance policy on his/her mobile home and a public liability insurance policy with a face amount of not less than \$100,000 for each personal injury.
- 3.2.2 Insurance Rates. Member shall not permit or suffer anything to be done or kept upon site or at Brookside which will substantially increase the rate of insurance on the property. Member shall comply with all the requirements of the Board of Fire Underwriters, insurance authorities, Board of Health and of all other governmental authorities with respect to site. If by any reason of the use of the site by Member, the rate of insurance on the real property, liability or improvements at Brookside is increased, Member shall become personally liable for the additional insurance premiums.

3.3 Member to Comply with all Corporate and Governmental Regulations.

Member covenants that he/she will preserve and promote the Cooperative ownership principles on which the Cooperative has been founded, abide by the Rules and Regulations of the Cooperative attached to and made part of this Agreement and by his/her acts of cooperation with its other Members bring about and maintain for himself/herself and co-Members a high standard in home and community conditions. The Cooperative agrees to make any amendments to these rules and regulations known to Member by delivery of written notice to him/her and by adopting them in such a manner as to constitute adequate notice. In addition, Member agrees to comply with all laws, ordinances, rules and regulations with respect to the occupancy or use of the unit or site and mobile home situated upon it including those pertaining to trash and garbage recycling.

3.4 Repairs, Maintenance

Member agrees at his/her own expense to:

- 3.4.1 maintain site and mobile home situated upon it including gas or oil tanks in a safe and sanitary condition;
- 3.4.2 maintain site and mobile home situated upon it so as to provide an adequate hook-up for water, electrical and sewage services;
- 3.4.3 except as provided in 2.3.2 above, to provide seasonal maintenance to the site and driveway in a manner consistent with standards established by the Cooperative in its rules and regulations;
- 3.4.4 maintain mobile home situated upon site in compliance with the local zoning ordinance; and
- 3.4.5 abide by all lawful directives from Board of Directors regarding the use and maintenance of the mobile home and site.

Member agrees that if he/she fails to make any repairs which are his/her responsibility under this paragraph or fails to make such repairs in a manner satisfactory to the Cooperative, the Cooperative may make these repairs and charge to Member the cost of doing so as an Additional Charge.

3.5 Equipment and Appliances.

If, in the sole judgment of the Cooperative any of the Member's equipment or appliances shall result in damage to Brookside or poor quality or interruption of services provided by the Cooperative to its Members, or overloading of, or damage to facilities maintained by the Cooperative for the supplying of water or electricity of its Members, the Member shall promptly, on notice from the Cooperative remedy the condition and, pending such remedy, shall cease using any appliance or equipment which may be creating the objectionable condition. Continued use or maintenance of an appliance which creates an unsafe or potentially hazardous condition to Brookside and the Members of the Cooperative constitutes a violation of the terms of this Agreement by Member.

3.6 Rules, Regulations, and Requirements of Mortgages.

If any mortgage affecting Brookside shall contain any provisions pertaining to the right of the Member to make changes or alterations to the site, the Member shall comply with the requirements of such mortgage. Upon Member's request, the Cooperative shall furnish Member with copies of applicable provision of each and every such mortgage.

3.7 Entry Upon Site.

Member agrees that the Cooperative and its agents and their authorized workmen shall be permitted to visit, examine, or enter on to the site to routinely inspect site for compliance with the terms of this Agreement, and to inspect the underside of the mobile home upon site for the purpose of inspecting the water, electrical and sewer hook-ups.

Member agrees that Cooperative and its agents and their authorized workmen shall have the power and authority to correct and otherwise remedy any dangerous, unsafe, abusive or unsanitary condition upon site

(except in an emergency, only when specifically authorized by an officer of the Cooperative) with respect to water, electrical or sewer systems and without in any manner affecting the obligations and covenants of the parties to this Agreement (that is, the respective obligations of the Member and Cooperative for maintenance and repairs). No entry into a mobile home without the permission of the owner may be made without the escort of a police officer except where emergency conditions (e.g. fire) do not permit delay.

3.8 Odors, Noises, Nuisances.

Member agrees to not permit any unreasonable noises or odors to escape from site which will interfere with the rights or other Members or unreasonably annoy them. See Cooperative Rules attached to this Agreement for further information. Member agrees not to commit or permit any nuisance at Brookside or participate in the commitment of any illegal act at Brookside which will adversely effect Brookside and its members.

3.9 Indemnification.

Member agrees to hold the Cooperative harmless from all liability, loss, damage and expense arising from injury to person or property occasioned by the failure of the Member to comply with any provision of this Agreement or due wholly or in materially part to any act, default or omission of the Member or of any person residing in or visiting the site, or by the Cooperative, when acting as agent for the Member as provided in this Agreement. This paragraph shall not apply to any loss or damage when the Cooperative is covered by insurance which provides for a waiver of subrogation against the Member (that is, the insurance company waives its right to sue the Member for any payment it makes to the Cooperative).

4 MEMBER'S RIGHTS: RESTRICTIONS and CONDITIONS.

4.2 Subletting.

Member may not sublet the whole or any part of the site or mobile home upon site or renew or extend any previously authorized sublease. Violation of this provision by Member constitutes a default and breach of the terms of this Agreement.

4.3 Assignment (Transfer of Agreement).

4.3.2 Member may not assign this Agreement or any interest in the Agreement without the written consent of the Cooperative. (An assignment to a family member 55 years or older shall not be unreasonably denied. Nevertheless, the Board of Directors retains the power to approve new members.) No assignment or transfer shall take effect as against the Cooperative for any purpose until:

- 4.3.2.1 all conditions included in the By-Laws and the written Cooperative Consent to Transfer including the restricted re-sale value of shares in the Cooperative shall be complied with; and
- 4.3.2.2 an instrument of assignment in a form approved by the Cooperative executed and acknowledged by the signer shall be delivered by the Cooperative; and
- 4.3.2.3 an agreement executed and acknowledged by the assignee (person to whom agreement is transferred) in a form approved by the Cooperative assuming and agreeing to be bound by all covenants and conditions of the Agreement to be performed or complied with by the Member on and after the effective date of the assignment shall have been delivered to the Cooperative or, a request of the Cooperative, the assignee shall have surrendered the assigned agreement and entered into a new agreement in the same form for the remainder of the term, in which case the Member's Occupancy Agreement shall be deemed canceled as of the effective date of the assignment; and
- 4.3.2.4 all shares of the Cooperative which accompany this Agreement shall have been transferred to the assignee; and

- 4.3.2.5 all sums due from the Member shall have been paid to the Cooperative together with the sum to be fixed by the Cooperative to cover reasonable legal and other expenses of the Cooperative in connection with such assignment and transfer of shares.
- 4.3.3 Consents on Death. If Member shall die, consent shall not be unreasonably withheld to an assignment of the Agreement to a financially responsible member 55 years or older of Member's family. Such member shall be subject to the same responsibilities and enjoy the same rights as any other member. Failure of the estate of the decedent to pay any occupancy or any additional charges due and payable for a period of one or more months shall constitute reasonable cause for refusal to consent to the assignment. Failure of the estate of the decedent Member to pay occupancy or additional charges for three consecutive months shall authorize the Cooperative to declare the shares abandoned and it may thereby re issue the shares and terminate this Agreement.
- 4.3.4 Release of Member. If this Agreement shall be assigned in compliance with the provisions of this Agreement, Member assignor shall have no further liability for any of the covenants of this Agreement to be there after performed.
- 4.3.5 Further assignment or sublet. Regardless of any prior consent previously given, neither Member nor anyone to whom the interests of Member shall pass by law, shall be entitled to further assign this Agreement, or any part of it, except upon compliance with the requirements of this Agreement. Violation of the provisions of 4.2 by Member constitutes a default and breach of the terms of this Agreement.
- 4.3.6 Statement by Cooperative. If this Agreement is then in force and effect, Cooperative will, upon request of Member, deliver to assignee (person to whom share is being transferred) a written statement that this Agreement remains on the date of such statement in force and effect; but no such statement shall be deemed an admission that there is no default under the Agreement.

4.4 Alterations, Additions.

Member may not, without the written consent of Cooperative, substitute a mobile home for a board approved mobile home; nor alter, improve or otherwise materially change the site or other real property at Brookside; nor alter the external dimensions of the mobile home upon the site without the express written consent of Cooperative. Performance by Member of any work upon the site or mobile home situated upon the site shall be in accordance with any applicable rules and regulations of the Cooperative and governmental agencies having jurisdiction of such matters. Member shall not in any case install any appliances which will overload the existing electrical system servicing the site. On the expiration or termination of this Agreement, Member shall have the right to remove any improvements or fixtures made to site, except for landscaping improvements set beneath the soil surface; provided that any damage to site upon such removal is added to charges owed by Member to Cooperative at termination or expiration of this Agreement. Any improvements or fixtures not removed by Member on or before the expiration or termination of this Agreement, shall, at the option of the Cooperative be deemed abandoned and shall become the property of the Cooperative and may be disposed of by the Cooperative without liability or accountability to the Member.

4.5 Disputes: Payment of Occupancy Charges; Performance of Work

In the event a dispute shall arise as to any sum of money to be paid by Member to the Cooperative under the provisions of this Agreement, Member will pay the charges to the Cooperative upon the terms and at the times provided in this Agreement, without any deduction on account of any set-off or claim which the Member may have against the Cooperative. If Member shall fail to pay any Occupancy Charges, or Additional Charges when due, the Cooperative may impose Late Charges to pay as provided in paragraph 1.3. In the event a dispute shall arise as to any work to be undertaken by Member related to maintenance or repairs to unit or site, Member shall be obligated to perform the work.

4.6 Inspection of Books of Account.

The Cooperative shall keep full and correct books of account at its principal office or at such other place as the directors may from time to time determine, and the same shall be open during all reasonable hours to inspection by Member or a representative of Member. The Cooperative shall deliver to Member within a reasonable time

after the end of each fiscal year an annual report of corporate financial affairs, including a sheet and a statement of income and expenses, prepared and signed by a certified public accountant independent of the Cooperative.

4.7 Option to Renew Occupancy Agreement

Member has the right to renew this Agreement upon the expiration date of this current Agreement provided Member is willing to execute the form of Occupancy Agreement then in effect. The term or duration of such renewed lease will be the same for all those members who choose to renew the Agreement upon the expiration of the term of this Agreement.

5.0 POWER/AUTHORITY OF COOPERATIVE: RESTRICTIONS and CONDITIONS

5.1 Charge for Repairs Member Obligated to Make.

If Member shall fail for ten (10) days after notice to make repairs or to otherwise undertake work required to site or mobile home upon it, as required by this Agreement or shall fail to remedy a condition which has become objectionable to the Cooperative, or if Member or any person dwelling in the mobile home upon the site shall request the Cooperative to perform any act not required to be performed by the Cooperative, the Cooperative may make such repairs, or remove such objectionable condition, or perform such act, without liability to the Cooperative; provided, that if the condition requires prompt action, notice of less than ten (10) days or, in case of an emergency, no need be given by Cooperative to Member. The Cooperative shall be entitled to recover from the Member all expenses reasonably incurred or for which it has contracted. Such expenses are payable by Member as Additional Charges.

5.2 Reimbursement of Cooperative Expenses.

If member shall at any time be in default under this Agreement and the Cooperative shall incur any expense (whether paid or not) in performing acts which Member is required to perform, or in instituting any proceeding based on such default, or defending, any proceeding brought by Member, the expense to the Cooperative, including reasonable attorney's fees and disbursements, may be charged by Cooperative to Member as Additional Charges, unless Member is prevailing party.

5.3 Abandonment of Site.

If a vote of a majority of the members of the Board of Directors finds substantial reason to abandon this site and then at a duly called meeting of the full membership of the Cooperative a vote of two-thirds (2/3) of the entire Membership of the Cooperative favor the abandonment of the site, then the Member must abandon the site. Provided however, that in any such situation the Cooperative is obligated to pay the reasonable costs incurred in the disconnect, transfer and reconnect of the mobile home to another site within Brookside if a vacant site is available. If a site is not available within Brookside, then the Cooperative is obligated to pay the actual, but not more than the reasonable costs incurred to disconnect, transfer and re-connect the mobile home to a new site outside of Brookside. If the site may not legally be transferred, then the Cooperative shall pay the Member the fair market value for the mobile home as determined by an independent appraiser mutually chosen by Member and Cooperative. Member is entitled to the transfer of his interest in this Agreement and his/her shares in the Cooperative in accordance with the terms of paragraphs 8.4 and 8.5 of this Agreement.

6.0 MUTUAL AGREEMENTS BETWEEN COOPERATIVE and MEMBER.

6.1 Damage to Site.

In the event of loss or damage to site or any other property owned by Cooperative by flooding, fire or other cause attributable to the actions or fault of Member, occupancy charges shall not be abated until and unless this Agreement is terminated or canceled.

6.2 Damage to Brookside; Expiration of Agreement.

If the Cooperative shall determine that Brookside is so damaged by storm, fire, flood or other cause that it cannot be repaired within a reasonable time after the loss shall have been adjusted with the insurance carrier, or the destruction or damage was caused by a hazard which is not covered under the insurance policies of the Cooperative, and if in such case two-thirds (2/3) of the Members at a meeting duly called for the purpose shall vote not to repair, restore or rebuild, then upon the giving of notice pursuant to paragraph 8.3 of this agreement, this Occupancy Agreement and all other occupancy agreements and all right, title and interest of the parties under such agreements and the tenancies thereby created, shall thereupon wholly cease and expire and occupancy charges shall be paid to the date of such destruction or damage.

7.0 DEFAULT and BREACH of AGREEMENT by MEMBER.

7.1 Nonpayment of Charges

The events described in 7.1.1 together with those of 7.1.2 and 7.1.3 shall constitute a breach and default of the terms of this occupancy Agreement by Member for nonpayment of charges:

- 7.1.1 Nonpayment of Occupancy Charges, Additional Charges or any installment thereof under the provisions of this Agreement, on any day on which payment is due and such nonpayment continues for a period of thirty (30) days;
- 7.1.2 written notice from Cooperative to Member of nonpayment and a demand for full payment within a period of not less than ten (10) days; and
- 7.1.3 continued failure to cure nonpayment of all sums due as of the expiration of the period described in 7.1.2 from date of receipt of such notice.

7.2 Damage to Site/Bad Neighbor.

The events described in 7.2.1 and 7.2.2 and 7.2.3 each constitute a breach and default of the terms of this Agreement:

- 7.2.1 actions or in actions of Member that create an immediate danger of substantial damage to the physical well-being or preservation of site or to Brookside or the mobile home of Member is in violation of some federal, state, or local law or ordinance which may be deemed detrimental to the safety and welfare of the other persons residing at Brookside; or
- 7.2.2 action or in actions of Member that substantially violate, for a period of ten (10) days or more, the rights of any other Member to quiet enjoyment of his/her site; or
- 7.2.3 the site or mobile home of Member are used or occupied as a bawdy house, or house or place of prostitution or for any other illegal trade or business.

7.3 Other Defaults and Breaches of Agreement

Any single occurrence listed in 7.3.1 together with those of 7.3.2 and 7.3.3 shall constitute a breach and default of the terms of this Occupancy Agreement, and a basis of termination of Membership in the Cooperative.

- 7.3.1 The occurrences are as follows:
 - 7.3.1.1 if Member ceases to be the owner of the share which accompanies this Agreement, or if this Agreement, or if this Agreement shall pass or be assigned to any one who is not then the owner of all of said share; or
 - 7.3.1.2 if Member attempts to sublet, transfer or assign this Agreement in a manner inconsistent with the provisions of this Agreement or the by-laws of Cooperative;
 - 7.3.1.3 if Member permits any person not authorized to occupy the site or mobile home situated upon site;
 - 7.3.1.4 if during the application process for Membership in the Cooperative, the Member intentionally misstated information regarding his/her financial status, character, history or any other pertinent information which the Cooperative reasonably relied upon in making its decision to offer the applicant Membership in Cooperative;

- 7.3.1.5 if any rights in the Cooperative owner by Member are duly levied upon and sold under process of any court;
- 7.3.1.6 if Member fails to make repairs and undertake maintenance as provided for in 3.4 and 6.1; or
- 7.3.1.7 if the Member fails to substantially comply with the rules and regulations of Brookside or any other agreement, covenant, or condition of this Agreement not otherwise specifically addressed in 7.3.
- 7.3.2 Cooperative delivers written notice to Member which describes the nature of the breach, includes a demand for a cure of the breach within thirty (30) days and states the specific action or events that will satisfy the Cooperative as a cure for such breach.
- 7.3.3 The passage of thirty (30) days from date of delivery of such written notice and failure within such time to cure the breach.

7.4 Waiver of Redemption Rights

The Member as lessee waives all rights to redeem under section 761 of the Real Property Actions and Proceedings Law of the State of New York or any other provision of any law. [By this provision the Member gives up, the right (under certain circumstances) to pay all unpaid charges due to Cooperative and thereby reinstate his/her rights under the terms of this Agreement after a warrant of eviction has been issued and within one year of the date a judgment of eviction has been entered against the Member for nonpayment of occupancy charges.]

8.0 TERMINATION of OCCUPANCY AGREEMENT

8.1 Remedy of Corporation Upon Default and Breach by Member.

- 8.1.1.1 Upon Member's default and breach of Agreement as described above in 7.0, Cooperative may give notice to Member stating that this Agreement shall expire on a date specified in notice from date of receipt of such notice, and all right, title and interest of Member under Agreement shall come to an end on date stated in notice, and the Member shall as of such date, completely and fully surrender possession of site to Cooperative. In the case of a breach as described in 7.1 such notice shall be for a period of not less than five (5) days. In the case of a breach described in 7.2 or 7.3, such notice shall be for not less than thirty (30) days.
- 8.1.1.2 Upon Member's failure to vacate possession of site, upon date fixed in notice described in 8.1.1, Cooperative shall have right to enforce its right of possession by judicial summary proceedings or other suitable legal methods including non-judicial methods.
- 8.1.1.3 In the event the Cooperative resumes possession of site because of default by Member, this Agreement shall be terminated and all rights and obligations of the Member shall expire as of date Member vacates the site except as stated in 8.5.
- 8.1.1.4 Upon Member's default and breach as described in 7.1, 7.2, or 7.3, Cooperative may bring suit against Member for money damages only for such breach and default.

8.2 Assignment of Shares of Stock.

Upon Member's assignment of shares of stock in Cooperative in accordance with the provision of the By-Laws of the Cooperative, and any relevant provisions of this Agreement, this Agreement shall terminate. Upon the revision of the shares owned by a member of the Cooperative, this agreement shall terminate.

8.3 Termination of All Occupancy Agreements.

All occupancy agreements including this Agreement shall be terminated upon any of the following events:

- 8.3.1 If at any time the Cooperative shall determine upon the affirmative vote of two-thirds (67%) of the entire Membership of its then Members to terminate all occupancy agreements;
- 8.3.2 If a substantial portion of Brookside shall be destroyed or damaged and the Members shall decide by an affirmative vote of two-thirds (2/3) of the entire Membership not to repair or rebuild as provided in 6.2 of this Agreement; or
- 8.3.3 If at any time Brookside or a substantial portion of it shall be taken by condemnation proceedings.

8.4 Obligations of Member upon Termination

Upon termination, Member shall surrender to Cooperative his/her share certificate in Cooperative allocated to site, and possession of site; Member shall also pay all Occupancy Charges, Late Charges, and Additional Charges (including any legal fees and cost reasonably incurred in the termination of this Agreement) due or accrued and perform all covenants and agreements of a Member up to the date of termination or date possession is surrendered whichever occurs later.

8.5 Transfer Value or Recoupment Payment to Member at Termination.

- 8.5.1 Upon termination of occupancy Member may be entitled to a recoupment payment which shall be calculated as follows:
- 8.5.2 The sum of: (i) any Occupancy Charges, Late Charges, Additional Charges due and owing to Cooperative by Member, (ii) the cost to Cooperative to enforce its right to possession, including reasonable attorney fees and legal costs, (iii) the reasonable and full cost of the Cooperative to repair and restore the site or unit upon Member's surrender of possession for the purpose of preparing it for its next occupant shall be subtracted from,
- 8.5.3 The sum of: (i) the purchase price of share of stock, as paid by Member as shown on the books of the Corporation (ii) a sum which represents the value, as determined by the Board of Directors, of any improvements installed by the expense of the Member with approval of the Board of Directors; and (iii) the Member's proportionate share of the aggregate amortization (payment of principal) paid by the Cooperative on mortgages on the Property at Brookside as determined by the Board of Directors [Such proportionate share shall be based upon actual payments made by Member and the Cooperative].
- 8.5.4 There shall be an accounting by Cooperative to Member upon earliest date possible following notice of termination. The net sum shall either be due and payable by Member to the Cooperative, or by the Cooperative to the Member.
- 8.5.5 To the extent permitted by the law, the Member and the Cooperative do waive trial by jury in any action, proceeding or counter claim brought by either of the parties against the other on any matter arising out of or related to this Occupancy Agreement. The parties may agree to refer an alleged matter of default, other than non payment of occupancy charges or additional charges to a mediation service.
- 8.5.6 Notwithstanding any other provisions of 8.5, nothing shall prohibit Cooperative from refraining to enforce its right to repossess site upon good reasons given by Member for nonpayment or nonperformance of his/her obligation. Cooperative may at its absolute discretion, taking into consideration and relevant factors as the longevity of Member's occupancy and contribution to the Cooperative, and record of compliance with the terms of this Agreement, the financial risk to the Cooperative for continued non-compliance, and the effect upon the quiet enjoyment of other Members of the Cooperative, extend the time for Member to comply or perform.

8.6 Cancellation of Occupancy Agreement by Member.

- 8.6.1 Written notice of cancellation must be given by Member at least ninety days prior to the effective date of cancellation. With the notice the Member must deposit with the Cooperative (I) Member's original copy of the Occupancy Agreement, (ii) Member's original share certificate, and (iii) a list of improvements and fixtures Member claims the right and intention to remove in accordance with paragraph 4.3 of this Agreement that are at the site. This notice becomes irrevocable unless it is revoked with not less than thirty (30) days prior to effective date of cancellation.
- 8.6.2 On or before the effective date of the cancellation, the Member must have removed the items referred to in 8.6.1 above, have paid all charges to the effective date of the cancellation, and vacated the site,

leaving it in good condition and repair. Any property not removed by the date will remain the property of the Cooperative.

- 8.6.3 Upon completion of all the requirements in 8.6.1 and 8.6.2 by Member this Occupancy Agreement shall be canceled and all rights, duties and obligations of the parties shall cease.

9.0 MISCELLANEOUS PROVISIONS

9.1 Non-Waiver of Remedies.

Failure by the Cooperative to avail itself of any remedy given under this Agreement shall not waive or

destroy any right of the Cooperative to avail itself of remedies for any similar or other breach or default by Member.

9.2 Changes in Terms and Conditions of Occupancy Agreement.

Each occupancy agreement shall be in the form of this Agreement unless a variation of any Agreement is authorized by at least two-thirds (67%) of the entire membership of the Cooperative. Such changes shall be binding on all Members even if they did not vote for such changes, except that the proportionate share of Occupancy Charge or Additional Charges payable by Member may not be increased nor may his/her right to cancel the Agreement under the conditions set forth in Paragraph 8.5 be eliminated or impaired without his/her express consent. Approval by Member is provided for in this paragraph shall be evidenced by written consent or by affirmative vote taken at meeting called for such purpose.

9.3 To Whom Covenants Apply.

The references in this Agreement to the Cooperative shall be deemed to include its successors and assigns, and the references herein to the Member or to a shareholder of the Cooperative shall be deemed to include the executors, administrators, legal representatives, legatees, distributees and assignees of the Member or of such shareholder; and the covenants herein contained shall apply to, bind and inure to the benefit of the Cooperative and its successors and assigns, and the Member and the executors and administrators, legal representatives, legatees, distributees and assigns of the Member except as stated in this Agreement.

9.4 Waivers.

The failure of the Cooperative to insist, in any instance, upon a strict performance of any of the provisions of this Agreement, or to exercise any right or option herein contained in this Agreement, or to serve any notice, to institute any action or proceeding, shall not be construed as a waiver, or a relinquishment for the future of any such provisions, options or rights, but such provision, option or right shall continue and remain in full force and effect. The receipt by the Cooperative of Occupancy Charges, with knowledge of the breach of any covenant of this Agreement, shall not be deemed a waiver of such reach, and no waiver by the Cooperative of any provision of this Agreement shall be deemed to have been made unless in writing expressly approved by the Board of Directors or its designee.

9.5 Notices

Whenever any Bylaw of the Cooperative, any law, or this Agreement requires notice to be given to either party to this Agreement, any notice by the Cooperative to Member shall be deemed to have been duly given, and any demand by the Cooperative upon Member shall be deemed to have been duly made, if the same is delivered to Member in person or by certified mail addressed to mail box number provided by Cooperative; and any notice or demand by Member to the Cooperative shall be deemed to have been duly given if delivered to the agent or officers designated from time to time.

9.6 Mortgage Subordination Clause

This Agreement is and shall be subject and subordinate to any mortgages now or hereafter secured against the real property owned by Cooperative and to any and all extensions, modifications, consolidations, renewals and replacements thereof. This clause shall be self-operative and no further instrument of subordination shall be required by any such mortgagee. In confirmation of such subordination the Member shall at any time, on demand, execute any instruments that may be required by any mortgagee, or by the Cooperative, for the purpose of more formally

subjecting this Agreement to the lien of any such mortgage or mortgages, and the duly elected officers of the Cooperative are and each of them is hereby irrevocably appointed the attorney-in-fact and agent of the Member to execute the same upon such demand, and the Member hereby ratifies any such instrument hereafter executed by virtue of the power of attorney given.

9.7 Member More Than One Person

Member, as used in this Agreement, means the adult person or persons who sign it. If more than one person is named as Member in this Agreement, the Cooperative may require the signatures of all such persons in connection with any notice to be given or action to be taken by the Member under this Agreement. Each person named as Member shall be jointly and severally liable for all the Member's obligations here under. Any notice by the Cooperative to any persons named as Member shall be sufficient, and shall have the same force and effect, as though given to a persons named as Member.

9.8 Effect of Partial Invalidity.

If any clause or provision contained in this Agreement shall be adjudged invalid, the same shall not affect the validity of any other clause or provision of this lease, or constitute any cause of action in favor of either party as against the other.

9.9 Oral Representations Not Binding.

No representations other than those contained in this Agreement and in the Certificate of Incorporation and the Bylaws of the Cooperative shall be binding upon the Cooperative.

ADDENDUM: The attached Rules and Regulations is incorporated into and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed the day and year first above written.

BROOKSIDE SENIOR CITIZENS COOPERATIVE COMMUNITY, INC.

BY: _____ DATE: _____
President

BY: _____
(Member)

BY: _____
(Member)