

PRIVATE GROUP HOMES

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I. INTRODUCTION

Living independently is an important goal for many individuals with disabilities. Many families grow tired of waiting for residential opportunities through their state or local services. Or they may envision a life which is very different from the living situations provided by the public agencies. These individuals and their families often want to explore setting up a private living situation, usually with one or more additional individuals. Often, several families whose children are compatible form a group to develop housing for their children. Other times, a single family pursues the housing and worries about roommates for their child after the fact. This session will explore the many issues that must be considered when embarking on such a project, including legal structure, locating the home, finding appropriate care providers, setting a budget and funding the project.¹

II. IS YOUR CLIENT READY TO BEGIN DEVELOPING A PRIVATE GROUP HOME?

Once a client begins thinking about developing a private group home, there are several ways in which you can help them assess their readiness. Clients need to consider the following:

¹ These materials and appendices are assembled from the many group homes we have helped develop, and from materials we drafted in the past for Welcome House, Inc. and LEAP, both of which are agencies who assist families in developing housing.

A. Financial Commitment. Clients must define what type of financial commitment they can make, as this may determine how the project is structured. They need to understand clearly what costs are entailed, and how these costs can be covered. Are there public benefits and programs which will cover much of the staffing costs? Will family members provide in-kind and volunteer assistance to the residence?

B. Time Commitment. Clients must have significant time and energy to accomplish the goal. We have found it often takes more than one year, and sometimes several, to create the home and for the residents to move in. For clients who have been developing larger projects such as a farm or multi-unit living situation, up to five years is not unusual.

C. Collaboration. Clients must commit to collaborating with the other families who will be involved in the project. We have found that the types of families who pursue these projects are often strong personalities, which can cause conflicts within the group. All families must commit to cooperate in meeting the needs of all the residents and be willing to compromise.

D. Control. Clients need to understand they must give up some control in the life of their family member with a disability. Things may not be up to the parents' standards, and their child may make decisions they don't agree with. They will need to accept this if the transition is to succeed.

III. FINANCES

One of the biggest concerns for families starting a private group home is how the project will be funded. The ongoing costs of the real estate are usually straightforward and will typically be covered by rent paid by the residents. The staffing in the home is usually the largest piece of

the funding pie, and the numbers can be quite daunting. The funding mechanisms for staff can be very complex, and may include private funds, Medicaid waivers, and other local or state program supports. It is critical to develop a detailed budget, with each resident's financial obligations clearly spelled out. The detailed budget, along with the comprehensive plan for the home, will be critical if applying for grants or other sources of funding for the home.

Considerations when determining likely costs and affordability include the following:

1. Type of housing – apartment, house, condo
2. Own or rent
3. Number of residents
4. Will the household own or lease a car?
5. Upfront costs may include:
 - a) Down Payment
 - b) Mortgage cost
 - c) Closing costs
 - d) Security deposit and first month's rent
 - e) Utility deposits
 - f) Immediate renovations/improvements
 - g) Furnishings and appliances
 - h) Moving expense
 - i) Legal fees
 - j) Purchase of auto
6. Ongoing monthly and annual costs
 - a) Taxes
 - b) Mortgage payment
 - c) Homeowner's insurance
 - d) Renter's insurance
 - e) Utilities
 - f) Routine maintenance
 - g) Capital replacement reserve
 - h) Condo fees
 - i) Homeowners' Association fees
 - j) Lawn care/snow removal
 - k) Auto lease or loan payment
 - l) Auto insurance

m) Security system

7. Support Costs

- a) Types of support needed, frequency and duration
- b) Hours of support per resident
- c) Hours of shared supports
- d) Average hourly rate for paid caregivers
- e) Waiver hours available

8. Income available to each resident

- a) Wages
- b) SSDI/CDB/SSI
- c) VA
- d) HUD Section 8 or voucher
- e) Benefits from a trust
- f) Child support
- g) Local or county support other than Medicaid waiver
- h) Supports available through Waiver

IV. HOME OWNERSHIP MODELS

Family directed housing can exist in many formats. The most common variations are discussed below.

A. One Family Owner

In this model, one family purchases a home for their adult child and allows other adult children with disabilities to also live in the home and pay rent. The family may want to form a single member LLC or some other legal structure for liability purposes. The family who is the homeowner will be the landlord and the adult children residing in the home are the tenants. It is important that the one family owner create and use a lease with each tenant. The lease protects both parties by capturing in writing the expectations. In addition, tenants who receive SSI may be required to provide a copy of the rental agreement to their local social security office. A lease should include the payment terms, who pays for utilities, who is responsible for home maintenance, pet policy, termination provisions, and any other terms. However, a lease should

not include terms that could be deemed as discriminatory or are in violation of the Fair Housing Act. A sample rental agreement is provided in Appendix A.

If the participating families form a legal organization or some other type of unincorporated association, often referred to as a consortium in my state, the homeowner may instead lease the house to the consortium, thereby avoiding multiple leases and tenants. In this type of an arrangement, the consortium families would be obligated to the owner and the consortium would have the legal relationship with the tenants.

B. Family Members Create Separate Legal Entity Which Owns Home

In this model, a group of families pools resources to purchase a home for their adult children. Families who prefer to share ownership of the home should consider forming a separate legal entity that holds the real property and protects the participating families from personal liability.

Legal entities include partnerships, corporations, limited liability companies and several other variations. For group family-directed housing, a limited liability company (LLC) offers a great deal of flexibility, combines the best parts of partnerships and corporations and may exist with one or more members. The benefits of an LLC, rather than a group of individuals owning a home or multiple homes are many.

1. Decision-making

An LLC provides a foundation for decision-making. Depending on the terms of the Operating Agreement (see further discussion below, and see Appendix B, LLC Operating Agreement Checklist), an LLC may be run by all members (LLC owners), a designated manager, or a combination of elected officers. The members may delegate authority to one or more members to enter into contracts, purchase assets, and make other decisions without requiring

each member's involvement. On the other hand, a collection of individuals who have not formed a legal entity, must all participate in every decision and legal transaction. This approach tends to be more burdensome.

2. Continuity

If an LLC owns real property, it will continue to own such property regardless of a change in its members. Over time, families may come and go, including the tenants. An LLC owned house will continue in existence allowing it to be an available resource to new tenants, without requiring a transfer of ownership.

3. Tax treatment

An LLC is a pass-through tax entity. Unlike a corporation, which must pay its own taxes, the profits and losses of the business pass through to its owners, who report them on their personal tax returns just as they would if they owned a partnership or were acting as sole proprietors. This means that the LLC itself does not pay taxes and does not have to file a tax return. The LLC may be designated as a non-profit under state laws, but will not qualify for the federal 501(c)(3) tax exempt status as long as the members of the LLC are individuals or families benefiting from the LLC. If the LLC has employees, it will need to obtain a federal tax identification number, also known as an employer identification number (EIN).

4. Liability

An LLC protects its owners from personal liability for business debts and claims. If the LLC can't pay a creditor, the creditor cannot legally come after an LLC member's house, car or other personal assets. Only the LLC assets may be accessed to satisfy any claims or debts. However in limited circumstances, an LLC owner may be held personally liable if the owner does any of the following:

- a) Causes injury to another;
- b) Personally guarantees a bank loan or debt on which the LLC defaults;
- c) Fails to deposit employment taxes withheld from LLC employees;
- d) Acts in a fraudulent, illegal or reckless manner causing harm to the LLC;
- or
- e) Treats the LLC as an extension of owner's personal affairs.

To avoid liability, LLC owners should do all of the following:

- a) Act fairly and legally;
- b) Adequately fund the LLC to meet expenses and liabilities;
- c) Separately maintain LLC and personal business;
- d) Create an operating agreement that spells out how the LLC will be run;
- e) Keep annual minutes and formal records; and
- f) Obtain a general liability insurance policy that will protect both personal and LLC assets from lawsuits and pay the legal expenses in the event that a lawsuit is filed.

Setting up an LLC is simple and requires three basic steps.

1. Articles of Organization

The initial step in forming an LLC is to file Articles of Organization with the state. The Articles of Organization require that an individual be appointed as the statutory agent for the LLC. The statutory agent receives legal notices and, in the event of a lawsuit, receives service of process on behalf of the LLC. The Articles of Organization must be accompanied by the

required filing fee. Upon acceptance of the Articles of Organization by the Secretary of State, the LLC is deemed to be formed.

2. Determine appropriate tax status

The members must elect whether the LLC should be taxed as a corporation, or whether it will be a “pass-through entity” so that the LLC owners report business losses or profits on their personal tax returns. The default tax treatment of an LLC is as a partnership. If the LLC will have employees, it will need to obtain an EIN and will be required to pay employee related taxes. The LLC may also be designated as a not-for-profit entity under state law, although not under federal law because the members’ family members are benefiting from the LLC. Members should consult with a tax attorney or other qualified tax professional to determine whether there is any benefit to designating its LLC as a not-for-profit entity.

3. Operating Agreement

An Operating Agreement sets out in writing the terms under which the LLC will operate. It is a legal contract between the members that binds all the members who must agree to the terms. Although not required by Ohio law, a well written Operating Agreement will minimize disputes among the members as well as define and protect legitimate expectations of the members. An Operating Agreement that is individualized to address the purpose and operation of a given LLC, will be much more useful to its members than one filled with nothing but “boilerplate” provisions. Appendix B provides a checklist of issues that members consider addressing in an Operating Agreement. If a later disputed issue is not addressed in the Operating Agreement, the courts will decide the issue in accordance with state law related to limited liability companies.

C. Third party owns home

The third-party owner model is very similar to the one family owner model, except that the third-party owner is not related to any of the tenants. A lease should be used for the same reasons as discussed above. If the landlord has a separate lease with each tenant, the tenant's duties and obligations are independent of the other tenants. On the other hand, if the lease is between the landlord and all tenants, all tenants may be obligated equally. For example, if the lease requires that tenants pay all utilities, and one of the tenant's does not pay his share, the remaining tenants may be legally obligated to make sure the utilities are paid. It is important to carefully review the proposed lease and have a clear understanding of the terms prior to signing.

D. Cooperatives and Co-Housing

A housing cooperative is a corporation which owns property for its members. A member/shareholder does not own his own dwelling unit; rather he owns a membership unit or certificate that entitles him to occupy a dwelling unit and vote in the operation of the corporation.

Co-housing is a form of cooperative housing. A separate entity owns the property and the residents own a share of the entity. The Co-housing community generally consists of a number of individual units around a common space which is for all community members

E. Liability & Insurance

The landlord has a duty to make all repairs needed to maintain the property in good condition and keep all common areas safe, clean and in good repair. If a tenant or visitor is injured because of the landlord's failure to maintain the premises, the landlord may be liable to the injured party. In addition to taking reasonable steps to maintain the premises in good condition, the landlord can further protect himself by purchasing property insurance.

Whether the house is owned by an individual or an entity such as a limited liability company, the landlord should carry homeowner insurance that provides sufficient coverage for property damage and injury that may occur on the premises. For extra protection, the landlord may want to purchase additional liability coverage, referred to as an umbrella policy. An umbrella policy is a liability insurance policy that protects assets over and above the coverage provided by a standard homeowner's policy.

The tenant has a duty to pay rent and not cause damage to the premises. If the premises are damaged as a result of a tenant's actions, the tenant may be liable to the landlord. If a visitor (including a provider) is injured on the premises as a result of the tenant's negligent act, the tenant may be liable.

Families/tenants should purchase a tenant's policy to cover their tenant family member, which protects the tenant's personal property. In the unfortunate event of damage occurring to the home, the landlord's policy will not typically cover the tenant's personal belongings. In addition to providing coverage against property loss, theft or damage, a tenant's policy may also cover injury to another person while on the tenant's property.

If the amount of damage or injury exceeds the policy limits, the individual tenant or landlord may be personally liable for the difference. In the case of an LLC landlord, the LLC and not the individual members of the LLC will be liable for any amounts exceeding policy limits, so long as the amount of coverage purchased for the LLC was based on good faith and reasonable actions of the LLC members.

V. Services

Once a home is secured and roommates/co-tenants/residents are selected, the families must decide on how support services are to be provided. Some residents may need more or

fewer support services than their housemates. In addition to individual support services, there may be a need for other home maintenance services. Each family must determine what is the best service plan for their family member. Families may choose to directly hire providers, or the resident (or her legal guardian) may contract with an agency to provide the service. In some cases, family members themselves choose to provide the required support services. Each option has its own benefits and challenges.

A. Providers as employees

Families that elect to hire individuals to provide support services or home maintenance services have the greatest control over every aspect of the service. As the employer, the family controls the number of hours, how the service is provided, where the service is provided, who provides the service and payment terms. With such power and control of course, comes much responsibility.

1. Employer obligations

An employer must obtain an Employer Identification Number (EIN). This is true whether the employer will be an LLC or an individual family member. An EIN application may be filed online at <http://www.irs.gov/>.

The IRS makes a distinction between an employee and an independent contractor. For tax purposes, it is important to determine at the outset whether the individual that the family hires is an employee or an independent contractor. If the hired individual is an employee, then the employer must withhold income taxes, withhold and pay Social Security and Medicare taxes, and unemployment tax on wages paid to the employee. If the hired individual is an independent contractor, he or she is responsible for the payment of his or her own taxes. The IRS uses a “degree of control” test to determine whether a hired individual is an employee or an

independent contractor. The presumption is that the hired individual is an employee if the employer can control what will be done and how it will be done. As an example, an individual hired to provide assistance with ADL's, housekeeping or cooking at specific times as directed by the family, will be considered an employee. On the other hand, an exterminator who provides a monthly service is most likely an independent contractor.

If the worker is an independent contractor, the employer should have the contractor complete form W-9, Request for Taxpayer Identification Number and Certification. It may be used to obtain the correct name and TIN of the worker. If the independent contractor receives payment in excess of \$600 during the year, the employer must complete a Form 1099-MISC, provide a copy to the IRS, and provide a copy to the independent contractor by January 31 of year following payment.

An employer may, but is not required to, provide additional benefits such as paid time off and health insurance. However, the employer must obtain worker's compensation insurance coverage for its employees.

Most states recognize "at-will" employment. This means that an employee may be hired to work for as long as the employer wants and has need for the employee, and may terminate the employee for any reason, or no reason. However, an employer may not terminate an employee if the reason for the termination is illegal, discriminatory or against public policy. Therefore, the employer should always act reasonably and be able to show that his or her decisions and actions are lawful.

Both federal and state employment laws regulate wages, overtime, and working conditions. In general, employees providing in home support services will most likely be classified as hourly employees who must be paid for every hour they are required to be working

or on the premises. If the employee exceeds 40 hours in a week, he or she must be paid time and a half of his or her regular hourly wage for every hour over 40. If the employer wants the employee to spend the night at the home, the employee must be compensated because he or she is required to be on the premises. If, on the other hand, the employee receives room and board at the home, such room and/or board may be considered as part of the employee's compensation.

It is the employer's responsibility to arrange for alternate coverage, if an employee calls off or schedules time away from work.

2. Liability

Employers are required to provide a place of employment that is free from recognized hazards that are causing or are likely to cause serious physical harm to employees. For instance, if a resident is known to exhibit violent behavior toward others, the employer must take reasonable steps to protect any employee from harm. Failure to take reasonable steps may subject the employer to liability. Similarly, employees are considered to be the agents of the employer. The employer is expected to select qualified individuals, conduct background checks if necessary and provide necessary training and supervision. If an employee causes an injury to a resident, the employer may be liable for failure to adequately train, supervise or control its employees.

If the employer is an LLC, any liability will be limited to the LLC and not the individual members. If the employer is an individual, he or she may be held personally liable and if without insurance coverage, the individual's own assets may be reached.

3. Insurance

An employer, whether an individual or an LLC, should obtain sufficient insurance coverage to protect personal or business assets in the event of a personal injury or property damage. The following types of insurance are recommended:

- a) General liability – A broad term meaning liability insurance, other than automobile liability or employers’ liability written to cover professional and commercial risks.
- b) Employers’ liability – Provides protection for the employer for those injuries arising out of and in the course of employment which were not covered under workers’ compensation.
- c) Workers’ Compensation – Provides both medical coverage and compensation for lost wages to an employee for a work-related injury.
- d) Employee dishonesty – provides coverage against loss as a result of acts of employee dishonesty. This type of coverage is not common, may be difficult to obtain and costly, if available.
- e) Automobile insurance – Coverage recommended in the event that employer has vehicle and requires employees to transport residents.

B. Providers as vendors

Instead of hiring employees, families may elect to arrange for in-home support services by contracting with a variety of Providers to provide the service. Under this arrangement, the Provider is a vendor, an independent contractor providing a service pursuant to a contract with either the family or the individual resident. Typically, the Provider is an agency with employees that come to the residence and provide the services. The services may be paid through a variety

of sources, including the resident's Medicaid waiver, county program funds, other available public funds, or family.

The Provider agency is responsible for providing the services as contracted. This includes days, hours, number of staff, etc. If an individual staff calls off or doesn't show up as scheduled, the Provider agency is responsible for providing alternate arrangements. The individual resident or his family may not demand a specific staff provide the service, although many Provider agencies may accommodate such a request if feasible. Most contracts for in home support services allow termination for any reason or no reason.

The Provider agency is expected to provide qualified staff that can provide the contracted services. Although, the landlord still has a duty to provide a safe environment for anyone living in or visiting the home, liability for staff acts or failure to act shifts to the Provider agency, as the employer.

It is generally more cost efficient for a group of residents sharing a home, to use the same Provider agency, and the funding agency may require this. However, there is no reason that a resident could not hire a different Provider, either as an employer-employee or a Provider agency.

C. Family members as providers

Family members may also elect to provide support services directly to residents sharing a home. Although this arrangement may require the least amount of financial resources, it is much more demanding on family time and energy. Furthermore, it may be a temporary solution at best, as parents age and siblings experience family and job demands in their own lives.

If families of several residents decide to share the delivery of services to all of the residents, they are subject to the same liability risks as discussed in Section V.C.2. above, where the family acts as the employer.

VI. LEGAL RELATIONSHIPS AMONG RESIDENTS

Residents sharing living space have a legal duty to comply with the requirements of the lease. This duty is owed to the landlord. Absent any other rules or agreements, the residents do not have any legal duty toward each other. Relationships as we all know are complicated. Where two or more persons share living space, it is best to have a set of rules that address as many potential areas of conflict as one can imagine. Well-written rules that have been accepted in writing by participating families may be legally enforceable, just like a contract.

Families that have formed an LLC may wish to create a separate agreement that addresses the operation of the home and is agreed to by all of the members. Even where there is no LLC, (as where one family owns the property and rents to others), families whose children are sharing a home may wish to form an unincorporated association or a consortium for the purpose of managing the home and having a process that addresses conflict.

The agreement may include as much detail as the families wish. At the very least, it should address duties and obligations of the participating families and address major areas of potential conflict. It should also provide a method for amending the agreement in the future should circumstances change. The following is a list of key areas that should be considered and adopted either in an agreement, or as separate policies that are referenced in the agreement.

A. Decision-making process

The agreement should identify how decisions will be made. Must decisions be unanimous, majority rule or some other percentage? Will the group meet regularly or as needed? Can decisions be made via email, phone or some other way?

The families may decide to designate officers to handle specific duties, i.e., treasurer to manage an operating account, secretary to take minutes of meetings and record decisions, president to enter into agreements with providers, etc.

B. Admission/eviction criteria

Families may develop criteria and protocol for determining new admissions in the event of a vacancy, as well as criteria for eviction of a resident. Since admissions and evictions have a major impact on the house, this may be one area where decisions are based on unanimous consent or some percentage higher than majority.

Families may not either deny admission or evict an individual based on illegal discriminatory reasons. Both the Fair Housing Amendment Act of 1988 and the Americans with Disabilities Act prohibit discrimination based on one's disability. There are limited exceptions, such as an individual who poses a direct threat to the health or safety of other individuals or their property.

Appendix C provides a sample policy that addresses both voluntary and involuntary departure of a member. See also Appendix E, Article 8.

C. Member contributions

The agreement should describe the obligations if family members are required to contribute either financially or in labor.

D. House rules

House rules help minimize conflict. House rules can be anything that the families agree to however, as with admission/eviction criteria, may not be discriminatory.

E. Dispute resolution

Families should develop a formal dispute resolution process that will be followed in the event of conflicts. Appendix D is an example of a dispute resolution process that may be used where an outside agency provider agrees to act as a mediator. See also Appendix E, Paragraph 4.7.

F. Succession plan

Families may want to include a policy that addresses successor family member representatives in the event that the original family member moves or dies and the resident continues to live in the house.

G. Sample Agreement

Appendix E is an agreement that illustrates the management and decision-making process of a multi-family consortium where the consortium group is contracting for services with an agency Provider and leasing the house from one owner. There is no one agreement that fits every situation. Families are advised to develop their agreement based on their own unique living arrangements, concerns and priorities.

VII. FINDING THE HOME

When looking for the right home, neighborhoods should be chosen which are close to important activities and amenities for the residents. Is it close to places of employment; is public transportation nearby; is shopping accessible? Evaluating the friendliness of the neighborhood is also important, as this can make a big difference in quality of life for the house residents.

A. Zoning and other Regulatory Issues

There are many zoning rules for most cities. You will need to be aware of them and determine if or how they might affect your specific house. Many people with disabilities qualify for protection under the 1988 Amendments to the Fair Housing Act. This Act prohibits discrimination against persons with disabilities and requires that cities make a reasonable accommodation for such persons to live in the place they choose. Thirty years ago, development of almost every group residence involved a zoning battle. Most communities now understand the protections of the Fair Housing Act, but you may still need legal representation to explain why the home can legally be developed within the zoning rules.

Once a property is identified, ascertain the zoning classification of the property and know exactly what it means. Clients may need to request a variance or make a conditional use claim if there is any question about zoning. The zoning process may take several months and several meetings. Any renovation or rehabilitation of the house will almost certainly require approval of the local building or planning department.

If purchasing a condominium or a home in a homeowner's association you must also review the association's bylaws and rules. There may be restrictions on use of individual units, prohibitions against renting, and issues for support staff, such as parking regulations or limitations on distributing keys to the building.

B. Acceptance by the Community

If resistance from neighbors or others in the community occurs, there are several steps clients can take. Send a letter to city officials to offer basic information about the project. Look for supporters within the neighborhood who can help win the support of resisting neighbors. Meet the merchants in the areas where the residents will be shopping and dining out.

C. Other Issues

Other issues to be considered when looking for a home include

1. Accessibility, or ability to modify the residence. An accessible home will broaden the range of potential roommates, and will accommodate increasing needs as residents age.
2. Accommodations for staff, in the home and for parking. Is there a separate area where staff can do paperwork? Is there adequate parking for staff and visitors?

VIII. CONCLUSION

Setting up a private group home can speed up the process of independent living for a family member and may ultimately provide the family with more control over the living situation. But the process is time-consuming and can require a significant financial and emotional commitment. Each family needs to decide what is most important to them and allow their philosophy and goals to drive the project.

LEASE AGREEMENT

THIS LEASE AGREEMENT, (hereinafter referred to as the "Agreement") made and entered into this _____ day of _____, 2021 by and between the Smith Family LLC, whose address is _____ (hereinafter referred to as "Lessor") and _____ (referred to as "Lessee"). _____ will be the Resident. Lessee shall include the Resident's legal representative or Guardian. Resident(s) are adults with special needs who are semi-independent (i.e. resident(s) may require some staff support in the home) and will work in either supported employment or vocational training. Resident's legal Guardian is _____, Resident's _____. The Co-Signer is _____, Resident's _____.

WHEREAS, Lessor is the owner of real property in Cuyahoga County, Ohio, a condominium, with the street address of _____ (hereinafter referred to as "Premises"); and

WHEREAS, Lessor is desirous of leasing the Premises to Lessee upon the terms and conditions as contained herein; and

WHEREAS, Lessee is desirous of leasing the Premises from Lessor on the terms and conditions as contained herein; and

THEREFORE, the covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. TERM: Lessor leases to Lessee and Lessee leases from Lessor the Premises, together with any and all appurtenances thereto, further defined and limited below, for a term of six (6) months beginning _____ and ending on _____.

Premises is a two story condominium (no basement) with common areas which may be entered by all residents, their staff, families and guests; and private areas to be entered only by the Resident, his/her staff and his/her family (but not by other residents or by any other person except those listed previously). All common areas are located on the first floor: kitchen, dining room, living room, guest half-bathroom, laundry room-back entry, garage, as well as front yard and back yard (containing patio and deck). Private areas include three (3) resident bedrooms: Bedroom A (located off kitchen), Bedroom B (located off first floor guest bathroom hallway), Bedroom C (located on second floor left of staircase) and two (2) full bathrooms: Bathroom B (connected to Bedroom B), Bathroom C (connected to Bedroom C). There is one staff bedroom (Bedroom D), located on second floor "loft area" right of staircase) which is also a private area, to be entered and used only by staff or families of residents (but not by residents themselves or by any other person). Bathroom B is to be shared by residents of Bedrooms A and B, while Bathroom C is to be used by resident of Bedroom C.

Lessee agrees that this Agreement is to lease the Premises and Bedroom B with Bathroom B. Lessor retains the right to enter all rooms and areas of the Premises, both inside and outside the structure, as needed for purposes of inspection, repairs, or the residents' safety, without prior notice.

Lessee and Co-Signer must provide 30 days' notice before moving from the Premises at the conclusion of the lease or prior to. Lessor has the right to terminate the Agreement by providing 30 days' notice to Lessee, and Lessee agrees to vacate the premises within 30 days of receiving such notice.

2. RENT: The total rent for the term hereof is the sum of SEVEN HUNDRED DOLLARS (\$700.00) per month payable by the fifteenth day of each month of the term. The first month's rent is to be paid prior to that said month. All such payments shall be made to Lessor at Lessor's address as set forth in the preamble to this Agreement on or before the due date and without demand. If Lessee or Co-Signer wish to terminate the Agreement, Lessee or Co-Signer will be required to pay the balance of the rent due for the duration of the Agreement. If any payment required to be paid by Lessee is not made within ten (10) days of date due, Lessee or Co-Signer will pay to Lessor an additional payment in the amount of FIFTY DOLLARS (\$50.00) in addition to the original sum due.

3. DAMAGE DEPOSIT: Upon the execution of this Agreement, Lessee shall deposit with Lessor the sum of FIVE HUNDRED DOLLARS (\$500.00), receipt of which is hereby acknowledged by Lessor, as security for any damage caused to the Premises during the term hereof. Such deposit shall be returned to Lessee, without interest and less any set off for damages to the Premises upon the termination of this Agreement.

4. USE OF PREMISES: The Premises shall be used and occupied by Resident and up to 2 (two) other residents and any staff needed for any of the residents, exclusively, as a private single-family dwelling. Lessee and Resident shall not allow any other person, other than immediate family who are guests of Resident or Lessee, to use or occupy the Premises without first obtaining Lessor's consent to such use. Any friends that wish to visit the Premises will first obtain permission from one other lessee or representative parent of one of the other residents. Lessee and Resident shall comply with any and all laws, ordinances, rules and orders of any and all governmental or quasi-governmental authorities affecting cleanliness, use, occupancy, and preservation of the Premises.

5. CONDITION OF PREMISES: Lessee and Co-Signer stipulate, represent and warrant that s/he has examined the Premises and that they are at the time of this Lease in good order, repair, and in a safe, clean and leasable condition.

6. ASSIGNMENT AND SUB-LETTING: Lessee shall not assign this Agreement, sublet or grant any license to use the Premises or any part thereof. All residents and lessees will be chosen based on the consensus of the current lessees, Residents, Co-Signers and the Lessor.

7. ALTERATIONS AND IMPROVEMENTS: Lessee and/or Resident shall make no alterations or improvements to the Premises. Any and all alterations, changes, and/or improvements built, constructed or placed on the Premises by Lessee shall, unless otherwise provided by written agreement between Lessor and Lessee, be and become the property of Lessor and remain on the Premises at the expiration or earlier termination of this Agreement.

8. HAZARDOUS MATERIALS: Lessee and Resident shall not keep on the Premises any item of a dangerous, flammable or explosive character that might unreasonably increase the danger of fire or explosion on the Premises or that might be considered hazardous or extra hazardous by any responsible insurance company. Lessee and Resident will not use tobacco or recreational drugs nor will guests of Lessee or Resident use tobacco or recreational drugs, while on the Premises. Lessor reserves the right to terminate this Agreement if Lessee or Resident violate this HAZARDOUS MATERIALS provision.

9. UTILITIES: Lessee will (*will not*) be responsible for the Resident's equal share of the Utilities including electricity, gas, water, phone, and TV service. These costs are not (*are*) included as part of the monthly rent.

10. INTERNET SERVICE: The internet, which manages the video cameras, the smoke detector, the CO detector, and any other technological monitoring systems, is utilized for the health and safety of the residents and will (*will not*) be paid for by the Lessees, each paying an equal share. This cost is not (*is*) included as part of the monthly rent.

11. MAINTENANCE AND REPAIR: Lessor will, at its sole expense, keep and maintain the Premises and appurtenances in good and sanitary condition and repair during the term of this Agreement and any renewal thereof, except that Lessee shall be solely responsible for all costs and expenses incurred by either party in maintaining or repairing any damage to the Premises resulting from or attributable to Lessee's failure to perform any of the Lessee's covenants and obligations hereunder, waste, misuse, negligence or intentional and willful act of Lessee or Lessee's employees, contractor's agents or invitees.

Without limitations, Lessee and Resident shall:

- (a) not obstruct the driveways, sidewalks, entryways, stairs or halls
- (b) keep all windows, glass, window coverings, doors, locks and hardware in good clean order and repair;
- (c) not leave windows or doors in an open position during any inclement weather
- (d) not cause or permit any locks or hooks to be placed upon any door or window without the prior written consent of Lessor

(e) keep all lavatories, sinks, toilets and all other water and plumbing apparatus in good order and repair and shall use same only for the purposes for which they were constructed. Lessee and Resident shall not allow any sweepings, rubbish, sand, rags, or other substances to be thrown or deposited therein. Any damage to any such apparatus and the cost of clearing stopped plumbing resulting from issue shall be borne by Lessee.

(f) maintain order at all times on the Premises and the guests and family of Lessee and Resident shall maintain order on the Premises and shall not make or permit any loud or improper noises or otherwise disturb residents of the condominium, their staff, guests or families or other lessees or residents of other condominiums in the development. If Lessee wishes to have a gathering of more than 8 guests, s/he must notify the other residents and a representative parent of one of the residents a week prior to the event.

(g) keep all music, television sets or other electronic devices turned down to a level of sound that does not annoy or interfere with the well-being of the residents of the condominium, their staff, guests or families or other lessees or residents of other condominiums in the development

(h) deposit all trash, garbage or refuse in the locations provided therefor and shall not allow any of the trash, garbage or refuse to be deposited or permitted to stand in other areas of the Premises.

(i) refrain from eating or storing food in any area other than those designated and intended for eating or storing food, specifically the kitchen and pantry.

(j) abide by and be bound by any and all rules and regulations affecting the Premises and the belongings within the common areas, as well as subject to the terms of all covenants and restrictions in the Declaration, Bylaws and Rules of the Condominium Owners' Association. Lessor agrees to provide to Lessee a copy of the Condominium Owners' Association Declaration (including amendments thereto), the Bylaws, the Rules and other relevant documents.

12. TENANT'S INSURANCE: During the term of this lease and any holdover period, Lessee shall, at Lessee's sole cost and expense, obtain and keep in force comprehensive general liability insurance for bodily and personal injury and property damage in a single limit amount not less than _____ Dollars (\$_____), and with a deductible no greater than _____ Dollars (\$_____), and "special perils form" all-risk property insurance in an amount equal to one-hundred percent (100%) of the replacement cost, covering all of Resident's personal property and contents within the premises.

12. DAMAGE TO THE PREMISES: In the event the Premises are destroyed or entered wholly uninhabitable by fire, storm earthquake or other casualty not caused by negligence of Lessee or Resident, this Agreement shall terminate and rent collected for the period beyond the terminated Agreement shall be returned on a prorated scale.

Should a portion of the Premises thereby be rendered uninhabitable, the Lessor shall have the option of either repairing such injured or damaged portion or terminating this Agreement. In the event that Lessor exercises its right to repair such uninhabitable portion, the rental shall abate in the proportion that the injured parts bears to the whole Premises, and such part so injured shall be restored by Lessor as speedily as practicable, after which the full rent shall recommence and the Agreement continue according to its terms.

13. INSPECTION OF PREMISES: Lessor and Lessor's agents shall have the right at all reasonable times during the term of this Agreement and any renewal thereof to enter the Premises for the purpose of inspecting the Premises and all buildings and improvements thereon, and for the purposes of making any repairs or alterations as may be deemed appropriate by the Lessor for the preservation of the Premises or the building.

14. SURRENDER OF THE PREMISES: Upon expiration of the term hereof, Lessor and Resident shall surrender the Premises in as good a state and condition as they were at the commencement of this Agreement, reasonable use and wear and tear thereof and damages by the elements excepted.

15. INDEMNIFICATION: Lessor shall not be liable for any damage or injury of or to Resident, any needed staff for Resident, Resident's family, guests or invitees, or to any person entering the Premises or the building of which the Premises are a part, or to equipment in the structure or equipment of the structure of which the Premises are a part. Lessee and Co-Signer hereby agree to indemnify, defend and hold Lessor harmless from any and all claims or assertions of every kind and nature.

16. DEFAULT: If Lessee and/or Co-Signer fails to comply with any of the material provisions of this Agreement, or of any present rules and regulations or any that may be hereafter prescribed by the Lessor or materially fails to comply with any duties imposed on Lessee or Co-Signer, within seven (7) days after delivery of written notice by Lessor specifying the non-compliance and indicating the intention of Lessor to terminate the Lease by reason thereof, Lessor may terminate this Agreement.

17. SUBORDINATION OF LEASE: This Agreement and Lessee's interest hereunder are and shall be subordinate, junior and inferior to any and all mortgages, liens or encumbrances now or hereafter placed on the Premises by Lessor, all advances made under any such mortgages, liens or encumbrances (including, but not limited to, future advances), the interest payable on such mortgages, liens or encumbrances and any and all renewals, extensions or modifications of such mortgages, liens or encumbrances.

18. LESSEE'S HOLD OVER: If Lessee and/or Resident remains in possession of the Premises with the consent of Lessor after the natural expiration of this Agreement, a new tenancy from month-to-month shall be created between Lessor and Lessee which shall be subject to all of the terms and conditions hereof.

19. QUIET ENJOYMENT: Resident, upon payment of all of the sums referred to herein as being payable by Lessee and Resident and Lessee's performance of all agreements contained herein and Resident and Lessee's observance of all rules and regulations, shall and may peacefully and quietly have, hold and enjoy said Premises for the term hereof.

20. ABANDONMENT: If at any time during the term of this Agreement Lessee and Resident abandons the Premises or any part thereof, Lessor may, at Lessor's option, obtain possession of the Premises in the manner provided by law, and without becoming liable to Lessee for damages or for any payment of any kind whatever. Lessor may, at Lessor's discretion, as agent for Lessee, relet the Premises, or any part thereof, for the whole or any part thereof, for the whole or any part of the then unexpired term, and may receive and collect all rent payable by virtue of such reletting, and, at Lessor's option, hold Lessee liable for any difference between the rent that would have been payable under this Agreement during the balance of the unexpired term, if this Agreement had continued in force, and the net rent for such period realized by Lessor by means of such reletting. If Lessor's right of reentry is exercised following abandonment of the Premises by Lessee/Resident, then Lessor shall consider any personal property belonging to Lessee/Resident and left on the Premises to also have been abandoned, in which case Lessor may dispose of all such personal property in any manner Lessor shall deem proper and Lessor is hereby relieved of all liability for doing so.

21. RIGHTS AND REMEDIES: The rights and remedies under this Agreement are cumulative, and either party's using any one right or remedy will not preclude or waive that party's right to use any other. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

22. RECORDING OF AGREEMENT: Lessee shall not record this Agreement on the Public Records of any public office. In the event that Lessee shall record this Agreement, this Agreement shall, at Lessor's option, terminate immediately and Lessor shall be entitled to all rights and remedies that it has at law or in equity.

23. SEVERABILITY: If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

24. BINDING EFFECT: The covenants, obligations and conditions herein contained shall be binding on and inure to the benefit of the heirs, legal representatives, and assigns of the parties hereto.

25. CO-SIGNER JOINTLY AND SEVERALLY LIABLE: Co-Signer agrees to be jointly and severally liable with Lessee for Lessee's obligations arising out of the Agreement,

including any extensions or renewals and any subsequent tenancies at will or at sufferance. Co-Signer's liability includes but is not limited to unpaid rent, property damage, cleaning and repair costs, and any obligations that Lessee indemnify Lessor. Lessor will have no obligation to give notice to Co-Signer should Lessee fail to abide by the terms of this Agreement or take any other action (or fail to act) in a way that might or will trigger Co-Signer's obligations under this Agreement.

26. ATTORNEYS' FEES: Should it become necessary for Lessor to employ an attorney to enforce any of the conditions or covenants hereof, including the collection of rentals or gaining possession of the Premises, Lessee and/or Co-Signer agree to pay all expense so incurred including a reasonable attorney's fee.

27. GOVERNING LAW: This agreement shall be governed, construed, and interpreted by, through and under the Laws of the State of Ohio.

28. AWAY FROM PREMISES: Lessor is not responsible for any incidents, accidents or damages that occur to or by Resident and Lessee while he/she is within or away from the Premises. Full responsibility and punitive costs remain the obligation of Lessee.

29. MODIFICATION: The parties hereby agree that this document contains the entire Agreement between the parties and this Agreement shall not be modified, changed altered or amended in any way except through a written amendment signed by all of the parties hereto.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed:

Smith Family LLC

By: _____
Lessor

Date

Lessee (Guardian)

Date

Co-Signer

Date

LLC Operating Agreement Checklist

An Operating Agreement for an LLC that owns real property for the purpose of providing a place to live to the members' children with disabilities should address the following areas:

1. Introductory Provisions
 - a. Names of all parties (LLC members)
 - b. Name of the LLC
 - c. Either agreement to Organize LLC or acknowledgment that Articles of Organization have been filed
 - d. Purpose of the LLC (may be expressly limited to purchase, holding and management of real estate)
 - e. Term of the LLC's existence (limited or perpetual)
 - f. Who is Statutory Agent
2. Capital Provisions
 - a. Required contribution of each member (both initial and ongoing)
 - b. Whether contribution may be made through services
 - c. Whether members will have a right to receive distributions
 - d. Whether members may make loans to LLC
3. Management Provisions
 - a. Whether the LLC will be managed by all members or a designated manager
 - b. Member voting rights (one vote per family, one vote per individual, vs votes based on amount of contribution)
 - c. Meetings of members
 - d. Voting requirements
 - e. Dispute resolution
 - f. Whether LLC will have employees and related provisions
4. Termination Provisions
 - a. Removal of members
 - b. Resignation of members
 - c. Election of new members
 - d. Whether member's interest is assignable
 - e. What happens to member's interest upon death, termination, resignation
 - f. Dissolution of LLC
 - g. Procedure for winding up LLC business
5. Documentation Provisions
 - a. Bank accounts
 - b. Books and records
 - c. Annual accounting period
 - d. Reporting to members
6. Miscellaneous Provisions
 - a. Liability, insurance and indemnification of members
 - b. Notice requirements

TERMINATION/WITHDRAWAL OF MEMBER - POLICY

In the event that a member of the consortium decides to leave for whatever reason, the consortium board has adopted the following policy:

1. Leaving member must provide one hundred and eighty (180) days written notice.
2. Leaving member shall be financially responsible to all consortium members for a six-month period after a written notice is received, except where termination of membership is due to a death of the resident child.
3. When a person/family decides to leave the consortium due to a dispute, other consortium members will make every attempt to resolve the dispute.
4. If joint ownership of furnishings and/or property is involved, it is the responsibility of the leaving consortium member to make restitution to the other parties with a fair market compensation for jointly owned property.
5. When there is an opening in consortium membership, the other consortium members will work together to find a replacement member. No new members will be approved without a unanimous vote of full remaining consortium members.
6. Each family must designate replacement consortium members in case of death or relocation, subject to the approval of the other members.
7. If three out of four member-families agree, a member may be terminated.

SAMPLE CONFLICT RESOLUTION POLICY

The consortium has decided to develop a conflict resolution policy to resolve disputes. This process applies to conflicts between consortium members, between staff and consortium, among residents, between staff and residents and between parents and residents. The consortium members agree to the following:

1. To resolve disputes in a timely manner.
2. When a dispute arises the party who is expressing the concern shall call the consortium President who will call all members for a meeting.
3. When a conflict needs to be resolved, all consortium members need to make themselves available for this special meeting. Members should be available within one week.
4. If the consortium members cannot resolve the conflict, the Provider representative will mediate the dispute and gather all pertinent materials to help achieve a consensus of opinion.
5. If consensus cannot be achieved and the dispute is unresolved, a vote by the full consortium membership can be taken and the democratic process will decide the dispute.
(Full membership means all parent representatives and the one community representative.)

REGULATIONS OF EVERGREEN CONSORTIUM

ARTICLE 1: PRINCIPAL OFFICE

The principal office of the Evergreen Consortium for the transaction of its business is located at 1234 Main Street, Cleveland, Ohio. The Consortium may have such other offices as may from time to time be designated by its members.

ARTICLE 2: DEFINITIONS

2.1 Consortium Member. A Consortium Member ("Member") is an individual who is a relative or legal representative of one of the Residents of the Home and who has signed this document or who later joins the Consortium subject to Paragraph 7.2. Each Resident shall have a maximum of two representatives who are Consortium Members at any given time.

2.2 Community Representative. A staff member from the service provider, initially Healthy Care Agency (HCA), will be a nonvoting member except in matters subjected to mediation as provided under Paragraphs 3.2 and 4.7.

2.3 Family. A Family consists of the representatives of one Resident who are Consortium Members; there shall be a maximum of four Families at any time. Each Family shall have one vote on all matters.

2.4 Home. The residence owned by John Brown.

2.5 Resident. A Resident is an individual with a disability living in the Home.

2.6 Evergreen Consortium. The Evergreen Consortium, referred to as the "Consortium" and organized as a nonprofit association, is composed of the representatives of the disabled individuals who will be residing in the property ("Home") owned by John Brown and who are Consortium Members as defined in Paragraph 2.1.

ARTICLE 3: GOVERNING BODY

3.1 Management of the Home. The Consortium shall manage the operation of the Home through its members. The elected officers shall serve as the Consortium's Board of Directors. Any official act by the officers on behalf of the Consortium shall be considered an action of the Board of Directors.

3.2 Voting. Each Family shall have one vote in all matters before the Consortium unless otherwise provided for in these regulations. The Community Representative shall have voting privileges only on resolutions resulting from mediation of a disputed matter under Paragraph 4.7.

3.3 Management of Property. The Consortium may own personal property and manage such property under the direction of its officers. The Consortium shall lease the residence owned by John Brown.

3.4 Signature on Contracts and Formal Documents. Contracts and formal documents shall be signed by two officers of the Consortium. Contracts shall be signed by the President and the Treasurer, or by the Secretary in case of absence or disability of either the President or Treasurer.

ARTICLE 4: MEETINGS

4.1 Regular Meetings. Regular meetings of the Consortium shall be held at least quarterly. At the first meeting of his/her term, the President shall present a schedule of regular meetings for the remainder of the President's term for approval by the Consortium.

4.2 Attendance at Meetings. All Members may attend and participate in Consortium meetings. At least one Consortium Member of each Resident must attend each meeting. Participation of a Consortium member by fax/telephone shall be considered attendance for the purposes of a quorum. Others who may attend regular meetings include parents, Residents, staff, social workers, Cuyahoga County Board of Developmental Disabilities (CCBDD) case workers, the HPA (or other service provider) representative and workshop/school staff as necessary.

4.3 Special Meetings. The President may call a special meeting of the Consortium at any time. A special meeting must be called on the written request of fifty per cent (50%) of the Families. At least ten (10) days notice by mail or telephone of such meeting must be given to all Members. The notice must state the subject of the meeting.

4.4 Quorum. Attendance by a minimum of one Consortium Member from each Family shall constitute a quorum at meetings of the Consortium.

4.5 Voting.

4.5.1 Routine matters before Consortium. Matters proposed to the Consortium concerning the routine affairs of the Consortium can be adopted by an affirmative vote of a majority of the Families. Routine matters are those which involve the day-to-day management of the home or expenses that occur on a routine basis.

4.5.2 Non-routine Matters. Matters proposed to the Consortium that are outside its ordinary business but do not constitute an emergency require an affirmative vote of all Families unless otherwise specified in these regulations. Non-routine matters which require unanimous vote include the following:

- a. amendments to these Regulations,
- b. mid-term election of officers provided for in Paragraph 5.1.4,
- c. any single expenditure in excess of \$2,000,
- d. selection of a residential service provider,
- e. selection of a new Resident under Paragraph 7.5,

- f. selection of a legal representative for the Consortium,
- g. selection of an accountant for the Consortium, and
- h. other proposals which, if adopted, would result in changed practices or procedures or a change in a service provider.

4.5.3 Manner of Voting. A member participating in a meeting by telephone conference may cast the Family's vote by fax or telephone during the course of that meeting.

4.6 **Order of Business.** At meetings of the Consortium, the following shall be the order of business:

- (1) Roll call.
- (2) Minutes of preceding meeting and action thereon.
- (3) Reports of officers and committees.
- (4) Presentation of budget and election of officers.
- (5) Unfinished business.
- (6) New business.

4.7 **Conflict Resolution.** Any differences which the Consortium Members cannot resolve will be submitted to mediation by the Community Representative (or other staff member designated by the service provider); any recommendations from mediation must be adopted by an affirmative unanimous vote. The Community Representative will have one vote on matters falling under this paragraph.

ARTICLE 5: OFFICERS

5.1 **Designation of Officers.** The officers of the Consortium shall be the President, Treasurer, and Secretary. Each officer shall be elected annually for a one year term from among the Members at a full meeting of all Members, and shall hold office until their successors have been elected, or until the resignation, death or incapacity or removal of the officer. The first meeting of the Consortium will include the election of officers, who will take office immediately. If this meeting occurs within six (6) months prior to the first annual meeting, another election will not be held until the next annual meeting, unless the Families request a special meeting for that purpose according to the provisions of Paragraph 4.3.

5.1.1 Qualifications of Officers. Any Member shall be qualified to be an officer of the Consortium, but a Member may not hold more than one office.

5.1.2 Compensation of Officers. Officers will serve without compensation but will be reimbursed for reasonable expenses incurred in the course of their official duties on behalf of the Consortium.

5.1.3 Resignation of Officers. An officer may resign by submitting a written resignation to another officer, to take effect ninety (90) days from the date it is submitted, unless emergency circumstances warrant an earlier effective date.

5.1.4 Removal of Officers. Officers may be removed by a unanimous vote of all Families, excluding the Family of the officer subject to removal, with or without cause. Upon a vacancy resulting from such removal, the Consortium (excluding the Family of the removed officer from this vote) shall elect a Member to fill the vacancy for the remainder of the term.

5.2 Duties of the President. The President will be responsible for scheduling, organizing, and leading each meeting of the Consortium. The President is authorized to co-sign any contracts or formal agreements on behalf of the Consortium as provided for in Paragraph 3.4. In the absence of the President, the Treasurer shall perform all duties of the President according to Paragraph 5.3.2. The President shall represent the Consortium in meetings with state or county officials and service providers.

5.2.1 Additional Duties in the Absence of the Treasurer. In the absence of the Treasurer, the President shall have the authority to perform the duties of the Treasurer and in so acting shall have all powers of, and be subject to all restrictions on, the Treasurer. In the absence of both the President and Treasurer, a temporary presiding officer shall be elected from among the Members.

5.2.2 Appointing Committees. The President shall appoint all committees of the Consortium, unless it is specially provided or ordered otherwise.

5.2.3 General Supervision. The President shall exercise general supervision over all of the affairs of the Consortium.

5.3 Duties of the Treasurer. The Treasurer will have the responsibility for establishing and maintaining Consortium bank accounts and is authorized to negotiate with any agency on receipt and disbursement of funds, and co-sign any contracts as provided for in Paragraph 3.4 on behalf of the Consortium. The Treasurer shall keep the books and accounts of the Consortium in accordance with generally accepted accounting principles and shall perform such other duties usually assigned to the position of treasurer. The Treasurer shall be authorized to access all accounts of the Consortium and sign all checks drawn on accounts of the Consortium.

5.3.1 Limit on Authorization of Expenditures. The Treasurer shall not authorize expenditures greater than \$500 without prior approval of the Consortium, other than that required in an emergency situation.

5.3.2 Responsibilities in the Absence of the President. In the absence or incapacity of the President, the Treasurer shall perform all duties of the President, and in so acting shall have all powers of, and be subject to all restrictions on, the President.

5.3.3 Preparation of the Budget and Annual Report. The Treasurer shall be responsible for the preparation of the budget of the Consortium and for an annual report.

5.4 Duties of the Secretary. The Secretary will interpret any information related to the Consortium to the media and the community.

5.4.1 Minutes, Records and Correspondence. The Secretary shall keep a membership book containing the names and addresses of each Member, the date of membership, and the date and manner of termination of any such membership. The Secretary shall keep a complete record of all proceedings and correspondence of the Consortium, including attendance at meetings, the vote on all matters, and the Consortium Member casting each Family's vote. The Secretary shall keep a record of all committees and the members thereof and shall perform such other duties usually pertaining to the office of secretary.

5.4.2 Notice of Meetings. The Secretary shall send written notices of meetings to Members as required under Paragraphs 4.3 and Article 13.

ARTICLE 6: COMMITTEES

6.1 **Ad-Hoc Committees.** Ad-hoc committees shall be constituted and empowered by the Consortium as deemed necessary. The President shall appoint all committees of the Consortium. The Consortium shall assign a time limit for the existence of all ad-hoc committees.

6.2 **Committee Meetings and Reports.** All committees shall meet as necessary to fulfill their purpose. All committees shall designate a spokesperson to keep minutes of committee meetings and report to the Consortium at its regular meetings.

ARTICLE 7: RESIDENCE AND MEMBERSHIP

7.1 **Residents.** Each Consortium Member must have a family member residing in the Home or be the legal representative of a Resident of the Home. Each Resident shall have at least one representative who is a Consortium Member. The Consortium intends to have four disabled individuals residing in the Home.

7.2 **Resignation, Death or Relocation of a Consortium Member.** Each family must designate a replacement Member in case of death, disability or relocation (if the Resident is to remain in the home), subject to the approval of the other Members and the provisions of this Article. Upon approval of the new Member's admission to the Consortium, the new Member shall assume all rights and responsibilities, other than the position of elected office, of the former Member.

7.3 **Liability for Debts of Consortium.** A Member shall not be individually liable for the debts of the Consortium.

7.4 **Selection of New Residents.** Upon notice of the departure of a Resident and his or her Family pursuant to Article 8, a search for a new Resident will be conducted in the following manner:

- (1) Suggestions for new Residents will be sought from the remaining Members.
- (2) The departing Member will be asked to recommend names of other families who have a disabled adult relative and might be considered for residence in the Home.
- (3) New Residents shall be sought from HCA and the residential placement waiting list of CCBDD.

7.5 Approval and Obligations of New Consortium Members. New Consortium Members shall be approved by a unanimous vote of the Consortium. Upon the acceptance of membership, the new Consortium Member(s) shall become liable for fees, dues and any additional charges, as determined by the Consortium, unless otherwise decided by the Consortium. New Consortium Members must sign and agree to abide by the regulations and any policies or procedures of the Consortium.

7.6 Proceedings Confidential. All proceedings of the Consortium or any part or committee thereof shall be privileged and confidential.

ARTICLE 8: TERMINATION OF MEMBERSHIP

8.1 Voluntary Withdrawal. A Consortium Member may voluntarily withdraw by delivering a written six (6) month notice of the intent to leave the Consortium to the President or Treasurer.

8.2 Financial Responsibility. The leaving Member will be financially responsible for any obligations to the Consortium for a six (6) month period following receipt of the written notice.

8.3 Expulsion.

8.3.1 Effect on Residency. Upon agreement of all Families who are not the subject of an expulsion action, a Resident can remain in the Home after Members associated with that Resident have been expelled as long as a replacement Member is identified and meets the criteria of Paragraphs 7.1 and 7.2.

8.3.2 Grounds for Expulsion.

- a. Failure to pay fees, annual assessments or additional charges as assessed by the Consortium within ninety (90) days.
- b. Substantial or repeated failure to abide by the Articles of Association, Regulations, or Policies of the Consortium.
- c. Substantial change in a Resident's status such that the Resident's needs can no longer adequately be met through continued residence in the Home.

8.3.3 Initiation of Expulsion. When a Member has met a ground for expulsion as set forth in this Article, or upon the request of the majority of Families, the Consortium shall hold a vote to initiate expulsion proceedings. Initiation of expulsion proceedings shall require a unanimous affirmative vote by all Families excluding the Family of the Member subject to expulsion.

8.3.4 Expulsion Proceedings. The proceedings shall not take place sooner than ninety (90) days after the initiation of expulsion.

- a. Notice and Mediation Requirements. Unless there is an immediate threat to the safety of Residents or the Consortium Members, any Consortium Member who is the

subject of an expulsion action must be given a ninety (90) day's written notice, commencing upon receipt of the expulsion request by the President or Treasurer.

- b. Unless there is an immediate threat to the safety of Residents or Consortium Members, any request for expulsion shall be submitted to mediation for resolving the underlying difficulties before the Consortium votes to expel the Member. The Member(s) against whom the proceedings were initiated shall be given an opportunity to address a meeting of the Consortium. Expulsion shall require a unanimous affirmative vote by all of the Families whose members are not subject to the expulsion under consideration.

8.3.5 Automatic Termination. The membership of any Member or Family shall automatically terminate on the Resident's death or departure from the home, the Member's written request for termination, or upon a Family's expulsion by the Consortium.

8.3.6 Liability of a Family When the Resident Leaves the Home. The Family of the departing Resident will be responsible for the operating costs until a replacement Resident contracts to enter the Home. Such liability shall not exceed a period of six (6) months.

- a. In the event of joint ownership of privately owned furnishings and/or property between the departing Family and remaining Members, it is the responsibility of the departing Family to make restitution to the other parties with a fair market compensation for jointly owned property.
- b. All sums due and owing to the Consortium from any terminated or withdrawing Resident/Family shall remain a debt owed to the Consortium by the withdrawing Family. Such debt shall be enforceable against the Consortium Members or such persons' estates.

8.3.7 Rights of a Family When the Resident Leaves the Home. When a Resident leaves the Home, any rights in the Consortium shall revert to the Consortium.

- a. The Treasurer shall secure an audit of the Consortium, conducted by an independent auditor.
- b. Any interest of the Family of the Resident leaving the Home in the property and assets of the Consortium, as assessed by the auditor, shall be purchased by the Consortium within ninety (90) days of the termination, unless other arrangements are agreed to by the Consortium and the Family of that Resident.

8.4 In a special case, the Consortium, upon unanimous vote of all remaining families, may reduce the notice requirements of Paragraph 8.1 or reduce or entirely remit the financial obligation of the leaving or expelled Family as specified in Paragraphs 8.2 and 8.3.6 if such action is deemed to be in the best interests of the Consortium.

ARTICLE 9: FEES AND ANNUAL ASSESSMENTS

9.1 **Entrance Fee.** The Consortium may establish a non-refundable entrance fee for each Family.

9.2 **Annual Assessments.** An assessment for ongoing operating expenses shall be levied against each Family annually. The annual assessment shall be decided at the annual meeting and shall be payable on a monthly basis.

9.3 **Remission of Annual Assessments.** In a special case, the Consortium may remit or adjust the annual assessments of a Family with the unanimous vote of the other Families of the Consortium if such action is deemed to be in the best interest of the Consortium.

9.4 **Operating Expenses.** The expenses of operating the Consortium shall be met by fees and annual assessments. Additional charges may be assessed against Families for one-time expenses, the amount of such charges to be fixed by the Consortium.

ARTICLE 10: MEMBERSHIP NOT TRANSFERABLE

Membership in the Consortium is not transferable or assignable without the written consent of all other Consortium Members.

ARTICLE 11: ANNUAL MEETING OF THE CONSORTIUM

11.1 **Date of Annual Meeting.** The annual meeting of the Consortium shall be held on the _____ of the first full week in January of each year, or at such other day and time as shall be designated from time to time by the officers and stated in the notice of the meeting.

11.2 **Quorum.** Attendance by a minimum of one Member of each Family shall constitute a quorum at the annual meeting.

11.3 **Order of Business.** At the annual meeting, the following shall be the order of business:

- (1) Roll Call.
- (2) Presentation of the Annual Report.
- (3) Report of the President.
- (4) Report of the Treasurer.
- (5) Fees, Annual Assessments and Additional Charges.
- (6) Election of Officers.

11.4 **Availability of Reports.** All reports shall be available in the principal office of the Consortium prior to the annual meeting.

11.5 **Secretary's Report.** The report of the Secretary summarizing the actions of the Consortium for the year, shall be printed as an appendix to the proceedings of the annual meeting.

ARTICLE 12: OWNERSHIP OF PROPERTY

The Consortium shall have the power to acquire, own, hold, operate and maintain property necessary to effectuate its purposes.

ARTICLE 13: AMENDMENTS

An amendment to the Regulations can be proposed in writing to the President by any Consortium Member. Adoption of a proposed amendment requires a unanimous affirmative vote at any regular, special or annual meeting of the Consortium, provided that notice of such amendment or amendments and the nature thereof shall have been given to the Consortium Members at least thirty (30) days prior to the date of the meeting at which such amendment or amendments are to be presented for consideration.

ARTICLE 14: SUBSCRIPTION

By signing these Regulations, the Consortium Member agrees to abide by the Regulations as they exist on the date of his or her signing and as they may be amended thereafter, and consents to any obligation incurred by the Consortium in the past, or to be incurred in the future.

Whereas, no Regulations currently exist for the government of the Evergreen Consortium, the conduct of its affairs, and the management of its property; and

Whereas, the set of Regulations presented to this meeting being suitable for the purpose and their adoption being in the best interests of the Association; it is, therefore,

Resolved, that the members of the Evergreen Consortium, an Ohio association, on this ____ day of _____, 20__, approve and adopt the Regulations presented to this meeting of the Members as the regulations of this Association, to be effective immediately.

Resolved further, that the Regulations be authenticated as such by the certificate of the Secretary of this Association and placed in the Association's minute book.

Resolved further, that a full and true copy of the Regulations, certified by the Secretary, be kept at the principal office of the corporation for inspection by members at all reasonable times during business hours.

