



Russell Kennedy
Lawyers

BAPTIST VILLAGE BAXTER PTY LIMITED
of 8 Robinsons Road, Frankston South, Victoria, 3199
("Owner")

ROSEBUD RETIREMENT VILLAGE SERVICES ASSOCIATION INC
of 287-323 Bayview Road, Rosebud, Victoria 3939
("Association")

##[INSERT FULL NAME OF RESIDENT] AND
Resident's premises: Unit ##[Unit] Rosebud Village, 287-323 Bayview Road,
Rosebud, Victoria 3939

("Resident")

Regulation 14(2)

ROSEBUD VILLAGE
MANAGEMENT CONTRACT

Date contract signed: 2018

Name and address of village manager: **ROSEBUD RETIREMENT VILLAGE SERVICES ASSOCIATION INC** (No. A0034012Z)
of 287-323 Bayview Road, Rosebud, Victoria 3939

(referred to in this Contract as "**Association**" and "**Manager**")

Address for service of notices: As above

Name and address of village owner: **BAPTIST VILLAGE BAXTER PTY LIMITED**
ACN 006 640 544
of 8 Robinsons Road, Frankston South, Victoria, 3199

(referred to in this Contract as "**Owner**")

Name and address of Resident: **##[insert name of resident] AND**
of **##[insert resident(s)**
address]Unit ##[Unit] Rosebud Village, 287-323
Bayview Road, Rosebud, Victoria 3939

(referred to in this Contract as "**Resident**")

Address of Resident's Premises: Unit **##[Unit]** Rosebud Village, 287-323 Bayview
Road, Rosebud, Victoria 3939

(referred to in this Contract as "**Resident's**
Premises")

Date contract commences: 2018

(referred to in this Contract as "**Commencement**
Date")

Term of contract/date contract expires: The Term starts on the Commencement Date
and continues whilst the Resident is the lessee of
the Resident's Premises pursuant to the
Residence Contract.

The Services to be provided to the Resident – including any service that, before the Resident entered into the contract, the Manager or its agents represented to the Resident would be provided or made available, and the date (if any) on or by which it was represented that such service would be provided or made available – are as follows:-

The Manager will provide the Services listed in Schedule Five from the Commencement Date.

OPERATIVE WORDS

- 1 Pursuant to the Delegation Agreement, the Association was appointed to manage and administer all the affairs of the Owners Corporation subject to the terms and conditions contained in the Delegation Agreement.
- 2 The Owner is the owner of the Village. The Resident is the occupant of the Resident's Premises pursuant to the Residence Contract.
- 3 In consideration of the payment of the Maintenance Charge and the covenants made by the Resident under this Contract, the Manager agrees to provide the Services to the Resident from the Commencement Date for the term of this Contract.
- 4 The Association agrees to admit the Resident to membership of the Association when it receives a properly completed application form from the Resident.

PRESCRIBED TERMS UNDER REGULATION 13 OF THE RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS) REGULATIONS 2017

5 Primacy of the Retirement Villages Act 1986 and regulations

This Contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

6 Basic obligations of the Manager

The Manager must:

- (a) use best endeavours to ensure that the Manager's tenants, employees and invitees or other persons lawfully on Village premises comply with the by-laws relating to the Village; and
- (b) if the Manager is required to carry out repairs or replacements to the Common Facilities and other areas under its control that are funded from maintenance charges, promptly carry out repairs or replacements necessary for the safety or security of residents; and
- (c) obtain the Resident's consent to enter the Resident's Premises unless in an emergency or if a Resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and
- (d) give receipts for payments made by the Resident and keep a record of such payments.

7 Basic obligations of the Resident

The Resident must:

- (a) use best endeavours to ensure that the Resident's invitees or other persons lawfully on the Resident's Premises comply with the By-laws relating to the Village; and
- (b) respect the rights of other residents and persons in the Village; and
- (c) not interfere with other residents' reasonable peace, comfort and privacy; and
- (d) respect the rights of the Manager, its employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the Village.

8 Basic rights of the Resident

The Resident has the right to any payment that the Manager is liable to make consequent on the Resident leaving the Village or dying, unaffected by termination of the management contract, whether for breach of contract or otherwise.

9 General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this Contract or any inconsistent by-laws relating to the Village.
- (b) The Manager and the Resident must deal with each other in good faith.

**MATTERS REQUIRED BY REGULATION 11
OF THE RETIREMENT VILLAGES (CONTRACTUAL ARRANGEMENTS) REGULATIONS 2017
TO BE ADDRESSED**

10 Costs payable during residency [*refer to regulation 11(4)(c)*]

Maintenance Charge

- 10.1 From the Commencement Date, the Resident must pay to the Association, the Maintenance Charge monthly in advance by direct debit from the Resident's Bank Account on the 1st day of each month (or the next following Business Day if the day of the month stipulated by the Owner is not a Business Day) or at such other interval as the Owner may notify the Resident in writing from time to time. The Maintenance Charge payable as at the date of this Contract is the amount set out in Item 1 of Schedule One.
- 10.2 Subject to the Act and the Association Rules, at a general meeting of the Association each Financial Year, the Association must determine by simple majority the total Operating Costs for the next financial year based on the Services to be provided and which will include the total contribution to be made by residents to the Maintenance Fund (which must not be less than the amount recommended under the Maintenance Plan).
- 10.3 The Maintenance Charge payable by the Resident each year is calculated in accordance with the following formula:

$$P = \frac{T}{N}$$

where:

P = amount of Maintenance Charge payable for the year following the review;

T= the total budgeted Operating Costs for the next Financial Year; and

N = the total number of units for the time being in the Village.

- 10.4 The Maintenance Charge continues to be payable by the Resident until the earliest of the following:
- (a) the date that a New Resident takes up occupation of the Resident's Premises;
 - (b) the date that a New Capital Sum is received; and
 - (c) the expiration of 6 months after the Resident provides vacant possession of the Resident's Premises to the Owner.
- 10.5 The Owner agrees to indemnify the Association against all liability for payment of the Maintenance Charge for the period 6 months after the Resident provides vacant possession of the Resident's Premises until the earlier of the dates referred to in clauses 10.4(a) and 10.4(b).

Rates and Taxes

- 10.6 The Residence Contract sets out the Resident's responsibility for rates, taxes, charges and other outgoings separately assessed against the Resident's Premises by any relevant authority and the date these amounts cease to be payable after the Residence Contract terminates.
- 10.7 The Association or the Owner may pay the rates, taxes, charges and other outgoings payable by the Resident on the Resident's behalf. If this occurs, the Resident must pay to the Owner or the Association (as the case may be) upon demand, any amounts paid by the Owner or the Association (as the case may be) on the Resident's behalf.

Utilities

- 10.8 The Residence Contract sets out the Resident's responsibility for gas, electricity, telecommunications, water consumption and all other utilities and services assessed against the Resident's Premises by any relevant provider and the date these amounts cease to be payable after the Residence Contract terminates.

Additional Charges

- 10.9 If the Resident or any invitee or guest of the Resident make repeated or, in the reasonable opinion of the Owner or the Association, unnecessary demands, calls on or visits to the Village nurse, the Owner or the Association may serve a Notice on the Resident that a charge will be made by the Association for all calls on or visits to or by the nurse in excess of the number of weekly calls or visits to or by the Resident that the Association or Owner reasonably determines. In making such determination, the Association and Owner will act reasonably in the

exercise of its discretion and may vary any charge to be made under this clause by notice in writing to the Resident from time to time.

11 Manager's legal costs [refer to regulation 11(4)(b)]

Each party must bear their own legal costs and any other charges in relation to the preparation, negotiation and completion of this Contract. This means that the Resident is not responsible for the Manager or Owner's legal costs relating to this Contract.

12 Adjustments to Maintenance Charges [refer to regulation 11(4)(e)]

The Maintenance Charge may be increased by the Manager only in accordance with the provisions of the Act.

13 Use of Maintenance Charges [refer to regulation 11(4)(d)]

The parties agree that the Maintenance Charges must be applied:

- 13.1 firstly towards the Operating Costs and any other purpose authorised by the Association Rules; and
- 13.2 if there is any surplus in the maintenance charges collected from the residents of the Village in any Financial Year (after payment of the Operating Costs for that Financial Year and any other proper expenses and outgoings of the Village), the Manager may pay that surplus into the Maintenance Fund.

14 The repair and maintenance procedure [refer to regulation 11(4)(f)]

Resident's repair and maintenance obligations

- 14.1 During the Resident's occupancy of the Resident's Premises, the Resident must, at all times, keep the Resident's Premises, the Fixtures, Fittings and Furnishings clean, tidy and in good repair and condition at the Resident's cost. This includes:
 - (a) repairing damage caused by the Resident or any guest or invitee of the Resident, or through fair wear and tear;
 - (b) replacing any of the Fixtures, Fittings and Furnishings that require replacing;
 - (c) keeping all sewerage and sanitary apparatus in working order;
 - (d) keeping the Resident's Premises free from rubbish and vermin;
 - (e) keeping tidy and maintained any courtyard, terrace, patio or garden area forming part of the Resident's Premises;
 - (f) maintaining in good repair and proper working order:
 - (i) all fixtures and equipment in the Resident's Premises used in the provision of gas, electricity, water, hot water or any other services to the Resident's Premises, including any sewers, sanitary equipment, drains, tubes, pipes and wires;
 - (ii) all wires on the Common Property for television or wireless reception which exclusively services the Resident's Premises;

- (iii) all drains, pipes, sewers, wires, cables and lines, including all telecommunications, internet and telephone cables and lines which are on and terminate in and service the Resident's Premises; and
- (iv) any television antennae or aerials or any other equipment which may be installed on the Common Property, and the pipes and wires used in connection with them on the Common Property, which exclusively serve the Resident's Premises;
- (v) ensuring that no works are carried out or anything else is done which may affect the structure of the floors, walls and roof of the Resident's Premises; and
- (vi) immediately bringing to the attention of the Owner any apparent defect in the structure of the floors, walls or roof of the Resident's Premises;

but this specifically excludes maintaining the exterior of the Resident's Premises unless the maintenance is required as a result of the neglect or misuse by the Resident.

14.2 Without limiting clause 14.1, the Resident must pay the costs of:

- (a) replacing any lost keys, cards or access mechanisms to the Resident's Premises or the Village; and:
- (b) repairing any damage caused to the Village or the Common Property or any communal facilities by the Resident or the Resident's visitors, guests or contractors.

14.3 The Resident must leave the Resident's Premises and the Fixtures, Fittings and Furnishings clean, tidy and in good repair and condition at the time the Resident permanently vacates the Resident's Premises. If the Resident has breached this covenant or works are required to replace fixed floor coverings or to repaint or repaper the Resident's Premises, the Owner is hereby authorised to enter the Resident's Premises and carry out the necessary works following consultation with the Resident. The cost of such works must be paid by the Resident under clause 11.2 of the Residence Contract.

14.4 If the repair and maintenance of the Resident's Premises is the Resident's responsibility under this Contract, then the Resident must carry out those works promptly. The Resident may, however, request the Owner or the Manager to facilitate such maintenance and repair works at the Resident's cost.

Association's repair and maintenance obligations

14.5 The Association must keep and maintain in good repair and condition:

- (a) the common driveways and pathways situated on the Common Property;
- (b) any buildings or structures on the Common Property;
- (c) the foundations, roofs, guttering and eaves of the buildings;
- (d) the pipes, drains, sewers and wires in or on the Common Property and leading from the Common Property (other than any which exclusively service the Resident's Premises) and must pay all charges payable for their repair, renewal or reinstatement;

- (e) all outside paintwork of buildings erected on the Land;
- (f) all wiring, meters, switches, lights and other equipment used for lighting the driveways and pathways forming part of the Common Property and must pay all charges for electricity used for such lighting;
- (g) all facilities and conveniences on the Common Property provided for use in common by the owners and occupiers of two or more of the units in the Village;
- (h) those parts of the units which are not contiguous with the Common Property and where there is no fence, wall or similar structure on the common boundary between the unit and the Common Property;
- (i) any front lawns of a unit in the Village; and
- (j) all plant and equipment, fixtures and fittings used in the operation of the Village.

14.6 The costs of these works form part of the Operating Costs unless the Association determines that:

- (a) the works are of a substantial or infrequent nature in which case, the costs of these works may be funded from the Maintenance Fund; or
- (b) the works relate to matters set out in the Maintenance Plan, in which case the costs may be funded from the Maintenance Fund.

14.7 If the repair and maintenance of the Resident's Premises is the Association's responsibility under this Contract, and the repairs or maintenance are necessary for the safety or security of the residents, the Association must promptly carry out those works.

15 Consultation on changes to services [*refer to regulation 11(4)(n)*]

If there is to be a material change in the Services to be provided under this Contract by the Association and/or the Owner, the Association and/or the Owner (as applicable) must, before such change is implemented, consult with the residents of the Village or the Resident Members (as defined in the Association Rules) of the Association.

16 Special levies [*refer regulation 11(4)(g)*]

A special levy can be imposed in the circumstances set out in section 38(6) of the Act.

17 Resident's exit entitlement [*refer to regulation 11(4)(h) and (i)*]

17.1 The Association is not obliged to make any refund of the Capital Sum to the Resident. The Residence Contract sets out the Owner's obligation to the Resident with respect to repayment of the Capital Sum. The Resident must pay the fees, costs and charges set out in the Residence Contract on the date set out in the Residence Contract and any Maintenance Charges or other fees, costs and charges payable or owing by the Resident under this Contract on the date set out in clause 17.2.

17.2 Upon the earliest to occur of the following:

- (a) 14 days after the Owner receives the New Capital Sum from the New Resident;

- (b) 14 days after the New Resident takes up permanent occupation of the Resident's Premises; and
- (c) 6 months after this Contract is terminated and the Resident has provided vacant possession of the Resident's Premises to the Owner,

the Resident must pay the amounts set out in clause 17.3.

17.3 On the date set out in clause 17.2, the Resident must pay to the Association:

- (a) any Maintenance Charges or other fees, costs and charges payable or owing by the Resident under this Contract;
- (b) all costs reasonably incurred by the Association by way of legal and other costs associated with the reletting of the Resident's Premises; and
- (c) any GST which the Association is liable to pay on the amounts referred to in clauses 17.3(a) and 17.3(b).

17.4 The Residence Contract sets out how capital gain and capital loss is shared between the Owner and the Resident. In particular, the Resident does not bear any capital loss or receive any capital gain on the reletting of the Unit.

18 Village insurance [*refer to regulation 11(4)(j)*]

18.1 The Association must procure the following insurances in relation to the Village:

- (a) building reinstatement insurance;
- (b) machinery breakdown insurance;
- (c) public liability insurance;
- (d) workers compensation, common law and statutory liability insurance in respect of employees employed on in or about the Village;
- (e) as agent of the Owners Corporation, all insurances required by the OC Act to be effected; and
- (f) any other insurances deemed necessary by the Association .

18.2 All the insurances procured by the Association must be for such amounts and with such conditions, extensions and exclusions as the Association and the Owner may deem appropriate. The cost of procuring these insurances and any excess payable forms part of the Operating Costs, and must be funded from the maintenance charges payable by the residents of the Village. However, if a claim is made as a consequence of damage caused or contributed to by the Resident or another resident, the Association may require the Resident or the other resident (as the case may be) to pay the excess and/or the costs of the claim.

18.3 The Association and the Owner recommend the Resident arrange insurance for the contents of the Resident's Premises.

18.4 The Association must:

- (a) when requested to do so by the Resident, produce to the Resident copies of the policies of insurance and the receipt for the current year's premium

provided that the request is made during normal business hours and not more than once in each year; and

- (b) cause all money received under any policy effected by the Association to be applied in rebuilding and reinstating any building, fixtures or fittings which have been destroyed or damaged by the insured risk.

18.5 If requested by the Owner, the Association must provide certificates of currency to the Owner for all insurances effected within 3 days of the request being made by the Owner.

19 Manager's right of access to the Resident's Premises [*refer to regulation 11(4)(a)*]

19.1 The Resident must permit the Association and the Owner to enter the Resident's Premises at all reasonable times other than between the hours of 6.00pm and 9.00am (except in the case of emergency in which case clause 19.2 applies) to enable the Manager to:

- (a) comply with any of the Association's or the Owner's obligations under this Contract;
- (b) carry out any maintenance work to any Unit or any other part of the Village; and
- (c) inspect the state and condition of the Resident's Premises. If the Resident fails to comply with the Resident's maintenance and repair obligations under this Contract, the Resident must also allow access by such workmen as the Owner or the Association deems necessary for the purpose of maintaining the Resident's Premises in a good and safe state of repair and condition at the Resident's cost.

However, the Owner and the Association must not use such right of inspection to harass or embarrass the Resident or to interfere with the Resident's right of quiet enjoyment beyond what is necessary for the proper maintenance and repair of the Resident's Premises.

19.2 The Resident must permit the Association or the Owner to deal with any emergency which appears, in the reasonable opinion of the Manager and/or the Owner, or their officers, servants or agents, to exist. In that event, the Manager, its officers, servants or agents may enter the Resident's Premises at any time and by whatever means as the Manager, its officers, servants or agents may deem appropriate.

19.3 The Resident acknowledges that the grounds upon which the Manager and/or the Owner may access and enter the Resident's Premises under this clause are reasonable.

20 Termination and amendment of the contract [*refer to regulation 11(4)(k) and (l)*]

20.1 Subject to the Act, this Contract commences on the Commencement Date and terminates on the date the Resident:

- (a) ceases to be a lessee of the Resident's Premises pursuant to the Residence Contract; or

fails to remedy a breach of this Contract for a period of 60 days after written notice is given from the Manager to the Resident requiring the Resident to do so.

20.2 Termination of this Contract does not affect any rights of the parties which may have accrued against the other before the date of termination.

20.3 After this Contract has been properly executed by the parties, the Resident has the right to refuse to any amendments which the Association or Owner may wish to make.

21 The Village By-laws [refer to regulation 11(4)(m) – unless set out in the residence contract]

The Village By-laws are set out in Schedule Six.

**OTHER TERMS – WHICH MUST NOT INCLUDE ANY TERM PROHIBITED BY THE
RETIREMENT VILLAGES ACT 1986 OR REGULATIONS**

22 Acknowledgment

22.1 The Resident acknowledges, warrants and confirms that:

- (a) the Resident received a copy of the factsheet and disclosure statement (both as defined in the Act), this Contract, the Residence Contract, the By-Laws (if any) (together "**Residence Documents**"), and was notified of the Resident's right to inspect the prescribed documents referred to in the Act, at least 21 days before entering into this Contract;
- (b) the Resident has had the opportunity to seek independent legal, financial and any other advice the Resident deems necessary in relation to the Residence Documents provided to the Resident;
- (c) the Resident has had the opportunity to inspect the Resident's Premises and the Village, and are satisfied with the condition, appearance and state of repair of the Resident's Premises and the Village;
- (d) for the purposes of the Association Rules, this Contract is deemed to be a Service Agreement.
- (e) as at the date of this Contract, the Resident is an Eligible Resident;
- (f) all information provided by the Resident to the Owner or the Manager before signing this Contract is true and correct at the time the information was provided; and
- (g) the Owner and/or the Manager have not made any representations to the Resident to the effect that medical care will be available to the Resident at the Village, or that the Resident may reside in or have priority on any waiting list to enter any residential aged care facilities owned or operated by the Owner.

22.2 The date of this Contract and the Commencement Date are as set out in page 2 of this Contract. However, if after this Contract has commenced, and for any reason whatsoever, any of these dates has not been so inserted, the Owner or its legal practitioner is deemed authorised by the Resident to insert the relevant dates into page 2 of this Contract. In that event, the Owner's legal practitioner will notify the Resident that the relevant dates have been inserted according to this clause.

23 Disposal of Resident's Premises

23.1 After termination of this Contract and the Residence Contract:

- (a) the Owner will use its reasonable endeavours to locate a new resident for the Resident's Premises who qualifies for occupancy at the Village and on the terms then applying to residence contracts and management contracts for the Village; and
- (b) the Owner will assist the New Resident to procure the New Resident's membership to the Association.

24 Resident acknowledgment relating to Village staff

The Resident acknowledges that:

24.1 the all staff of the Village (including, without limitation, any nurse or Village Manager) will be appointed to work Normal Hours; and

24.2 the staff of the Village (including, without limitation, any nurse or Village Manager) will not ordinarily be available to assist the Resident outside the Normal Hours.

25 Resident's covenants

The Resident covenants with the Owner and the Manager to perform and observe the covenants imposed on the Resident under this Contract, including those specified in Schedule Two.

26 Covenants by the Manager

The Manager covenants with the Resident to perform and observe the covenants imposed on the Manager under this Contract, including those specified in Schedule Three.

27 Covenants by the Owner

The Owner covenants with the Resident to perform and observe the covenants imposed on the Owner under this Contract, including those specified in Schedule Four.

28 Additional powers of Association

28.1 The Association may determine at a general meeting by a vote of no less than 75% of the total voting rights of all members present, that the Association undertake additional powers, services, functions, activities or work or further expenditure of a capital income nature for the benefit of the Village residents as a whole.

28.2 Any resolution made under clause 28.1 cannot restrict, reduce, limit or extinguish the covenants or services of the Association as set as out in Schedule Three and Schedule Five respectively.

28.3 Notwithstanding a resolution of the members under clause 28.1, the Owner may determine that the Association not undertake the additional powers, services, functions, activities or work or the further expenditure if in the Owner's reasonable opinion this would result in an increase in the maintenance charges payable by residents of the Village to an extent which would place an unreasonable burden on residents of the Village or any of them.

29 Interest on late payment

If the Resident defaults in payment of any money due under this Contract when such money is due and payable, then interest at the rate of 2% higher than the rate for the time being fixed under the *Penalty Interest Rates Act 1983* computed on the money overdue during the period of default must be paid by the Resident to the Manager without necessity for demand and without prejudice to any other rights or remedies of the Manager.

30 Resident's releases and indemnities

30.1 The Resident occupies the Resident's Premises and uses the Common Facilities at the Resident's own risk. The Resident releases to the full extent permitted by law, the Manager and its agents, contractors and employees, in the absence of negligence on their part, from all claims resulting from any accident, damage or injury suffered by the Resident in the Village. This includes personal injury to the Resident and loss of or damage to the Resident's property.

30.2 The Resident indemnifies the Manager against all claims, damages and expenses arising from:

- (a) the negligent use, misuse or waste by the Resident or any invitee of the Resident of the water, electricity, gas and other services and facilities in and to the Resident's Premises; and
- (b) loss, damage or injury to property or person caused or contributed to by the Resident or any invitee of the Resident.

31 Loss or damage

The Resident must pay all losses and expenses incurred by the Manager and/or the Owner (other than any costs incurred by the Manager and/or the Owner in enforcing this Contract) as a result of any breach of this Contract by the Resident.

32 Other works

The Resident acknowledges that the Manager may:

32.1 after consultation with the residents committee or the residents (where there is no residents committee):

- (a) alter, extend or reduce the Common Facilities;
- (b) close all or part of the Common Facilities for refurbishment, repair or maintenance purposes; and/or
- (c) redevelop, expand or reduce other parts of the Village;

32.2 in the event of an emergency, temporarily close or evacuate the Village or restrict access to it.

33 Owners Corporation

The Association must not resign from its appointment as the manager of the Owners Corporation without the written consent of the Owner.

34 Contractors

The Association may, with the Owner's written approval (which approval must not be unreasonably withheld), engage independent contractors to carry out all or any of its obligations under this Contract. The Association may engage such independent contractors on terms and conditions it thinks fit. Any contract entered into by the Association with an independent contractor must be in writing.

35 Conflict between legislation

If there is any conflict between the provisions of this Contract and the *Subdivision Act 1988 (Vic)* the provisions of this contract will prevail and, in particular, the entitlement and liability of Resident's Premises will be decided by the provisions of this Contract and not by the provisions of the *Subdivision Act 1988 (Vic)* or any entitlement or liability shown on the Plan.

36 Goods and services tax

Each amount, of whatever description, payable by the Resident to the Manager under this Contract is expressed exclusive of GST. In addition to any amounts payable, the Resident must, to the extent permitted by law, pay to the Manager, on demand, a sum equivalent to the GST payable, if any, by the Manager in respect of that amount.

37 Notices

Any notice required to be served under this Contract is sufficiently served if it is posted to or left at the following address:

To the Manager: the Manager's address stated in this Contract, or such other address advised by the Manager to the other party in writing from time to time

To the Resident: the Resident's Premises.

In the case of service by post, service is deemed to have been effected two clear Business Days after posting.

38 Assignment

38.1 The Owner may in its absolute discretion assign this Contract and the Owner's rights (as the case may be) contained in this Contract to any other person.

38.2 The Resident must not assign the any of the Resident's rights under this Contract without the Manager's and Owner's prior written consent.

39 Further Assurances

The parties agree that they will sign all further documents and do all things necessary for giving effect to the terms of this Agreement

40 Applicable law

This Contract is governed by the laws of Victoria.

41 Severance

41.1 The parties agree that a construction of this Contract that results in all provisions being enforceable is to be preferred to any other construction.

- 41.2 If, despite the application of clause 41.1, a provision of this Contract is illegal or unenforceable:
- (a) if the provision would not be illegal or unenforceable if a word or words were omitted, that word or those words are omitted; and
 - (b) in any other case, the whole provision is omitted,
- and the remainder of this Contract continues in force.

42 General

- 42.1 The parties agree that they will sign all further documents and do all things necessary in order to give effect to the terms of this Contract.
- 42.2 No variation or waiver of any provision of this Contract has any force or effect unless confirmed in writing and signed by the parties. The agreed variation or waiver shall be effective only to the extent for which it may be made or given.
- 42.3 No failure, delay or indulgence on the part of either party in exercising any of that party's rights under this Contract operates as a waiver of such right. A single or partial exercise of any such right does not preclude any other or future exercise of that right, or the exercise of any other right under this Contract.
- 42.4 If any provision of this Contract is invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement without regard to the invalid provisions are and continue to be valid and enforceable in accordance with their terms.
- 42.5 Any provision of this Contract capable of having effect after termination of this Contract continues to have full force and effect notwithstanding such termination.

43 Definitions

- 43.1 "**Act**" means the *Retirement Villages Act 1986* (Vic).
- 43.2 "**Association**" and "**Manager**" means the party so described on page 2 of this Contract and includes its successors and assigns.
- 43.3 "**Association Committee**" means the committee having management of the business of the Association under the Association Rules.
- 43.4 "**Association Rules**" means the rules of the Association as amended from time to time.
- 43.5 "**Business Day**" means a day other than a Saturday, Sunday or public holiday in Melbourne.
- 43.6 "**By-laws**" or "**Village by-laws**" means the rules and regulations for the Village as amended or adopted from time to time, and the rules as at the date of this Contract are set out in Schedule Six.
- 43.7 "**Capital Sum**" means the amount set out in item 2 of Schedule One
- 43.8 "**Commencement Date**" means the date this Contract commences, being the date set out on page 2 of this Contract.

- 43.9 **"Common Facilities"** means those areas, facilities or amenities of the Village set aside by the Manager or the Owner for the enjoyment and common use of all the residents of the Village from time to time, but excludes any building intended for the exclusive occupancy of any resident and any administration areas.
- 43.10 **"Common Property"** means those areas and facilities on the Plan described as common property and set aside for the common use of all residents.
- 43.11 **"Contract"** means this Contract including the recitals and any schedules or annexures to this Contract.
- 43.12 **"Delegation Agreement"** means the appointment of managing agent dated 25th June 1998 pursuant to which the Owners Corporation appointed the Association the manager of the Owners Corporation.
- 43.13 **"Eligible Resident"** means a retired person or a person over the age of 55 years, who is capable of independent living, and has been approved in writing by the Owner and the Manager as being a suitable person to occupy a Unit in the Village.
- 43.14 **"Financial Year"** means each 12 month period commencing on the 1 July and terminating on the next succeeding 30 June.
- 43.15 **"Fixtures, Fittings and Furnishings"** has the meaning given in the Residence Contract.
- 43.16 **"GST"** means the goods and services tax levied under the GST Act or any other goods and services tax, value added tax, consumption tax or tax of similar effect levied from time to time;
- 43.17 **"GST Act"** means the *A New Tax System (Goods and Services Tax) Act 1999*;
- 43.18 **"input tax credit"** has the meaning ascribed to it by:
- (a) the GST Act; or
 - (b) if the GST Act is repealed or no longer contains a definition of "input tax credit" but a GST is still levied, the term, if any, in the Act which imposes the GST that most closely approximates the meaning ascribed to the term "input tax credit" by the GST Act (at the date of this Contract).
- 43.19 **"Maintenance Charge"** means the charge payable by the Resident to the Manager as the Resident's contribution towards the Operating Costs as determined under clause 10.3.
- 43.20 **"Maintenance Fund"** means the fund to be established by the Manager (if the Manager has not already done so) and operated by the Manager under clause 2 of Schedule Three.
- 43.21 **"Maintenance Fund Contribution"** means the amount determined pursuant to clause 10.2 to be paid into the Maintenance Fund.
- 43.22 **"New Capital Sum"** means the payment received by the Owner from a New Resident in respect of the Resident's Premises pursuant to a new lease of the Resident's Premises.
- 43.23 **"New Resident"** means a new occupant of the Resident's Premises to be procured by the Owner, and who must be an Eligible Resident.

- 43.24 **"Normal Hours"** means the normal working hours of the staff of the Village (including without limitation any nurse or Village Manager) and, which at the date of this Contract are between the hours of 8 am to 4 pm, Monday to Friday (excluding any public holidays).
- 43.25 **"OC Act"** means the *Owners Corporations Act 2006 (Vic)*.
- 43.26 **"Operating Costs"** means the operating costs of the Village. This includes:
- (a) the cost incurred in procuring or providing the Services, including all expenses paid or incurred by the Manager in the provision of the Services and all wages, salaries, consultant and contractor fees, long service leave, superannuation entitlements and their associated costs in relation to any staff or contractors engaged to provide the Services;
 - (b) all rates, taxes, charges, fees and other similar outgoings which are now or may after this Contract be rated, taxed charged or imposed in respect of the whole or part of the Village by any relevant authority (unless such charges are separately assessed in respect of individual units in the Village and are the responsibility of the residents of the Village);
 - (c) all charges for gas, electricity, water and all other utilities and services used in or assessed or charged on or in respect of the Common Facilities, Common Property and any administration areas;
 - (d) all premiums for insurances in respect of the Village required under clause 18, such insurance to be in respect of such amounts and with such extensions as the Manager or the Owner shall reasonably think fit;
 - (e) subject to clause 18.2, any excess payable under any policy of insurance for the Village;
 - (f) all costs and charges associated with cleaning, lighting and incidental maintenance of and repairs to the Common Facilities;
 - (g) the costs and expenses incurred by the Association in complying with its maintenance and repair obligations under clause 14.5;
 - (h) the Maintenance Fund Contribution;
 - (i) any other expenditure reasonably and properly incurred by the Manager in the operation of the Village; and
 - (j) any GST payable by the Manager or the Owner with respect to the supply by the Manager or the Owner of any of the services, or of any goods, services or other things to the Resident,
- less the value of any input tax credits accrued by the Manager or the Owners Corporation with respect to the purchase of any goods, services or other things, the cost of which forms part of the Operating Costs.
- 43.27 **"Owner"** means Baptist Village Baxter Limited ACN 006 640 544 and includes its successors and assigns.
- 43.28 **"Owners Corporation"** means owners corporation plan no. RP15252.
- 43.29 **"Plan"** means plan of strata subdivision RP15252.

- 43.30 "**Regulations**" means the *Retirement Villages (Contractual Arrangements) Regulations 2017 (Vic)*.
- 43.31 "**Residence Contract**" means the residence contract dated on or about the date of this Contract and entered into between the Resident and the Owner, pursuant to which the Resident occupies the Resident's Premises.
- 43.32 "**Resident**" means the party so named on page 2 of this Contract and if there is more than one person named, includes the survivor or survivors of them.
- 43.33 "**Resident's Bank Account**" means a bank account nominated by the Resident and notified in writing to the Owner or Manager from time to time.
- 43.34 "**Resident's Premises**" means the premises so described on page 2 of this Contract.
- 43.35 "**Services**" means the services described in Schedule Five.
- 43.36 "**Unit**" means a unit in the Village, and where the context permits, means the Resident's Premises.
- 43.37 "**Village**" means the land from time to time comprising the retirement village and all improvements known as Rosebud Village located at 287-323 Bayview Road, Rosebud, Victoria 3939 and all improvements.
- 43.38 "**Village Manager**" means the person or corporation appointed by the Owner to manage the day to day affairs of the Village.

44 Interpretation

In this Contract, unless the contrary intention appears:

- 44.1 the singular includes the plural and vice versa;
- 44.2 words importing one gender include other genders;
- 44.3 a reference to a document or instrument, including this Contract, includes that document or instrument as novated, altered or replaced from time to time;
- 44.4 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa;
- 44.5 a reference to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;
- 44.6 other grammatical forms of defined words or expressions have corresponding meanings;
- 44.7 a covenant, undertaking, representation, warranty, indemnity or agreement made or given by:
- (a) two or more parties; or
 - (b) a party comprised of two or more persons,
- is made or given and binds those parties or persons jointly and severally;

- 44.8 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- 44.9 a recital, schedule, annexure or description of the parties forms part of this Contract;
- 44.10 if an act must be done on a specified day that is not a business day, the act must be done instead on the next business day;
- 44.11 if an act required to be done under this Contract on a specified day is done after 5.00pm on that day in the time zone in which the act is performed, it is taken to be done on the following day;
- 44.12 all monetary amounts are in Australian dollars;
- 44.13 a party that is a trustee is bound both personally and in its capacity as trustee;
- 44.14 a reference to an authority, institution, association or body ("**original entity**") that has ceased to exist, been reconstituted, renamed or replaced or whose powers or functions have been transferred to another entity, is a reference to the entity that most closely serves the purposes or objects of the original entity; and
- 44.15 headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Contract.

Schedule One

1	Maintenance Charge as at ##[insert date]:	\$\$\$[Amount]
2	Capital Sum:	\$\$\$[Amount]

Schedule Two

COVENANTS BY RESIDENT

The Resident covenants and agrees with the Owner and Manager (as the case may be) as follows:

1 By-laws

to comply and ensure that the Resident's guests and invitees comply with the By-laws;

2 Emergency call system and Electricity

not to interfere with, change or remove any part of the emergency call system installed within the Resident's Premises and must ensure that any telephone line servicing the Resident's Premises is connected and in operation at all times;

3 Pets

3.1 not to bring or keep at the Resident's Premises any bird, animal or reptile provided that the Manager may in its absolute discretion give permission for the Resident to keep a bird or animal at the Resident's Premises but such permission may be revoked if the animal causes a nuisance to other residents of the Village;

3.2 if the Resident has an animal, to keep that animal on a leash or otherwise kept under the Resident's control if the Resident is taking the animal onto Common Property for the purposes of ingress and egress from the Resident's Premises;

4 Guests

4.1 not to allow any person other than the Resident to remain or reside at the Resident's Premises for any period of time in excess one month in any calendar year without the prior written consent of the Manager or the Owner;

4.2 not to permit any person to occupy the Resident's Premises while the Resident is absent for a period of more than 2 days without the prior written consent of the Manager or the Owner;

4.3 to advise the Village Manager within 24 hours of the arrival of any person other than the Resident intending to occupy the Resident's Premises;

5 Absences

5.1 to advise the Village Manager of absences from the Resident's Premises for any period exceeding 1 week; and

5.2 not to leave the Resident's Premises unoccupied for any period of time that would result in the Resident's Premises no longer being the Resident's principal place of residence unless prior written notice has been given to the Manager;

6 Illness

to notify the Village Manager of any illness or infectious disease that is contracted by or in any way affects the Resident or any occupier of the Resident's Premises;

7 Common Facilities

not to erect, install or construct upon the Common Facilities any attachment or structure whatsoever unless prior approval has been obtained from the Manager;

8 Storage

not to store or permit to be stored on the Common Property or any part of it any material or goods without the prior written consent of the Manager, and then only on the terms and subject to the conditions that may be set out in such written consent, regulations or rules;

9 Damage to Resident's Property or Village

not to damage, deface or obstruct or allow to be damaged, defaced or obstructed the common pathways, driveways, paved areas, lawns or garden areas forming part of the Village or the Common Property or any part of them;

10 Structural alterations and painting

not to install any awnings, make any structural alterations or additions to the Resident's Premises, paint the exterior of the Resident's Premises or interfere with the electricity, gas or other service installation in any way whatsoever without the Owner and Manager's prior written consent having been obtained;

11 Unreasonable demands

not to make unreasonable demands:

11.1 of or harass or bully the Owner, the Manager, or any staff or other persons engaged by the Owner or the Manager;

11.2 on the time of the Village Manager or nursing staff employed at the Village and only use the electronic device in the Resident's Premises to call the nursing staff or the Village Manager in the case of an emergency;

12 Use of Resident's Premises

not to use or permit to be used the Resident's Premises for any purpose other than residential occupation and not to use the Resident's Premises for any illegal purpose;

13 No nuisance

not to do or allow the Resident's guests or invitees to do anything in the Resident's Premises or the Common Property which is or may be, in the Manager's reasonable opinion, a nuisance, annoyance or disturbance to other residents and their guests in the Village to neighbours of the Village or to any member of staff or contractor or the Manager or Owner;

14 Antennae and aerials

to observe any regulations made from time to time by the Owner or the Manager as to the installation or use of any television antennae, wireless aerials and the wiring from them and in particular, the Resident must not install any television antenna, wireless aerial or satellite dish on the outside of the Resident's Premises without the Owner's prior written consent;

15 Will and power of attorney

to advise the Manager and the Owner of:

15.1 any power of attorney made and to whom the power is given; and

15.2 the name of any executor of the Resident's will (if any) including any change of executor;

16 Insurance policies

not to do or permit to be done anything which may in the reasonable opinion of the Owner or the Manager:

16.1 invalidate or contravene the terms of any insurance policy affecting the Village or the activities carried on at the Village;

16.2 render cover under such policies to be denied; or

16.3 cause the premiums in respect of those policies to be increased;

17 Assignment

not to assign sub-let or otherwise part with possession of the Resident's Premises or any part thereof. Section 144 of the *Property Law Act 1958* and any re-enactment is excluded;

18 Signs

not to display or allow to be displayed at the Resident's Premises any placard advertisement, flagpole or flag, notice or sign;

19 Noise

not to use or allow to be used any electrical, mechanical, musical or percussion instrument of any kind or practise or allow to be practised any singing at the Resident's Premises where this is audible outside the Resident's Premises and particularly between the hours of 10.00pm and 8.00am;

20 Washing

not to hang or allow to be hung any clothes or other articles on the outside of the Resident's Premises or from balconies, porches, entrances or landings on or comprised in the Common Property except on clothes lines provided or permitted for that purpose;

21 Rubbish

to observe any regulations relating to rubbish disposal and the placing of any rubbish bins within the Village;

22 Car parking

not to use or allow to be used any carpark area which the Resident may be permitted to use for any purpose other than for parking a motor vehicle in a fair and reasonable manner, and not to assign or sub-let any such rights without the Manager's and Owner's prior written consent. The parking of any motor vehicle larger than a sedan or station wagon (other than for the delivery or removal of furniture) shall be deemed to be an unreasonable use;

23 Compliance with laws

not to use or allow the Unit to be used so as to cause any breach of any act of parliament or any regulation or by-law; and

24 Compliance with orders

to comply with any order or direction lawfully made or given under any act of parliament or any regulation or by-law with respect to anything to be done on or to the Resident's Premises and make good any damage done as a consequence or in the course of doing so to the Common Property or to any other units in the Village.

25 Fire regulations

to comply with all fire regulations applicable to the Resident's Premises and the Village;

26 No caveat

in consideration of the Owner complying with Part 5 of the Act (which provides for a statutory charge over the title to the Unit or the Village (as applicable) in favour of the Resident), not to lodge a caveat or any form of security against any of the titles to the Village.

Schedule Three

COVENANTS BY THE ASSOCIATION

The Association covenants as follows:

1 Services

to provide the Services;

2 Maintenance Fund

to establish (if the Association has not already done so) and operate the Maintenance Fund to pay for the costs of repairs and maintenance of a substantial but infrequent nature and for the implementation of the Maintenance Plan. The Association must expend monies from the fund for the purposes of:

- 2.1 implementing the Maintenance Plan; and
- 2.2 any other expenditure the Association deems beneficial to the Village generally, or for the benefit of the residents of the Village.

3 Maintenance Plan

to:

- 3.1 prepare and implement a Maintenance Plan that satisfies the requirements for a maintenance plan under the OC Act; and
- 3.2 update when necessary a Maintenance Plan that satisfies the requirements for a maintenance plan under the OC Act;

4 Village Manager

to procure the Owner to employ a Village Manager to carry out the following duties and functions understanding that such person will be under the Owner's direction and control:

- 4.1 collection of the Maintenance Charge from the residents of the Village;
- 4.2 payment of all costs and expenses and charges relating to the Village;
- 4.3 ensuring that the maintenance and repair obligations of the Association are undertaken;
- 4.4 attending to the comfort and all reasonable and proper requests and demands of the Village residents and ensuring that the residents enjoy such reasonable privacy and quiet possession and enjoyment as is consistent with the physical characteristics of a village designed for the residence of retired persons;
- 4.5 assisting the Owner with the sale and leasing of the units by:
 - 4.5.1 maintaining an up-to-date list of the names and addresses of people who make enquiries about becoming residents in the Village and providing those lists to the Owner upon request;
 - 4.5.2 interviewing prospective residents and explaining to them the rights and responsibilities of residents in the Village as set out in the contractual documents currently in use in the Village;

- 4.5.3 following up people whose names are on the list referred to in clause 4.5.1;
- 4.5.4 as soon as practical after becoming aware that a resident's unit is or will be available for sale or leasing, inspecting the unit on behalf of the Owner and the Association and providing the Owner and the Association with a report as to the state of repair of the unit; and
- 4.5.5 all such other things as may assist in the sale or leasing of units as the Owner or the Association may reasonably request;
- 4.6 arranging, on the Owner's behalf, the refurbishment of any unit available for sale or leasing;
- 4.7 providing regular reports to the Owner and the Association on the state of maintenance and repair of all buildings and other property in the Village which the Association has an obligation to maintain and repair and ascertaining the cost of any repairs or maintenance which may be required;
- 4.8 providing a liaison between the Owner and the Association; and
- 4.9 devising, supporting and maintaining a proper and comprehensive program of social and other activities for the residents of the Village.

5 Nurse

to procure the Owner to employ a nurse for Normal Hours who will be under the direct control of the Owner and who will:

- 5.1 be available to provide general first aid, supervision and emergency nursing services for the residents during normal working hours. The nature and extent of those nursing services will be determined having regard to the nature of the Village and the ability of the nurse to spread those services equitably over all residents in the Village needing to have recourse to those services;
- 5.2 assist any doctor who conducts consultations at the Village on a regular basis;
- 5.3 be available to visit a resident in their unit in the case where the resident is suffering from a temporary illness and is unable to visit the nurse; and
- 5.4 interview prospective appointees for the position of relieving nursing staff and make recommendations to the Association for those appointments.

6 Books of Accounts

- 6.1 to maintain true and proper books of accounts setting out all costs and expenses incurred by it in carrying out obligations under this Contract together with details of all maintenance charges received by the Association from residents;
- 6.2 to make the books of accounts available to the Owner for the Owner's review at all reasonable times and on reasonable notice. The books of accounts will also be open to the Village residents for inspection as provided by the rules of the Association or as is provided in the Act;
- 6.3 to appoint a duly qualified auditor to audit the accounts of the Association annually;

Schedule Four**COVENANTS BY THE OWNER**

The Owner covenants as follows:

1 Committee

to procure the appointment of at least one and not more than three people as the representatives of the Permanent Member of the committee of the Association and will pay the expenses of those person(s) in the performance of their duties. For the purposes of this covenant and the Association Rules, the "Permanent Member" means the Owner.

2 Industry groups

to represent the interests of the Village within the retirement village industry groups.

3 Advice and assistance

to provide advice and assistance:

3.1 in the management and policy-formulating functions of the Association;

3.2 in the application and interpretation of employment awards for staff employed by the Association; and

3.3 as to the maintenance of buildings in the Village.

4 Retirement villages

to use the Owner's best endeavours to encourage and arrange social contact, functions and activities between the Village and other retirement villages in which the Owner has an interest and arrange for continuing contact between the Village Manager, the Association and other village managers of other villages in which the Owner has an interest.

5 Age of residents

to not knowingly, without the consent in writing of the Association, sell or lease any unit to any person who is under the age of 55 years.

Schedule Five

SERVICES

1 Services

The Association will provide or procure the following Services to be provided:

- 1.1 collecting the Maintenance Charges;
- 1.2 establishing (if not already established) the Maintenance Fund;
- 1.3 procuring a Maintenance Plan to be prepared and updating such plan as and when required;
- 1.4 attending to payment of all rates, taxes, charges, fees and other similar outgoings which are now or may after this Contract be rated, taxed charged or imposed in respect of the whole or part of the Village by any relevant authority including any (unless such charges are separately assessed in respect of individual units in the Village and are the responsibility of the residents of the Village);
- 1.5 attending to payment of all charges for electricity, water and all other utilities and services for the Common Facilities and Common Property and any administration areas;
- 1.6 effecting, maintaining and paying the premiums for the insurance policies for the Village including, the insurances specified in clause 18.1 of this Contract;
- 1.7 attending to repairs and maintenance (including preventative maintenance) at the Village as set out in clause 14.5 of this Contract;
- 1.8 arranging for garbage and waste disposal for the Village from designated areas or receptacles in the Village and from the Common Facilities;
- 1.9 cleaning and lighting of the Common Facilities and any administration areas;
- 1.10 gardening, lawn mowing and landscaping of the Common Property;
- 1.11 arranging for the monitoring (on-site or off-site) of the emergency call system 24 hours a day by an appropriately trained person;
- 1.12 providing and maintaining fire protection systems for the Common Facilities and any administration areas;
- 1.13 maintaining the security of the Village, including the emergency call system;
- 1.14 administering and generally managing (on or off site) the Village, including engaging any staff for the proper and efficient management of the Village,
- 1.15 lease, hire, buy or otherwise obtain the use of a motor vehicle (of a size and type to be determined by the Association in its discretion) to be used for transporting residents of the Village to outside locations as and when required by resident demand or as deemed necessary by the Association; the usual maintenance and operation of any Village vehicles, including replacement of any such vehicles
- 1.16 arranging for the maintenance, operation and licensing of the Village vehicles, and the replacement of any such vehicles; and

- 1.17 such other services as the Association shall agree from time to time to provide to the residents of the Village.

Schedule Six**BY-LAWS**

As at the date of this Contract, the Village By-Laws are the rules adopted by the Owners Corporation, a copy of which is attached.

MODEL RULES FOR AN OWNERS CORPORATION**1 HEALTH, SAFETY AND SECURITY****1.1 Health, safety and security of lot owners, occupiers of lots and others**

A lot owner or occupier must not use the lot, or permit it to be used, so as to cause a hazard to the health, safety and security of an owner, occupier, or user of another lot.

1.2 Storage of flammable liquids and other dangerous substances and materials

(1) Except with the approval in writing of the owners corporation, an owner or occupier of a lot must not use or store on the lot or on the common property any flammable chemical, liquid or gas or other flammable material.

(2) This rule does not apply to:

- (a) chemicals, liquids, gases or other material used or intended to be used for domestic purposes; or
- (b) any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

1.3 Waste disposal

An owner or occupier must ensure that the disposal of garbage or waste does not adversely affect the health, hygiene or comfort of the occupiers or users of other lots.

2 MANAGEMENT AND ADMINISTRATION**2.1 Metering of services and apportionment of costs of services**

(1) The owners corporation must not seek payment or reimbursement for a cost or charge from a lot owner or occupier that is more than the amount that the supplier would have charged the lot owner or occupier for the same goods or services.

(2) If a supplier has issued an account to the owners corporation, the owners corporation cannot recover from the lot owner or occupier an amount which includes any amount that is able to be claimed as a concession or rebate by or on behalf of the lot owner or occupier from the relevant supplier.

(3) Subrule (2) does not apply if the concession or rebate:

- (a) must be claimed by the lot owner or occupier and the owners corporation has given the lot owner or occupier an opportunity

to claim it and the lot owner or occupier has not done so by the payment date set by the relevant supplier; or

(b) is paid directly to the lot owner or occupier as a refund.

3 USE OF COMMON PROPERTY

3.1 Use of common property

- (1) An owner or occupier of a lot must not obstruct the lawful use and enjoyment of the common property by any other person entitled to use the common property.
- (2) An owner or occupier of a lot must not, without the written approval of the owners corporation, use for his or her own purposes as a garden any portion of the common property.
- (3) An approval under subrule (2) may state a period for which the approval is granted.
- (4) If the owners corporation has resolved that an animal is a danger or is causing a nuisance to the common property, it must give reasonable notice of this resolution to the owner or occupier who is keeping the animal.
- (5) An owner or occupier of a lot who is keeping an animal that is the subject of a notice under subrule (4) must remove that animal.
- (6) Subrules (4) and (5) do not apply to an animal that assists a person with an impairment or disability.

3.2 Vehicles and parking on common property

An owner or occupier of a lot must not, unless in the case of an emergency, park or leave a motor vehicle or other vehicle or permit a motor vehicle or other vehicle:

- (a) to be parked or left in parking spaces situated on common property and allocated for other lots; or
- (b) on the common property so as to obstruct a driveway, pathway, entrance or exit to a lot; or
- (c) in any place other than a parking area situated on common property specified for that purpose by the owners corporation.

3.3 Damage to common property

- (1) An owner or occupier of a lot must not damage or alter the common property without the written approval of the owners corporation.
- (2) An owner or occupier of a lot must not damage or alter a structure that forms part of the common property without the written approval of the owners corporation.
- (3) An approval under subrule (1) or (2) may state a period for which the approval is granted, and may specify the works and conditions to which the approval is subject.

- (4) An owner or person authorised by an owner may install a locking or safety device to protect the lot against intruders, or a screen or barrier to prevent entry of animals or insects, if the device, screen or barrier is soundly built and is consistent with the colour, style and materials of the building.
- (5) The owner or person referred to in subrule (4) must keep any device, screen or barrier installed in good order and repair.

4 LOTS

4.1 Change of use of lots

An owner or occupier of a lot must give written notification to the owners corporation if the owner or occupier changes the existing use of the lot in a way that will affect the insurance premiums for the owners corporation.

Example

If the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes.

5 BEHAVIOUR OF PERSONS

5.1 Behaviour of owners, occupiers and invitees on common property

An owner or occupier of a lot must take all reasonable steps to ensure that guests of the owner or occupier do not behave in a manner likely to unreasonably interfere with the peaceful enjoyment of any other person entitled to use the common property.

5.2 Noise and other nuisance control

- (1) An owner or occupier of a lot, or a guest of an owner or occupier, must not unreasonably create any noise likely to interfere with the peaceful enjoyment of any other person entitled to use the common property.
- (2) Subrule (1) does not apply to the making of a noise if the owners corporation has given written permission for the noise to be made.

6 DISPUTE RESOLUTION

- (1) The grievance procedure set out in this rule applies to disputes involving a lot owner, manager, or an occupier or the owners corporation.
- (2) The party making the complaint must prepare a written statement in the approved form.
- (3) If there is a grievance committee of the owners corporation, it must be notified of the dispute by the complainant.
- (4) If there is no grievance committee, the owners corporation must be notified of any dispute by the complainant, regardless of whether the owners corporation is an immediate party to the dispute.
- (5) The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee or the owners corporation, within 14 working days after the dispute comes to the attention of all the parties.

- (6) A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.
- (7) If the dispute is not resolved, the grievance committee or owners corporation must notify each party of his or her right to take further action under Part 10 of the *Owners Corporations Act 2006*.
- (8) This process is separate from and does not limit any further action under Part 10 of the *Owners Corporations Act 2006*.

EXECUTED as an agreement.

EXECUTED by **ROSEBUD RETIREMENT VILLAGE SERVICES ASSOCIATION INC**)
by its duly appointed attorney ##[Name of attorney] who certifies that ##[he/she] is)
authorised to execute this document under)
power of attorney dated ##[Date] and at the)
date of execution ##[he/she] has received no)
notice of revocation of the power of attorney)
in the presence of:)

.....
Signature of attorney

.....
Witness

.....
Witness name

EXECUTED for and on behalf of **BAPTIST VILLAGE BAXTER LIMITED** in the)
presence of:)

.....
.....
.....

SIGNED by **THE RESIDENT** in the presence)
of:)

.....

.....
Witness

SIGNED by **THE RESIDENT** in the presence)
of:)

.....

.....
Witness

SIGNED by **THE RESIDENT** by duly)
 appointed attorney _____)
 _____)
 who certifies that he/she is authorised to)
 execute this document under power of)
 attorney dated _____)
 and at the date of execution he/she has)
 received no notice of revocation of the power)
 of attorney in the presence of:)

.....
 Signature of attorney

.....
 Witness

.....
 Witness name

SIGNED by **THE RESIDENT** by duly)
 appointed attorney _____)
 _____)
 who certifies that he/she is authorised to)
 execute this document under power of)
 attorney dated _____)
 and at the date of execution he/she has)
 received no notice of revocation of the power)
 of attorney in the presence of:)

.....
 Signature of attorney

.....
 Witness

.....
 Witness name

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