



**Russell Kennedy**  
Lawyers

**BAPTIST VILLAGE BAXTER LIMITED**

of 8 Robinsons Road, Frankston South, Victoria, 3199  
("Owner")

**#[INSERT FULL NAME OF RESIDENT 1]**  
**#[INSERT FULL NAME OF RESIDENT 2]**

Resident's Premises: Unit ##[insert unit no.] Rosebud Village, 287-323 Bayview Road,  
Rosebud, Victoria 3939

Regulation 14(3)

**ROSEBUD VILLAGE**

**RESIDENCE AND MANAGEMENT CONTRACT**

**COOLING-OFF RIGHT**

Under section 24 of the **Retirement Villages Act 1986**, you may cancel this Contract at any time before the expiry of 3 clear business days after you have signed this Contract, by:

- giving a notice of cancellation to the Owner or our agent; or
- sending the notice to the Owner at the above mentioned address for service of notices or to the address of our agent.

If you cancel, the Owner may retain \$100 or 0.2% of the in-going contribution, whichever is greater.

Date contract signed:

Name and address of the person who is the village owner and manager:

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**BAPTIST VILLAGE BAXTER LIMITED**

ACN 006 640 544

of 8 Robinsons Road, Frankston South, Victoria, 3199 (referred to in this Contract as "**Owner**")

Address for service of notices:

As above

Name and address of resident:

#**[INSERT FULL NAME OF RESIDENT1]**

#**[INSERT FULL NAME OF RESIDENT2]**

of Unit #**[insert Unit No. ]** Rosebud Village, 287-323 Bayview Road, Rosebud, Victoria 3939

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

Address of Resident's Premises:

Unit #**[insert unit no.]**, Rosebud Village, 287-323 Bayview Road, Rosebud, Victoria 3939

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

Date of Resident's occupation of Resident's Premises/~~date of resident's right to occupy premises (delete whichever is inapplicable):~~

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

Date contract commences (if different from above):

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

Term of contract/~~date contract expires (delete whichever is inapplicable):~~

99 years, unless terminated earlier in accordance with this Contract

Garage, storeroom and parking entitlements:

#**[include details of storeroom included with Lease]**

Fixtures, fittings and furnishings provided by the village owner and manager with the Resident's Premises are as follows:

As listed in Schedule Two

The services to be provided to the resident – including any service that, before the resident entered into the contract, the Owner 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 Owner will provide the Services from the Commencement Date. The Services available as at the Commencement Date are set out in Schedule Three.

Resident 1		
Full Name		
Date of Birth		
Current Address		
Email Address		
Medical Power of Attorney or Medical Treatment Decision Maker	Full Name(s)	
	Address(es)	
	Phone Number(s)	
	Email Address	
	Tick to confirm that a copy of the POA has been provided ? <input type="checkbox"/> YES	
Enduring / Financial Power of Attorney	Full Name(s)	
	Address(es)	
	Phone Number(s)	
	Email Address	
	Tick to confirm that a copy of the POA has been provided ? <input type="checkbox"/> YES	
Emergency Contact (if different from above)	Full Name(s)	
	Address(es)	
	Phone Number(s)	
	Email Address	
Executor	Full Name(s)	
	Address(es)	
	Phone Number(s)	
	Email Address	
	Location of Will	

Resident 2		
Full Name		
Date of Birth		
Current Address		
Email Address		
Medical Power of Attorney or Medical Treatment Decision Maker	Full Name(s)	
	Address(es)	
	Phone Number(s)	
	Email Address	
	Tick to confirm that a copy of the POA has been provided ? <input type="checkbox"/> YES	
Enduring / Financial Power of Attorney	Full Name(s)	
	Address(es)	
	Phone Number(s)	
	Email Address	
	Tick to confirm that a copy of the POA has been provided ? <input type="checkbox"/> YES	
Emergency Contact (if different from above)	Full Name(s)	
	Address(es)	
	Phone Number(s)	
	Email Address	
Executor	Full Name(s)	
	Address(es)	
	Phone Number(s)	
	Email Address	
	Location of Will	

**OPERATIVE WORDS**

- 1 In consideration of the payment of the Capital Sum and the covenants made by the Resident under this Contract, the Owner grants a lease of the Resident's Premises together with the Fixtures, Fittings and Furnishings, and the right to use the Chattels to the Resident on and from the Commencement Date for the term of this Contract.

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

- 2 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.

- 3 Basic obligations of the owner and manager

The Owner must:

- (a) give exclusive and vacant possession of the Resident's Premises and in a clean and tidy condition; and
- (b) use best endeavours to ensure that its tenants, employees and invitees or other persons lawfully on Village premises comply with the by-laws relating to the Village; and
- (c) 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
- (d) 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
- (e) give receipts for payments made by the Resident and keep a record of such payments.

- 4 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 Owner, 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; and
- (f) if the Owner exercises a right to relocate the Resident to other premises with the consent of the Resident, not withhold consent unreasonably.

#### 5 Basic rights of the Resident

The Resident has the right:

- (a) to any payment that the Owner is liable to make consequent on the Resident leaving the Village or dying, unaffected by termination of the residence contract or the management contract, whether for breach of contract or otherwise; and
- (b) to remove any fixture that the Resident has added to the Resident's Premises (for which there is no agreement to leave in place) at any time before permanently vacating the premises, subject to making good any damage caused by the removal.; and.
- (c) ~~[if the resident's only obligation in relation to the condition of the Resident's Premises is to remedy damage and if the resident does not share in any capital gain] not to be liable for fair wear and tear to the resident's premises.~~

#### 6 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 Owner 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**

#### 7 Costs payable on entry [refer to regulation 11(2)(j)]

- 7.1 The Resident must pay the Capital Sum to the Owner on or before the Commencement Date. The Resident is not entitled to possession of the Resident's Premises until this amount has been paid in full.
- 7.2 No interest is payable to the Resident in relation to the payment of the Capital Sum.

#### 8 Costs payable during residency [refer to regulations 11(2)(k) and (4)(c)]

##### **Maintenance Charge**

- 8.1 The Resident must pay the Maintenance Charge to the Owner monthly in advance on the 1st day of each month by direct debit from the Resident's Bank Account(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.

- 8.2 The Maintenance Charge payable is the amount set out in item 2 of Schedule One as at the date there set out. The first payment of the Maintenance Charge must be paid on or before the earlier of the Occupation Date and the Commencement Date and will be calculated on a pro rata daily basis until the end of the relevant month.
- 8.3 Subject to the Act, at a general meeting of the Resident's Committee each Financial Year, the Resident's Committee 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).
- 8.4 Upon termination of this Contract, the Maintenance Charge continues to be payable to the Owner until the earlier of the following:
- (a) the date that a New Resident takes up occupation of the Resident's Premises;
  - (b) the date that the Owner receives the New Capital Sum; and
  - (c) the expiration of 6 months after the Resident provides vacant possession of the Resident's Premises to the Owner.

#### **Utilities**

- 8.5 The Resident must pay all charges for electricity, gas, telecommunications services and all other utilities and services in respect of the Resident's Premises from the earlier of the Occupation Date and the Commencement Date. Such amounts continue to be payable by the Resident upon termination of this Contract, until the date that a New Resident takes up occupation of the Resident's Premises.

#### **Personal Services**

Personal Services are not provided by Rosebud Village Staff and are not included in the Maintenance Charge.

If the Resident chooses to purchase Personal Services a separate arrangement must be made using an external services provider or Village Baxter Home and Community Care Services.

#### **Additional Charges**

- 8.6 If the Resident or any invitee or guest of the Resident make repeated or, in the reasonable opinion of the Owner, unnecessary demands, calls on or visits to the Village nurse, the Owner may service a Notice on the Resident that a charge will be made by the Owner 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 Owner reasonably determines. In making such determination, the 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.

#### **9 Costs payable on departure [refer to regulation 11(2)(f)]**

- 9.1 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 9.2.

9.2 On the date set out in clause 9.1, the Resident must pay the following amounts to the Owner:

- (a) the Deferred Fee;
- (b) the Administrative Fee;
- (c) the Asset Replenishment Fee which the Owner will pay into the Maintenance Fund;
- (d) all costs reasonably incurred by the Owner in carrying out any works to the Resident's Premises to bring the Resident's Premises to the condition required under clauses 16.1 and 16.3;
- (e) all costs reasonably incurred by the Owner for legal costs, the costs of advertising and marketing fees, and any fees paid to any estate agent engaged to re-let the Resident's Premises;
- (f) any Maintenance Charges or other moneys owing by the Resident to the Owner under this Contract or otherwise; and
- (g) any GST which the Owner is liable to pay on the amounts referred to in clauses 9.2(a) to 9.2(f).

10 Legal costs [*refer to regulation 11(2)(i) and (4)(b)*]

Each party must bear their own legal costs and any other charges in relation to the preparation and completion of this Contract.

11 Costs of renovation or reinstatement [*refer to regulation 11(2)(q)*]

The Resident must reimburse the Owner for any costs the Owner incurs for reinstatement works which may be required to be carried out to the Resident's Premises in order to bring the Resident's Premises to the standard required in clauses 0 and 16.3. Such works may include replacement of all floor coverings and repainting all painted surfaces, and repairing any damage to the Resident's Premises, including through fair wear and tear.

12 Resident's exit entitlement [*refer to regulations 11(2)(m) and (n) and 11(4)(h) and (i)*]

12.1 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 Owner must pay to the Resident:



- (d) an amount equal to the Capital Sum;
- (e) less the fees, costs and charges set out in clause 9.2.

12.2 This means that:

- (a) if the New Capital Sum is higher than the Capital Sum ("**Capital Gain**"), the Capital Gain is for the benefit of the Owner;
- (b) if the Capital Sum is higher than the New Capital Sum ("**Capital Loss**"), the Capital Loss is borne by the Owner.

12.3 The Owner may retain the balance of the New Capital Sum for its own use absolutely.

12.4 Payment under clause 12.1 must be made:

- (a) to the Resident, or if there is more than one person named as the Resident, to the Residents in equal proportions or as the Residents may direct; or
- (b) if the Resident is deceased, to the Resident's legal personal representatives after receipt by the Owner of a certified copy of the grant of probate of the Resident's will or letters of administration of the Resident's estate.

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

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

### 14 Special levies [refer regulation 11(4)(g)]

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

14.2 If the total maintenance charges (for any one Financial Year) collected from all the residents of the Village is insufficient to cover the Operating Costs for that Financial Year ("**shortfall**"), the Owner may at the Owner's option:

- (a) note such shortfall in the Village accounts for the succeeding Financial Year; or
- (b) impose a special levy to cover the cost of the shortfall under section 38(6) of the Act.

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

The parties agree that the maintenance charges must be applied:

- 15.1 firstly towards the Operating Costs; and
- 15.2 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) the Owner may pay that surplus into the Maintenance Fund.

### 16 Maintenance of the Resident's Premises [refer to regulation 11(2)(p)]

#### **Resident Maintenance and Repair Obligations**

16.1 During the Resident's occupancy of the Resident's Premises, the Resident must,

at all times, keep the Resident's Premises, the Chattels and 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) maintaining or replacing any Fixtures, Fittings and Furnishings identified in schedule Two which 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;
- (g) 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
- (h) 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.

16.2 Without limiting clause 16.1, 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.

16.3 The Resident must leave the Resident's Premises, the Chattels 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 9.2.

### **Owner's repair and maintenance obligations**

- 16.4 The Owner 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 on 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.
- 16.5 The costs of the works detailed in clause 16.4 form part of the Operating Costs unless the Owner 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.
- 17 The repair and maintenance procedure [refer to regulation 11(4)(f)]
- 17.1 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 to facilitate such maintenance and repair works at the Resident's cost.
- 17.2 If the repair and maintenance of the Resident's Premises is the Owner's responsibility under this Contract, and the repairs or maintenance is necessary for the safety or security of the Residents, the Owner must promptly carry out those works.

18 Village insurance [*refer to regulation 11(2)(o) and (4)(j)*]

- 18.1 The Owner 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 by the Owner 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 Owner.
- 18.2 All the insurances procured by the Owner must be for such amounts and with such conditions, extensions and exclusions as the Owner may deem appropriate. The cost of procuring these insurances and any excess payable forms part of the Operating Costs of the Village, 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 Owner 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 Owner recommends the Resident arrange insurance for the contents of the Resident's Premises.

19 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 Owner, the Owner must, before such change is implemented:

- 2.1 consult with the residents committee if there is one; or
- 2.2 consult with the residents at a general meeting, if there is no residents committee;

however, where the material change in the Services arises due to an unforeseen event beyond the Owner's control, the Owner may suspend or change the Services for the period of the event by giving the Resident as much notice as practicable in the circumstances.

20 Any restrictions relating to the Resident's Premises [*refer to regulation 11(2)(a) to (g)*]

20.1 **Alterations** [*Note: Reg.11(2)(a)*]

- (a) The Resident must not make any structural alterations or additions to the interior or exterior of the Resident's Premises or construct any installations, awnings, air conditioners, water tanks, carports or lock-up garages or the enclosure of any verandah on the Resident's Premises without the written consent of the Owner. Any request for consent must be made in writing using the approved form in use at the Village. If consent is given:
  - (i) the Resident must carry out the works at the Resident's cost using appropriately licensed tradespersons in a proper and workmanlike manner;

- (ii) the Resident must maintain in good repair and condition any additions or alterations at the Resident's cost;
- (iii) the Owner may, upon termination of this Contract:
  - (A) require the Resident to remove the additions or alterations and to make good the Resident's Premises at the Resident's cost; or
  - (B) allow the additions and alterations to remain whereby the additions or alterations become and remain the property of the Owner.
- (b) The Resident must not install permanent picture hooks or wall hanging devices, paint the interior or exterior of the Resident's Premises without the written consent of the Owner.
- (c) The Resident acknowledges that:
  - (i) a previous resident may have carried out alterations, additions or improvements to the Resident's Premises;
  - (ii) the onus is on the Resident to ascertain what, if any, alterations, additions or improvements have been carried out to the Resident's Premises; and
  - (iii) the Owner accepts no responsibility for the repair or maintenance of the alterations, additions or improvements.
- (d) The Resident must repair and maintain any alterations, additions or improvements. The Resident's failure to ascertain whether any alterations, additions or improvements have been carried out by a previous resident does not release the Resident from its obligations under this clause.
- (e) If the Resident is unwilling or unable to effect any necessary repair or maintenance works to alterations, additions or improvements then the Owner may remove such alterations, alterations or improvements at the Owner's cost.

**20.2 Transfer to other Units** [*Note: Reg. 11(2)(b)*]

The Resident has no right to require the Owner to transfer the Resident to other residential premises in the Village or to other types of accommodation.

**20.3 Design, construction of Resident's Premises** [*Note: Reg. 11(2)(c)*]

If the Resident's Premises are incomplete as at the date of this Contract, the Resident has no ability to determine the design, construction and furnishing of the Resident's Premises except with the Owner's consent.

**20.4 Use of Resident's Premises** [*Note: Reg. 11(2)(d)*]

The Resident must not use or permit the Resident's Premises to be used for any purpose other than as a private residence. The Resident must not use the Resident's Premises for any illegal purpose or allow the Unit to be used so as to cause any breach of any Act of Parliament or any regulation or by-law. Other restrictions on the use of the Resident's Premises are set out in the By-laws and in Schedule Four.

20.5 **Car Parking** [*Note: Reg. 11(2)(e)*]

The Resident must not:

- (a) use or allow to be used any car park 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. The parking of any motor vehicle larger than a sedan or station wagon shall be deemed to be an unreasonable use;
- (b) assign or sublet any right to use a car park area without the Owner's prior written consent; or
- (c) use any area for car parking purposes within the Village which is not designated for car parking.

20.6 **Pets** [*Note: Reg. 11(2)(e)*]

The Resident must not keep any bird or animal at the Resident's Premises or the Village without the prior written approval of the Owner which may be given or withheld at the Owner's absolute discretion.

20.7 **Guests** [*Note: Reg. 11(2)(e)*]

The Resident must:

- (a) not allow any other person to reside in the Resident's Premises for any period of time in excess of 4 weeks in any calendar year without the prior consent of the Owner;
- (b) not permit any person to occupy the Resident's Premises for a period of more than 7 days while the Resident is absent without the prior consent of the Owner;
- (c) advise the Owner within 24 hours of the arrival of any guest of the Resident intending to occupy the Resident's Premises; and
- (d) not permit any guest of the Resident to attend at the Village if that guest has contracted an infectious disease or notifiable condition (as defined in the *Public Health Wellbeing Act 2008 (Vic)*) or been in contact with others who have contracted an infectious disease or notifiable condition that may, in the Owner's reasonable opinion put the Resident, other residents of the Village, the Owner or the Owner's employees or contractors at risk.

20.8 **Dealing with interest in Resident's Premises** [*Note: Reg. 11(2)(f)*]

The Resident must not transfer, assign, sublet or otherwise part with possession of the Resident's Premises without the prior written consent of the Owner. Section 144 of the *Property Law Act 1958* does not apply to this Contract.

20.9 **Access to Resident's Premises** [*Note: Reg. 11(2)(g)*]

- (a) The Resident must permit the Owner at all reasonable times (except in the case of emergency in which case clause 20.9(b) applies) to:
  - (i) enter the Resident's Premises to enable the Owner to comply with any of its obligations under this Contract;

- (ii) carry out any maintenance work to the Resident's Premises or any other resident's premises or any other part of the Village'
- (iii) to read any meter or measuring device or inspect any installation for the provision of utility services to the Resident's Premises, or any other resident's premises or any other part of the Village;
- (iv) enter the Resident's Premises to examine its state and condition. If the Resident fails to comply with the Resident's obligations under this Contract, the Resident must also allow access by such workmen as the Owner may consider necessary for the purpose of maintaining the Resident's Premises in a reasonable and safe state of repair and condition at the Resident's cost; and
- (v) show prospective residents through the Resident's Premises if the circumstances set out in clause 22.2 arise.

However, the Owner 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. The Resident acknowledges that the grounds upon which the Owner may access the Resident's Premises under this clause are reasonable.

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

#### 20.10 **Relocation** [*Note: Reg. 11(2)(h)*]

The Owner may require the Resident to relocate from the Resident's Premises in the circumstances set out in clause 31 (where the Resident's Premises are damaged or destroyed).

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

The Resident must permit any manager appointed or engaged by the Owner to access the Resident's Premises in the circumstances set out in clause 20.9.

#### 22 Termination and amendment of the Contract [*refer to regulation 11(2)(r) and (s) and (4)(k) and (l)*]

22.1 This Contract commences on the Commencement Date and continues for a term of 99 years, unless terminated earlier under clause 22.2.

22.2 This Contract will terminate on the happening of any of the following events:

- (a) on the death of the Resident, or if more than one person is named as Resident, on the death of the last of the survivors;
- (b) 30 days after the date of the Resident's written notice to the Owner of the Resident's intention to terminate this Contract. If there is more than one Resident, this notice must be given by each of them unless, in the Owner's

opinion, they are incapable of doing so, in which case, the notice may be given by the persons who are so capable;

- (c) if two qualified medical practitioners (one appointed by the Owner and the other nominated by the Resident) certify in writing that the Resident needs care of a kind not available at the Village, this Contract terminates after the Owner has complied with section 16(5) of the Act (a summary of which is set out in Schedule Seven). For the purpose of the medical assessment, the Resident agrees to be examined and assessed by the Owner's medical practitioner and to be bound by his or her decision in consultation with the Resident's medical practitioner and the Owner; or
- (d) if the Resident breaches this Contract, this Contract terminates after the expiry of the notices served by the Owner under sections 16(2) and (3) of the Act (a summary of which is set out in Schedule Seven).

22.3 After this Contract has been signed by the Resident and the Owner, the Resident has the right to refuse to make any amendments which the Owner may wish to make to this Contract.

23 The Village By-laws [refer to regulations 11(2)(t) and (4)(m)]

The Resident must comply with the Village By-Laws. As at the date of this 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**

24 Residence Documents

24.1 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 and the Village By Laws (if any) (together "**Residence Documents**") at least 21 days before entering into this Contract;
- (b) the Resident has had the opportunity to seek independent legal advice, 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 is satisfied with the condition, appearance and state of repair of the Resident's Premises and the Village;
- (d) as at the date of this Contract, the Resident is an Eligible Resident;
- (e) all information provided by the Resident to the Owner before signing this Contract is true and correct at the time the information was provided; and
- (f) the Owner has 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.



24.2 The date of this Contract, the Occupation Date and the Commencement Date are as set out on 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 the Owner's legal practitioner is deemed authorised by the Resident to insert the relevant dates on page 2 of this Contract. In that event, the Owner or the Owner's legal practitioner must notify the Resident that the relevant dates have been inserted according to this clause.

25 Resident acknowledgment relating to Village staff

The Resident acknowledges that:

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

25.2 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.

26 Covenants by the Resident

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

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 Five.

28 Common Facilities

28.1 The Owner agrees to permit the Resident to use the Common Facilities in common with other residents residing in the Village. However, the Resident must comply with the following:

- (a) the Resident must comply with any particular rules, such as hours of use and booking procedures set by the Owner from time to time; and
- (b) the Resident must not alter any part of the Common Facilities without the Owner's consent, which may be given or refused in the Owner's absolute discretion.

28.2 The Resident acknowledges that the Owner may:

- (a) close all or part of the Common Facilities for refurbishment, repair or maintenance purposes; and/or
- (b) manage and control access to and use of the Common Areas and Common Facilities. This includes actions to close off part or all of the Common Areas and Common Facilities from time to time if reasonably necessary for the health and safety of residents and the Owner's employees and contractors. The Owner may take all necessary actions, as determined by the Owner, for this purpose.
- (c) in the event of an emergency, temporarily close or evacuate the Village or restrict access to the Village.

29 Disposal of Resident's Premises

29.1 After termination of this Contract:

- (a) the Owner must use its reasonable endeavours to locate a new resident for the Resident's Premises who qualifies for occupancy at the Village on the terms then applying to residence contracts for the Village;
- (b) the Owner may grant a residence right in respect of the Resident's Premises for the highest price readily obtainable. The Resident must not make any claim against the Owner in respect of any action taken by the Owner in locating a new resident.

29.2 Once a new resident has been located and the amount of the new price established, all moneys payable by the New Resident must be paid to the Owner on dates to be fixed by the Owner in consultation with the New Resident.

30 Cost of additional services

If a notice has been served on the Resident pursuant to section 16(5) of the Act (a summary of which is set out in Schedule Seven) the Owner may, at the Resident's cost, provide such additional services as the Resident may require until such time as the Resident vacates the Village. In that event, the Owner is entitled to deduct such costs from any money payable by the Owner to the Resident under this Contract.

31 Damage to Resident's Premises

31.1 If the Resident's Premises or any part of it is at any time destroyed or damaged so as to render it substantially unfit for the Resident's occupation, the Owner may, at its absolute discretion, choose to reinstate the Resident's Premises as soon as reasonably possible. Until reinstatement has been completed, the Owner may, at its absolute discretion, and by written notice to the Resident, choose to:

- (a) relocate the Resident to other premises in the Village of similar value to the Resident's Premises; or
- (b) make any alternative arrangements as may be mutually agreed by the parties.

31.2 If the Owner chooses not to reinstate the Resident's Premises, this Contract comes to an end from the date that the Owner notifies the Resident of its decision not to reinstate the Resident's Premises. Termination of this Contract does not affect any rights of the parties which may have accrued before the date of termination.

32 Resident's goods

If upon the termination of this Contract there remains in the Resident's Premises any goods or chattels belonging to the Resident:

32.1 the Owner may give to the Resident or the Resident's legal personal representative 14 days' written notice to remove those items;

32.2 if the Resident or the Resident's legal personal representative fails to comply with that notice, the Owner may then, at the Resident's expense:

- (a) arrange storage of those items; or

- (b) sell those items and pay the net sale proceeds to the Resident or the Resident's legal personal representative;
- 32.3 the Owner is not liable for any loss suffered by the Resident as a result of any reasonable action taken by the Owner under this clause; and
- 32.4 the Owner is entitled to deduct from any money payable to the Resident under this Contract any expenses it incurs in storing and/or selling those items.

The parties intend that this clause operates in place of any legislation that might otherwise apply to goods remaining on the Resident's Premises.

33 Warranty

The Resident warrants to the Owner that the information supplied to the Owner by the Resident in the Resident's application to reside in the Village is correct and is not misleading.

34 Interest on late payment

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

35 Notification of infectious disease, notifiable condition, disclosure of information

35.1 The Resident must:

- (a) notify the Owner:
  - (i) of any illness, infectious disease or notifiable condition (as defined in the *Public Health and Wellbeing Act 2008 (Vic)*) that is contracted by or in any way that affects the Resident or any occupier of the Resident's Premises; and
  - (ii) if the Resident has been in contact with others who have contracted an infectious disease or notifiable condition that may put the Resident, other residents of the Village, the Owner or the Owner's employees or contractors at risk;
  - (iii) of any serious accident or incident which occurs within the Resident's Premises, the Common Facilities or Common Property of which the Resident is aware;
- (b) take all steps reasonably requested by and comply with any reasonable procedures or directions implemented by the Owner in connection with infection control including, if requested by the Owner, fumigate and disinfect the Resident's Premises (if applicable, to the satisfaction of the relevant authority), at the Resident's expense. The Owner may also engage contractors to undertake such fumigation and disinfection at the Resident's expense.

35.2 The Resident acknowledges and agrees that the Owner may disclose any information provided by the Resident under this clause 35 to any third party including other residents of the Village, the Owner's employees and contractors,

if the Owner considers this is reasonably necessary provided that the Owner complies with the Owner's Privacy Policy.

36 Resident's releases and indemnities

- 36.1 The Resident occupies the Resident's Premises and the Village at the Resident's own risk. The Resident releases to the full extent permitted by law, the Owner 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.
- 36.2 The Resident indemnifies the Owner 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;
  - (b) overflow of water originating from the Resident's Premises and caused or contributed to by the Resident or any invitee or agent of the Resident; and
  - (c) loss, damage or injury to property or person caused or contributed to by the Resident or any invitee of the Resident.

37 Loss or damage

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

38 Goods and services tax

Each amount, of whatever description, payable by the Resident to the Owner 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 Owner, on demand, a sum equivalent to the GST payable, if any, by the Owner in respect of that amount.

39 Alterations to Village

Subject to the Owner's compliance with its obligations under this Contract, the Resident acknowledges that nothing in this Contract will prevent the Owner from at any time extending, reducing or altering the Village, including making any alterations to the general layout, siting and sizing of resident premises, the Common Facilities or the overall size of the Village.

40 Notice

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

To The Owner: the Owner's address stated in this Contract, or such other address advised by the Owner to the other parties 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.

41 Further assurances

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

42 Accrued rights

The termination of this Contract shall not affect any rights of the parties which may have accrued before the date of termination.

43 Legal Personal Representatives

This Contract shall be binding upon the Resident's Personal Representatives.

44 Privacy

44.1 The Resident may be required to disclose Personal Information to the Owner.

44.2 The Resident consents to the Owner's collection, use and disclosure of the Resident's Personal Information in accordance with this Contract, the Privacy Act and the privacy policy adopted by the Owner for the collection, use and disclosure of Personal Information of residents.

44.3 The Owner must collect, use and disclose any Personal Information provided by the Resident as set out in this Contract, the Privacy Act and the Owner's Privacy Policy.

45 Applicable law

This Contract is governed by the laws of Victoria.

46 General

46.1 Where the Resident consists of more than one person, all obligations of the Resident pursuant to this Contract bind the parties jointly and severally.

46.2 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.

46.3 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.

46.4 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.

46.5 Any provision of this Contract capable of having effect after termination of this Contract continues to have full force and effect notwithstanding such termination.

47 Special conditions

The parties agree to comply with any special conditions set out in item 6 of Schedule One.

48 Definitions

- 48.1 "**Act**" means the *Retirement Villages Act 1986 (Vic)*.
- 48.2 "**Administrative Fee**" means the fee in the amount set out in item 3 of Schedule One, being the fee payable to the Owner for services rendered by the Owner during and up to the granting of a new licence of the Resident's Premises including opening the Resident's Premises from time to time for inspection by prospective new residents, liaising and co-ordinating with the cleaners and other workmen in cleaning and carrying out necessary refurbishment or repair works to the Resident's Premises, interviewing and meeting with prospective new residents to ensure their suitability to life in the Village, and promoting and advertising the Resident's Premises.
- 48.3 "**Asset Replenishment Fee**" means the Resident's contribution towards major maintenance works or works of a capital nature to the Village, works of a substantial or infrequent nature for the Village, and is fixed at the amount specified in item 4 of Schedule One.
- 48.4 "**Business Day**" means a day other than a Saturday, Sunday or public holiday in Melbourne.
- 48.5 "**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.
- 48.1 "**Capital Sum**" means the amount set out in item 1 in Schedule One.
- 48.2 "**Chattels**" means the chattels owned by the Owner located in the Resident's Premises described in Schedule Two.
- 48.3 "**Commencement Date**" means the date this Contract commences, being the date set out on page 2 of this Contract.
- 48.4 "**Common Facilities**" means those areas, facilities or amenities of the Village set aside by the Owner from time to time for the enjoyment and common use of all the residents of the Village but excludes any building intended for the exclusive occupancy of any resident and any administrative areas.
- 48.5 "**Common Property**" means those areas and facilities on the Plan described as common property and set aside for the common use of all residents.
- 48.6 "**Contract**" means this contract including any schedules or annexures to this contract.
- 48.7 "**Deferred Fee**" means an amount equal to the amount set out in item 5 of Schedule One.
- 48.8 "**Eligible Resident**" means a retired person as defined in the Act, who is capable of independent living, is ambulant and suitable to reside in the Resident's Premises, and if required by the Owner, has been assessed by a medical practitioner as being so suitable to reside at the Resident's Premises.

- 48.9 **"Financial Year"** means each 12 month period commencing on the 1 July and terminating on the next succeeding 30 June.
- 48.10 **"Fixtures, Fittings and Furnishings"** means the fixtures, fittings and furnishings owned by the Owner in the Resident's Premises described in Schedule Two.
- 48.11 **"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.
- 48.12 **"GST Act"** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- 48.13 **"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).
- 48.14 **"Land"** means all the land in the Plan upon which the Village is built.
- 48.15 **"Lot Owner"** means all the members of the Owners Corporation.
- 48.16 **"Maintenance Charge"** means the charge payable by the Resident to the Owner as the Resident's contribution towards the Operating Costs.
- 48.17 **"Maintenance Fund"** means the fund to be established by the Owner (if the Owner has not already done so) and operated by the Owner to pay for the costs of repairs and maintenance of a substantial but infrequent nature and for the implementation of the Maintenance Plan. The Owner must expend monies from the fund for the purposes of:
- (a) implementing the Maintenance Plan; and
  - (b) any other expenditure the Owner deems beneficial to the Village generally, or for the benefit of the residents of the Village.
- 48.18 **"Maintenance Fund Contribution"** means the amount determined pursuant to clause 8.3 to be paid into the Maintenance Fund.
- 48.19 **"Maintenance Plan"** means a plan prepared that satisfies the requirements for a maintenance plan under the OC Act.
- 48.20 **"New Capital Sum"** means the new capital sum received from a New Resident in respect of the Resident's Premises.
- 48.21 **"New Resident"** means a new occupant of the Resident's Premises to be procured by the Owner, and who must be an Eligible Resident.
- 48.22 **"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).

- 48.23 "**OC Act**" means the *Owners Corporations Act 2006 (Vic)*.
- 48.24 "**Occupation Date**" means the date of the Resident's right to occupy the Resident's Premises, being the date set out on page 2 of this Contract
- 48.25 "**Operating Costs**" means the operating costs of the Village. This includes:
- (a) the cost of obtaining and providing 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, except rates, taxes, charges, fees and other similar outgoings which are separately assessed in respect of the Resident's Premises and are payable by the Resident or in respect of any other resident premises in the Village which are payable by any other resident;
  - (c) all charges for electricity, gas, 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) the cost of 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 Owner shall reasonably think fit;
  - (e) the salary or fee of the manager and any other employee or contractor appointed by the Owner, including long service leave and superannuation entitlements, payroll tax and their associated costs;
  - (f) subject to clause 18.2, any excess payable under any policy of insurance for the Village;
  - (g) all costs and charges associated with cleaning, lighting and incidental maintenance of repairs to the Common Facilities;
  - (h) all costs and expenses incurred by the Owner in complying with its maintenance and repair obligations under clause 16.4;
  - (i) the Maintenance Fund Contribution;
  - (j) subject to clause 14.2, the shortfall (if any) of the estimated expenses and outgoings of the Village for the previous Financial Year of the Village
  - (k) any other expenditure reasonably and properly incurred by the Owner in the operation of the Village; and
  - (l) any GST payable by the Owner with respect to the supply by the Owner of any goods, services or other things to the Resident of a kind referred to in this clause or as part of the services;
- less the value of any input tax credits accrued by the Owner with respect to the purchase of any goods, services or other things, the cost of which forms part of the Operating Costs.
- 48.26 "**Owner**" means Baptist Village Baxter Limited ACN 006 640 544 and includes its successors and assigns.



- 48.27 "**Owners Corporation**" means owners corporation plan no. RP15252.
- 48.28 "**Personal Representative**" has the same meaning as that term has for the purposes of the *Administration and Probate Act 1958* (Vic).
- 48.29 "**Personal Information**" has the meaning given in the Privacy Act.
- 48.30 "**Personal Services**" means additional services which the Owner may from time to time make available to the Resident on a user pays basis.
- 48.31 "**Plan**" means plan of strata subdivision RP15252.
- 48.32 "**Privacy Act**" means the *Privacy Act 1988 (Cth)* and includes the Australian Privacy Principles as defined in that Act.
- 48.33 "**Privacy Policy**" means any privacy policy adopted by the Owner from time to time for collecting, using and disclosing Personal Information of residents of the Village.
- 48.34 "**Resident**" means the party so named on page 2 of this Contract and, if there is more than one person named, the survivor or survivors of them.
- 48.35 "**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.
- 48.36 "**Resident's Premises**" means the premises so described on page 2 of this Contract and includes the garage or parking space (if any) described on page 2 of this Contract.
- 48.37 "**Services**" means the services set out in Schedule Three.
- 48.38 "**Unit**" means a unit in the Village, and where the context permits, includes the Resident's Premises.
- 48.39 "**Village**" means the land and improvements from time to time comprising the retirement village known as Rosebud Village located at 287-323 Bayview Road, Rosebud, Victoria, 3939.
- 48.40 "**Village Manager**" means the person or corporation appointed by the Owner to manage the day to day affairs of the Village.

#### 49 Interpretation

In this Contract, unless the contrary intention appears:

- 49.1 the singular includes the plural and vice versa;
- 49.2 words importing one gender include other genders;
- 49.3 a reference to a document or instrument, including this Contract, includes that document or instrument as novated, altered or replaced from time to time;
- 49.4 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa;
- 49.5 a reference to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;

- 49.6 other grammatical forms of defined words or expressions have corresponding meanings;
- 49.7 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;
- 49.8 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;
- 49.9 a recital, schedule, annexure or description of the parties forms part of this Contract;
- 49.10 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;
- 49.11 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;
- 49.12 all monetary amounts are in Australian dollars;
- 49.13 a party that is a trustee is bound both personally and in its capacity as trustee;
- 49.14 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
- 49.15 headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Contract.

**SCHEDULE ONE**

- |          |                                                     |                                                                                                                                                                                                                                                                                                                                                  |           |
|----------|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>1</b> | <b>Capital Sum:</b>                                 | \$                                                                                                                                                                                                                                                                                                                                               |           |
| <b>2</b> | <b>Maintenance Charge as at<br/>#[insert date]:</b> | \$                                                                                                                                                                                                                                                                                                                                               | per month |
| <b>3</b> | <b>Administrative Fee:</b>                          | 2% of the Capital Sum                                                                                                                                                                                                                                                                                                                            |           |
| <b>4</b> | <b>Asset Replenishment Fee:</b>                     | \$10,000.                                                                                                                                                                                                                                                                                                                                        |           |
| <b>5</b> | <b>Deferred Fee:</b>                                | An amount equal to 6% of the Capital Sum for each year or part of a year (rounded up to the next whole year) calculated from the earlier of the Occupation Date and the Commencement Date until the date that this Contract is terminated, provided that the Deferred Fee shall not be less than 12% and not be more than 30% of the Capital Sum |           |
| <b>6</b> | <b>Special conditions:</b>                          |                                                                                                                                                                                                                                                                                                                                                  |           |

**SCHEDULE TWO**

Fixtures, Fittings and Furnishings and Chattels provided by the Owner with the Resident's Premises to be maintained or replaced by the Resident:

Item	Tick if provided
Fixed floor coverings including carpets and tiles	
Internal window furnishings (curtains, blinds, shutters)	
Heater or heating system	
Stove/cooktop	
Light fittings	
Taps and bathroom fittings	
Ceiling fan	
Clothes line (in rear courtyard/garden)	
Ducted heating or cooling system	
External window furnishings (blinds, awnings)	
Flyscreens to windows or doors	
Power and telecommunications fittings (including data connection points)	
Rangehood	
Reverse cycle air-conditioning/heating system (including condenser)	
Solar energy equipment	
Telephone handset	
Dishwasher	
#	
#	
#	

Chattels:

Item	Tick if provided
Emergency duress pendant	
Garage remote control	
Oven	

### **SCHEDULE THREE SERVICES**

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

- 1 collecting the Maintenance Charges;
- 2 establishing (if not already established) the Maintenance Fund;
- 3 procuring a Maintenance Plan to be prepared and updating such plan as and when required;
- 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 (unless such charges are separately assessed in respect of individual units in the Village and are the responsibility of the residents of the Village);
- 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;
- 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;
- 7 attending to repairs and maintenance (including preventative maintenance) at the Village as set out in clause 16.4 of this Contract;
- 8 arranging for garbage and waste disposal for the Village from designated areas or receptacles in the Village and from the Common Facilities;
- 9 cleaning and lighting of the Common Facilities and any administration areas;
- 10 gardening, lawn mowing and landscaping of the Common Property;
- 11 arranging for the monitoring (on-site or off-site) of the emergency call system 24 hours a day by an appropriately trained person;
- 12 providing and maintaining fire protection systems for the Common Facilities and any administration areas;
- 13 maintaining the security of the Village, including the emergency call system;
- 14 administering and generally managing (on or off site) the Village, including engaging any staff for the proper and efficient management of the Village,
- 15 lease, hire, buy or otherwise obtain the use of a motor vehicle (of a size and type to be determined by the Owner 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 Owner; the usual maintenance and operation of any Village vehicles, including replacement of any such vehicles
- 16 arranging for the maintenance, operation and licensing of the Village vehicles, and the replacement of any such vehicles; and
- 17 such other services as the Owner shall agree from time to time to provide to the residents of the Village.

## **SCHEDULE FOUR COVENANTS BY RESIDENT**

The Resident covenants as follows:

**1 Electricity services**

to use the Village electricity networks as required. The Resident acknowledges that these networks are integral to the overall security system for emergency alarms and fire detection within the Village;

**2 Interference with services and service networks**

not to interfere with the telephone, electricity, gas or other service installation or network in the Resident's Premises, or to install any other telephone, electricity or other service network at the Resident's Premises without the prior written consent of the Owner;

**3 Emergency call system**

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

**4 Pets**

4.1 not to bring or keep at the Resident's Premises any bird, animal or reptile provided that the Owner 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;

4.2 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 Facilities or Common Property for the purposes of ingress and egress from the Resident's Premises;

**5 Damage to Resident's Premises or village**

to make good at the Resident's cost, any damage which may be caused by the Resident to the Resident's Premises or to any part of the Village by reason of any act or omission on the part of the Resident;

**6 By-laws**

to comply and ensure that the Resident's guests and invitees comply with the by-laws, and with any resolutions of the residents committee;

**7 Reimbursement for repairs**

to reimburse the Owner upon demand the cost of any repairs or other works carried out by the Owner arising from the deliberate or negligent act of the Resident or any guest or invitee of the Resident;

**8 Unreasonable demands**

not to make unreasonable demands:

8.1 of or harass or bully the Owner or any staff or other persons engaged by the Owner;

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

**9 No nuisance**

not to do or allow the Resident's guests or invitees to do anything within the Village which may be in the Owner's reasonable opinion a nuisance, annoyance or disturbance to other residents and their guests; or harm the staff, other residents and their guests and neighbours of the Village or anything illegal;

**10 Antennae and aerials**

to observe any regulations made from time to time by the Owner 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;

**11 No dangerous goods**

not to store or permit to be stored in the Resident's Premises or any part of the Common Facilities or Common Property any dangerous materials or goods;

**12 Insurance policies**

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

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

12.2 render cover under such policies to be denied; or

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

**13 Fire regulations**

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

**14 No auction**

not to hold or permit to be held any sale or auction in the Resident's Premises or on any part of the Common Facilities without the prior written consent of the Owner;

**15 Signs**

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

**16 Absences**

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 Owner;

**17 Will and power of attorney**

to advise the Owner of:

- 17.1 the name and address of the executor appointed in the Resident's will (if any); and
- 17.2 any power of attorney made by the Resident and to whom the power is granted;

**18 Notification of illness, infectious disease or notifiable condition**

to:

- 18.1 notify the Owner:
  - 18.1.1 of any illness, infectious disease or notifiable condition (as defined in the *Public Health and Wellbeing Act 2008 (Vic)*) that is contracted by or in any way affects the Resident or any guest or occupier of the Resident's Premises; and
  - 18.1.2 if the Resident has been in contact with others who have contracted an infectious disease or notifiable condition that may put the Resident, other residents of the Village, the Owner or the Owner's employees or contractors at risk;
- 18.2 take all steps reasonably requested by and comply with any reasonable procedures or directions implemented by the Owner in connection with infection control including, if requested by the Owner, fumigate and disinfect the Resident's Premises (if applicable, to the satisfaction of the relevant authority), at the Resident's expense. The Owner may also engage contractors to undertake such fumigation and disinfection at the Resident's expense.

**19 Gardens and plants**

- 19.1 not to, without the prior written consent of the Owner:
  - 19.1.1 alter, modify or interfere with any gardens established at the Village or remove any plants that have been planted at the Village by or on behalf of the Owner;
  - 19.1.2 plant any plants that have been declared noxious weeds by any local government, statutory or other relevant authority;
  - 19.1.3 alter, modify or interfere with the shape of existing lawn areas by way of plants or otherwise;
  - 19.1.4 interfere with lawn mowing carried out by or on behalf of the Owner;
  - 19.1.5 remove, extend or interfere with any retaining walls, safety barrier fencing erected above any retaining walls or other like structures erected at the Village by or on behalf of the Owner;



19.2 to landscape and maintain designated garden beds within the Resident's Premises including, keeping garden beds free of weeds;

**20 Common Facilities**

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

**21 Storage**

to not 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 Owner, and then only on the terms and subject to the conditions that may be set out in such written consent, regulations or rules;

**22 Noise**

to not 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 10.00 pm and 8.00 am;

**23 Washing**

to not 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;

**24 Rubbish**

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

**25 Compliance with laws**

to not use or allow the Resident's Premises be used so as to cause any breach of any act of parliament or any regulation or by law;

**26 Compliance with orders**

to comply with any order or direction lawfully made or given under any act of parliament, 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 of or in the course of doing so to the Common Property or to any other units in the Village;

**27 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 Village in favour of the Resident), not to lodge a caveat or any form of security against any of the titles to the Village.

**SCHEDULE FIVE  
COVENANTS BY THE OWNER**

The Owner covenants as follows:

**1 Quiet enjoyment**

- 1.1 to allow the Resident to occupy the Resident's Premises without any interruption or disturbance by the Owner or any persons claiming through under or in trust for the Owner so long as the Resident complies with the terms of this Contract;
- 1.2 provided the by-laws are complied with by the Resident, to allow the Resident to use and enjoy the Common Facilities together with other residents of the Village;

**2 Services**

to provide the Services;

**3 Rates and taxes**

to pay all municipal and other statutory rates and charges referred to in clause 48.25(b);

**4 Insurance**

to maintain the insurances described in clause 48.25(d) and to effect any other insurance with respect to the Village which the Owner is required by law to take out;

**5 Maintenance Fund**

to 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 Owner must expend monies from the fund for the purposes of the Maintenance Fund:

**6 Maintenance Plan**

to:

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

**7 Health Care Worker**

to employ a qualified health care worker who is available during the Normal Hours who will:

- 7.1 be available to provide general first aid, supervision and emergency services for the residents during the Normal Hours. The nature and extent of those services will be determined by the Owner having regard to the nature of the Village and the ability of the worker to spread those services equitably to all residents in the Village needing to have recourse to those services;
- 7.2 assist (if required) any doctor who conducts consultations at the Village on a regular basis;

- 7.3 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 worker; and

**8 Welfare of residents**

unless requested not to do so by the Resident, to assist the Resident in settling in as a resident of the Village and to use its best endeavours to promote the physical, mental, moral and spiritual welfare of the Resident.

## **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 set out below.

### **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 COMMITTEES AND SUB-COMMITTEES**

##### **2.1 Functions, powers and reporting of committees and sub-committees**

A committee may appoint members to a sub-committee without reference to the owners corporation.

#### **3 MANAGEMENT AND ADMINISTRATION**

##### **3.1 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.

## **4 USE OF COMMON PROPERTY**

### **4.1 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 the owner or occupier's 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.

### **4.2 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.

### **4.3 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.

## **5 LOTS**

### **5.1 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.

### **5.2 External appearance of lots**

- (1) An owner or occupier of a lot must obtain the written approval of the owners corporation before making any changes to the external appearance of their lot.
- (2) An owners corporation cannot unreasonably withhold approval, but may give approval subject to reasonable conditions to protect quiet enjoyment of other lot owners, structural integrity or the value of other lots and/or common property.

### **5.3 Requiring notice to the owners corporation of renovations to lots**

An owner or occupier of a lot must notify the owners corporation when undertaking any renovations or other works that may affect the common property and/or other lot owners' or occupiers' enjoyment of the common property.

## **6 BEHAVIOUR OF PERSONS**

### **6.1 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.

### **6.2 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.

**7 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 the party's behalf at the meeting.
- (7) If the dispute is not resolved, the grievance committee or owners corporation must notify each party of the party's 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*.

## SCHEDULE SEVEN

### SUMMARY OF SECTIONS 16(2), (3) AND (5) OF THE RETIREMENT VILLAGES ACT 1986

16(2) If a resident is in breach of the agreement, The Owner may serve on the resident a notice ("**first notice**") specifying the breach and:

- (a) requiring the breach to be remedied; or
- (b) if the breach is not capable of being remedied, requiring the resident to cease committing the breach;

within 28 days after the date of service of the first notice.

16(3) If:

- (a) The Owner has served on the resident the first notice;
- (b) the resident has not complied with the first notice at the end of the 28 day period after the date of service of the first notice; and
- (c) the breach specified in the first notice is substantial.

The Owner may serve on the resident a second notice ("**second notice**") specifying the breach and requiring the resident to leave the village on or before a specified date. This date must be at least 60 days after the service of the second notice.

16(5) If:

- (a) the residence contract authorises the giving of the notice by The Owner; and
- (b) the notice includes a certificate signed by two medical practitioners, one of whom is nominated by the resident, stating that the resident needs care of a kind which is not available to a resident of an independent living unit at the village;

The Owner may serve on the resident a notice requiring the resident to leave the village within 14 days after the service of that notice.



**EXECUTED** as a contract

**SIGNED** for and on behalf of **THE OWNER**  
in the presence of:

\_\_\_\_\_  
Owner Representative Signature

\_\_\_\_\_  
Owner Representative : Print Name

Witnessed by

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
**SIGNED** by **THE RESIDENT** in the presence of:

\_\_\_\_\_  
Resident 1 Signature

\_\_\_\_\_  
Resident 1 : Print Name

Witnessed by

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
**SIGNED** by **THE RESIDENT** in the presence of:

\_\_\_\_\_  
Resident 2 Signature

\_\_\_\_\_  
Resident 2 : Print Name

Witnessed by

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Name

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