



Russell Kennedy
Lawyers

BAPTIST VILLAGE BAXTER LIMITED

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

##[INSERT FULL NAME OF RESIDENT1]

##[INSERT FULL NAME OF RESIDENT2]

Resident's Premises: Unit ## The Village Baxter Retirement Village
##[Insert Resident's Premises line 2/Street address]

Regulation 14(3)

**THE VILLAGE BAXTER RETIREMENT 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: **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 **##[Insert Resident(s) address line 1]**
##[Insert Resident(s) address line 2]

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

Address of Resident's Premises: Unit **##** The Village Baxter Retirement Village
##[Insert Resident's Premises line 2/Street address]

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

Date contract commences (*if different from above*): _____
(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 car space/garage included with lease of unit]**

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.

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 licence of the Resident's Premises together with the Fixtures, Fittings and Furnishings, and the right to use the Chattels to the Resident 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)]

The Resident must pay:

- 8.1 the Maintenance Charge to the Owner, payable in the manner as directed by the Owner on the 1st day of each month or at such other interval as the Owner may at its discretion determine. 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 commencement Date and will be calculated on a pro rata daily basis until the end of the relevant month.

- 8.2 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; or
 - (c) the expiration of 6 months after the Resident provides vacant possession of the Resident's Premises to the Owner;
- 8.3 all charges for electricity, gas, telephone and all other utilities and services in respect of the Resident's Premises. 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.

9 Costs payable on departure [refer to regulation 11(2)(l)]

Upon the earliest to occur of the following:

- 9.1 14 days after the Owner receives the New Capital Sum from the New Resident;
- 9.2 14 days after the New Resident takes up permanent occupation of the Resident's Premises; and
- 9.3 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 following amounts to the Owner:

- 9.4 the Deferred Fee;
- 9.5 the Administrative Fee;
- 9.6 the Asset Replenishment Fee;
- 9.7 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 clause 16.2;
- 9.8 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;
- 9.9 any Maintenance Charges or other moneys owing by the Resident to the Owner under this Contract or otherwise; and
- 9.10 any GST which the Owner is liable to pay on the amounts referred to in clauses 9.4 to 9.9.

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 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 16.1 and 16.2. 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.

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 (or if the Resident's Premises are sold, the proceeds of sale) 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 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 a surplus after payment of the Operating Costs in any Financial Year, the surplus shall be retained by the Owner for the purpose of future major maintenance works or works of a capital nature to the Village.

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

- 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 through fair wear and tear;
- (b) replacing any items such as fixed floor coverings and window furnishings 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) maintaining the garden within the Resident's Premises, excluding lawn mowing and maintaining the retaining walls constructed by the Owner;
- (f) ensuring that paving is not installed to any of the garden areas within 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 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.

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) contents insurance with respect to the Resident's Premises up to a maximum amount of \$25,000 for each unit, or such other amount as determined by the Owner in its absolute discretion from time to time;
 - (c) public liability insurance;
 - (d) workers compensation, common law and statutory liability insurance in respect of employees employed by the Owner for the Village; and
 - (e) 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 form part of the Operating Costs of the Village, and must be funded from the maintenance charges payable by the residents of the Village.
- 18.3 The Owner will not procure insurance for the contents of the Resident's Premises in excess of \$25,000 or public liability insurance with respect to the Resident's Premises. It is recommended that the Resident arrange insurance for the contents of the Resident's Premises if the Resident requires insurance cover of more than \$25,000.

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

The Owner must consult with the resident committee (if any) or the residents if there is no resident committee, if there is to be a material change in the Services to be provided under this Contract by the Owner.

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 paint the interior or exterior of the Resident's Premises without the written consent of the Owner.

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, 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)*

- (a) The Resident must not:
 - (i) 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;
 - (ii) assign or sublet any right to use a car park area without the Owner's prior written consent; or
 - (iii) use any area for car parking purposes within the Village which is not designated for car parking.

- (b) The Resident may apply to the Owner for the right to occupy, use or construct a carport or a lock-up garage. If the Owner in its discretion grants such rights, it may do so on such terms as then apply to the use of such carports or garages at the Village.

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; and
- (c) advise the Owner within 24 hours of the arrival of any guest of the Resident intending to occupy the Resident's Premises.

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) 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
 - (iii) 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 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 Resident's Authority

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 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.

26 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.

27 Maintenance charge

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:

- 27.1 note such shortfall as an expense item in the Village accounts for the succeeding Financial Year; or
- 27.2 impose a special levy on the residents to cover such shortfall pursuant to section 38(6) of the Act.

28 Disposal of Resident's Premises

28.1 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.

28.2 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.

29 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.

30 Acknowledgement of condition of Resident's Premises

30.1 The Resident acknowledges that:

- (a) a previous resident may have carried out alterations, additions or improvements ("**alterations**") to the Resident's Premises;
- (b) the onus is on the Resident to ascertain what, if any, alterations have been carried out to the Resident's Premises;
- (c) the Owner accepts no responsibility for the repair or maintenance of the alterations.

30.2 The Resident must repair and maintain the alterations. The Resident's failure to ascertain whether the alterations (if any) have been carried out by a previous resident does not release the Resident from its obligations under this clause.

30.3 If the Resident is unwilling or unable to effect any necessary repair or maintenance works to the alterations, the Owner may remove the alterations at the Owner's cost.

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.

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

Subject to any legislation to the contrary, 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.

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 Acknowledgment

The Resident acknowledges that no representations have been made to the Resident regarding any entitlement to medical, hostel or nursing home care in the Village or to any priority in respect of these matters.

35 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.

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

To The Owner: the Owner' 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 Retirement Villages Act 1986

The Resident acknowledges that the Resident has received a copy of this Contract, the factsheet and disclosure statement as defined in the Act, and the Resident acknowledges that the Resident has been notified of the Resident's right to inspect the prescribed documents as referred to in the Act, at least 21 days before the Resident signed this Contract.

42 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.

43 Accrued rights

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

44 Legal Personal Representatives

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

45 Privacy

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

45.2 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.

- 45.3 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.

46 Applicable law

This Contract is governed by the laws of Victoria.

47 General

- 47.1 Where the Resident consists of more than one person, all obligations of the Resident pursuant to this Contract bind the parties jointly and severally.
- 47.2 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.
- 47.3 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.
- 47.4 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.
- 47.5 Any provision of this Contract capable of having effect after termination of this Contract continues to have full force and effect notwithstanding such termination.

48 Special conditions

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

49 Definitions

- 49.1 "**Act**" means the Retirement Villages Act 1986 (Vic).
- 49.2 "**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.
- 49.3 "**Asset Replenishment Fee**" means the Resident's contribution towards major maintenance works or works of a capital nature to the Village, of a substantial or infrequent nature, and is fixed at the amount specified in item 4 of Schedule One.
- 49.4 "**Business Day**" means a day other than a Saturday, Sunday or public holiday in Melbourne.

- 49.5 "**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.
- 49.1 "**Capital Sum**" means the amount set out in item 1 in Schedule One.
- 49.2 "**Chattels**" means the chattels owned by the Owner located in the Resident's Premises described in Schedule Two.
- 49.3 "**Commencement Date**" means the date this Contract commences, being the date set out on page 2 of this Contract.
- 49.4 "**Common Facilities**" means those facilities located on that part of the Village intended for the use of all residents of the Village but excludes any building intended for the exclusive occupancy of any resident.
- 49.5 "**Contract**" means this contract including any schedules or annexures to this contract.
- 49.6 "**Deferred Fee**" means an amount equal to the amount set out in item 5 of Schedule One.
- 49.7 "**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.
- 49.8 "**Financial Year**" means each 12 month period commencing on the 1 July and terminating on the next succeeding 30 June.
- 49.9 "**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.
- 49.10 "**GST Act**" means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- 49.11 "**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).
- 49.12 "**Maintenance Charge**" means the charge payable by the Resident to the Owner as the Resident's contribution towards the Operating Costs.
- 49.13 "**New Capital Sum**" means the new capital sum received from a New Resident in respect of the Resident's Premises.
- 49.14 "**New Resident**" means a new occupant of the Resident's Premises to be procured by the Owner, and who must be an Eligible Resident.
- 49.15 "**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

- 49.16 **"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 of the Common Facilities and any administration areas;
 - (d) the cost of all premiums for insurances in respect of the Village (including the Common Facilities, the administration areas and all buildings in the Village) including building reinstatement insurance, machinery breakdown insurance, contents insurance for the units at the Village (up to the maximum amount of \$25,000 for each unit or such other amount determined by the Owner in its absolute discretion from time to time), public liability insurance, workers compensation, common law and statutory liability insurance in respect of employees employed by the Owner for the Village and any other insurances deemed necessary by the Owner, all such insurance to be in respect of such amounts and with such extensions and exclusions 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 27, the shortfall (if any) of the estimated expenses and outgoings of the Village for the previous Financial Year of the Village;
 - (g) any other expenditure reasonably and properly incurred by the Owner in the operation of the Village; and
 - (h) 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.

- 49.17 **"Personal Representative"** has the same meaning as that term has for the purposes of the *Administration and Probate Act 1958* (Vic).
- 49.18 **"Personal Information"** has the meaning given in the Privacy Act.
- 49.19 **"Privacy Act"** means the *Privacy Act 1988 (Cth)* and includes the Australian Privacy Principles as defined in that Act.
- 49.20 **"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.

- 49.21 "**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.
- 49.22 "**Services**" means the services set out in Schedule Three.
- 49.23 "**Unit**" means a unit in the Village, and where the context permits, includes the Resident's Premises.
- 49.24 "**Village**" means the land and improvements from time to time comprising the retirement village known as The Village Baxter situated at 8 Robyns Road, Frankston South, Victoria.

50 Interpretation

In this Contract, unless the contrary intention appears:

- 50.1 the singular includes the plural and vice versa;
- 50.2 words importing one gender include other genders;
- 50.3 a reference to a document or instrument, including this Contract, includes that document or instrument as novated, altered or replaced from time to time;
- 50.4 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa;
- 50.5 a reference to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;
- 50.6 other grammatical forms of defined words or expressions have corresponding meanings;
- 50.7 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;
- 50.8 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;
- 50.9 a recital, schedule, annexure or description of the parties forms part of this Contract;
- 50.10 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;
- 50.11 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;
- 50.12 all monetary amounts are in Australian dollars;

- 50.13 a party that is a trustee is bound both personally and in its capacity as trustee;
- 50.14 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
- 50.15 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 | Capital Sum: | \$ |
| 2 | Maintenance Charge as at [insert date]: | \$ per month |
| 3 | Administrative Fee: | 2% of the Capital Sum |
| 4 | Asset Replenishment Fee: | \$2,000 for each year or part of a year (rounded up to the next whole year) calculated from the Commencement Date until the date that this Contract is terminated, to a maximum of \$10,000 |
| 5 | Deferred Fee: | 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 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 |
| 6 | Special conditions: | |

SCHEDULE TWO

Fixtures, Fittings and Furnishings provided by the Owner with the Resident's Premises:

Item	Tick if provided
Fixed floor coverings	
Internal window furnishings (curtains, blinds, shutters)	
Hot water system	
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)	
Security screen door	
Smoke detectors/alarms	
Solar energy equipment	
Telephone handset	
Water tank	

Chattels:

Item	Tick if provided
Emergency duress pendant	
Garage remote control	
Oven	

SCHEDULE THREE SERVICES

The Owner agrees to provide the Services which at the date of this Contract comprise the following:

- 1 collecting the maintenance charges;
- 2 arranging for garbage and waste disposal;
- 3 cleaning and lighting of the Common Facilities and any administration areas;
- 4 gardening, lawn mowing and landscaping of the Common Facilities;
- 5 arranging for the maintenance, repair and replacement of the Common Facilities and the administration areas (including fixtures, fittings and furnishings, plant and equipment, furniture and all mechanical and other services) and the external surfaces of any building or structure at the Village (excluding any external structures erected by the Resident or any other residents of the Village), and excluding maintenance and repair which is the responsibility of the Resident under this Contract or of any other resident. The Owner may replace any item which it is obliged to repair under this clause, where in the Owner's reasonable opinion, to repair that item would be uneconomical;
- 6 arranging for the maintenance of the fire protection systems for the Common Facilities and any administration areas, including providing and maintaining any fire alarms or fire protection systems;
- 7 arranging for the monitoring of the emergency call system;
- 8 maintaining the security of the Village (including the emergency call system);
- 9 the administration and general management of the Village including any off-site management and administrative services provided by or to the Owner in connection with its management of the Village;
- 10 the maintenance, operation and licensing of any Village motor vehicles; and
- 11 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 and telephone services

to use the Village phone and 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 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;

4 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;

5 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;

6 No nuisance

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

7 No dangerous goods

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

8 Insurance policies

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

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

8.2 render cover under such policies to be denied; or

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

9 Fire regulations

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

10 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;

11 Signs

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

12 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;

13 Will and power of attorney

to advise the Owner of:

13.1 the name and address of the executor appointed in the Resident's will (if any);
and

13.2 any power of attorney made by the Resident and to whom the power is granted;

14 Illness

to notify the Owner of any infectious or contagious illness that affects the Resident or any occupier of the Resident's Premises;

15 Gardens and plants

15.1 not to, without the prior written consent of the Owner:

15.1.1 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;

15.1.2 plant any plants that have been declared noxious weeds by any local government, statutory or other relevant authority;

15.1.3 alter, modify or interfere with the shape of existing lawn areas by way of plants or otherwise;

15.1.4 interfere with lawn mowing carried out by or on behalf of the Owner;

15.1.5 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;

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

16 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 49.16(b);

4 Insurance

to maintain the insurances described in clause 49.16(d) and to effect any other insurance with respect to the Village which the Owner is required by law to take out;

5 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

1 INTERPRETATION

As per Clause 1 in Occupancy Agreement.

2 UNOCCUPIED UNITS

The Resident shall advise BVB if he intended to be or is likely to be absent from the demised premises for any period exceeding seven days.

The Resident shall not without first advising BVB in writing of his intention to do so allow the Premises to remain unoccupied for any one continuous period in excess of sixty days.

3 CHARGE FOR UTILITIES

The Resident shall be liable for and shall pay on or before the due date all telephone service and rental charges and charges for use or consumption of gas and electricity where separately metered that may be payable in respect of the Premises.

4 CARE OF PREMISES

The Resident shall maintain the Premises and every part thereof tidy and free from rubbish and vermin and in a state of good repair (fair wear and tear, damage by fire, storm and tempest or act of God excepted) and shall leave the Premises in good repair. Further, the Resident covenants to exercise proper and reasonable care when using any of the common facilities of the Village.

5 ALTERATION TO PREMISES

The Resident shall not, without the prior consent in writing of BVB, and then only on the terms and subject to the conditions as in any such written consent may be specified, paint or permit to be painted, or make or permit to be made alterations or additions whether structural or otherwise to the interior or exterior of the Premises or any part thereof. Such alterations or additions shall become and remain the property of BVB without financial compensation to the resident unless BVB in its discretion otherwise determines.

6 ACCESS AND INSPECTION OF PREMISES

The Resident shall permit BVB, its servants or agents to enter the premises after due notice without interference by the Resident if it is:

- reasonably believed that a potential risk or emergency situation exists, or
- necessary to view the state of repair of the premises.

If it is considered by BVB that the condition of the premises is not consistent with fair wear and tear or has sustained damage due to a negligent act of the Resident, such repairs to the premises will be at the cost of the Resident.

7 DAMAGE TO VILLAGE PROPERTY

The Resident may be required at his own cost to make good any damage which may be caused to the Premises or to any part of the Village by reason of any act or omission or by

reason of any neglect or negligence on the part of the Resident or any guest or visitor of the Resident.

When the cost of repair or replacement of damaged property is believed to be covered by insurance,

BVB undertakes to lodge a claim under the relevant policy. The decision of insurers will determine whether any act or omission constitutes neglect or negligence.

8 UNREASONABLE DEMANDS

The Resident shall not make unreasonable demands on the time of any of the staff or employees.

9 PREMISES FOR RESIDENTIAL USE ONLY

The Resident shall during the continuance of the Term use the Premises for residential purposes only unless the Resident shall have first obtained the written consent of the BVB.

10 WRONGFUL USE OF PREMISES

The Resident shall not use the Premises or any part of the Village or permit the same to be used for any illegal purposes or in breach of any By-Laws of the Village. Nor shall the Resident act in such a manner as unreasonably to interfere with the use and enjoyment of the Village or to cause a disturbance, nuisance or a hazard, or to be offensive to another Resident or his family or visitors or to employees of or contractors to BVB or to owners or occupiers of any property adjoining the Village.

11 STORAGE OF GOODS

The Resident shall not store or permit to be stored on the Premises, or any part of the Village, any material or goods other than material or goods reasonably required by the Resident for use for household or recreational purposes unless BVB first consents thereto and which consent may be revoked by BVB at any time. Nor shall the Resident do or permit anything to be done which may in any way invalidate or violate the terms of any relevant insurance policy or which might cause the premium thereon to be increased.

12 PETS

The Resident shall not keep or permit to be kept on the Premises or on any part of the common areas any animal or bird without the prior written consent of BVB. The Resident acknowledges the right of BVB to revoke or withdraw such consent if any pet creates a nuisance which does not cease within a reasonable time after notice thereof is given by BVB to the Resident. The Resident shall ensure that proper control is maintained over pets brought into the Village by his visitors, and in the case of a dog, such animal must be restrained on a leash at all times.

13 SALES

The Resident shall not without the prior written consent of BVB permit any public sale whether by auction or otherwise to be held or conducted on the Premises or on any part of the common areas.

14 SUB-TENANCIES

The Resident shall not grant any occupancy right or sub-licence or sub-let the Premises or assign any of his rights and entitlements hereunder without the express consent of BVB,

and the provisions of Section 144 of the Property Law Act 1958 as amended or re-enacted from time to time (if applicable) are hereby expressly excluded.

15 **GUESTS STAYING IN VILLAGE**

The Resident shall not permit any person to occupy the Premises for any aggregate period longer than four weeks in any twelve months without the prior consent of BVB. During this time the Resident shall also reside on the Premises unless BVB consents to his absence.

16 **VISITORS**

Residents are encouraged to have their family and friends within the Village, but are requested to ask their guests to show full consideration for the common areas and for the safety and property of residents.

17 **VEHICLE USE**

The Resident and his visitors shall ensure that vehicles are parked in the garages, carports or parking bays provided around the Village and not driven or parked on the grassed areas or in any place which would restrict emergency access. Speed limits as indicated by signs within the Village must be observed by residents and visitors.

18 **BREACHES BY VISITORS OR GUESTS**

The Resident shall be responsible for the behaviour of any of his visitors or guests and for their breach of any of the By-Laws herein contained.

19 **COSTS OF RECTIFYING BREACH**

The Resident shall pay any costs, charges and expenses which BVB may reasonably incur or expend in consequence of any default by the Resident in the performance or observance of any By-Law herein contained.

20 **REMOVAL OF BELONGINGS**

On the death of a Resident BVB may, after a seven day period (for Hostel Residents) and after a fourteen day period for (Independent Living Unit Residents), enter the Premises to remove therefrom to place in storage any or all personal belongs of the Resident at the cost of the estate. BVB may exercise a similar right if a Resident transfers to any other section of the Village or to any external institution and appears reasonably to BVB to be unlikely to retain to occupancy of the Premises.

If it is not reasonably practicable for BVB to obtain either the express permission of the Resident or of his notified next of kin or executor BVB shall require no further or other permission than is expressed herein.

21 **WILLS**

The Resident shall make a valid Will and keep BVB informed of its location.

22 **VILLAGE AMENITIES AND ACTIVITIES**

In any case in which entitlement to the use and control of village amenities or activities areas has been granted to a resident club or association, the Resident shall make use of those amenities or facilities only in accordance with the proper rules and directions of that club or association and shall pay any prescribed club fee.

23 GAMBLING

Gambling will not be permitted in the common areas of the Village. However approval may be granted to conduct a limited raffle according to the following criteria:

1. Prize value to maximum of \$200.00.
2. All proceeds of the raffle must be used within the Village.
3. Each raffle must be approved by the Village Baxter Residents Committee.
4. The Committee shall approve only a limited number of raffles per year.

24 ALCOHOL

Alcoholic beverages shall not be kept, served or consumed within any of the common areas of the Village.

25 GENERAL

These By-Laws have been drawn up to ensure that Residents have full rights to live together in harmony in the Village. It is recognised that only a limited number of definitions have been included in By-Law 1 and should it be necessary at any time to define other words or terms herein BVB will endeavour to ensure that its rulings are fair and reasonable with due regard to the comfort and well being of the Residents.

26 AMENDMENTS TO BY-LAWS

The addition of any new By-Law the revocation or alteration of an existing By-Law may be made only in accordance with the provisions of the Retirement Villages Act 1986.

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:)

.....

.....
Witness

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

.....

.....
Witness

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

.....

.....
Witness

SIGNED by **THE RESIDENT** by his 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 her 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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