



# OCCUPATION RIGHT AGREEMENT

[RESIDENT 1 NAME]

[RESIDENT 2 NAME]

[HOME NAME]

[Insert village name]

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**PARTIES**

- 1 [Insert Resident One] (you)
- 2 *Optional:* [Insert Resident Two] (together, you)
- 3 Bupa Retirement Villages Limited (we or us)

Date of this Agreement:

**INTRODUCTION**

We own the Village and you have applied to be a resident. This Agreement sets out the terms and conditions that apply to the licence we grant to you to occupy your Home in the Village.

You and we acknowledge and agree the following:

**1 ESSENTIAL INFORMATION**

1.1	<b>Village</b>	<b>[Insert registered name of village] at [insert physical address of village]</b>
1.2	<b>Your Home</b>	<b>[insert home number] [Apartment/Villa/Serviced Apartment]</b>
1.3	<b>Commencement Date</b> <i>This is the date all obligations in this Agreement come into effect and from which you can live in your Home</i>	<b>[insert date]</b> or such later date agreed between you and us
1.4	<b>Target Completion Date</b> <i>This is the date we anticipate your Home will be practically completed</i>	<b>Not applicable/[insert date]</b>
1.5	<b>Entry Payment</b> <i>This is the amount you pay for the right to live in your Home</i> <i>For more, see clause 2.1</i>	<b>[\$[insert]]</b>
1.6	<b>Amenities Fee</b> <i>This is the amount we deduct at the end of this Agreement</i> <i>For more, see clauses 11.3 to 11.7</i>	<b>Maximum amount of \$[insert]</b>  (being equal to [28% if one person is named, 30% if two people are named, or such other percentage as recorded in Schedule 4 that we have agreed with you] of the Entry Payment)

1.7	<b>Village Fee</b>  <i>This is the amount you will pay us during the term of this Agreement. The Village Fee is invoiced monthly based on the daily rate. Therefore, the Village Fee amount per month will vary depending on the number of days in that month.</i>  <i>For more, see clause 4.1</i>	\$ <b>per week</b>  (based on \$    per day)  Your Village Fee is [Fixed  OR  Variable and will increase each year in accordance with clause 4.1(b)]
1.8	<b>Services Fee</b>  <i>This is the cost of the Services for Serviced Apartments</i>  <i>For more, see clauses 4.2 to 4.5</i>	\$ <b>per week – for serviced apartments/ Not applicable - for other homes</b>  (based on \$    per day)  Your Services Fee is fixed.
1.9	<b>Additional Services Fee</b>  <i>For more, see clauses 4.6 to 4.9</i>	This cost will depend on the Additional Services you select and is subject to change.
1.10	<b>Special Provisions</b>	See Schedule 4

## 2 LIVING IN YOUR HOME

- 2.1 On the Commencement Date you must pay us the Entry Payment. You will not be entitled to occupy your Home until you have paid the Entry Payment in full.
- 2.2 We and you each appoint the Statutory Supervisor as the stakeholder to hold any deposit or other payments you make towards your Entry Payment in accordance with the Deed of Supervision.

### *Nature of your right*

- 2.3 We grant to you, and you accept a licence to occupy the Home from the Commencement Date on the terms of this Agreement. You are entitled to reasonable exclusive use and occupation of your Home and we will not disturb you unless we need to.
- 2.4 The rights granted to you under this Agreement are personal contractual rights only and cannot be registered. This Agreement does not give you any ownership right or tenancy in the Village or your Home.
- 2.5 Subject to any of the rights expressly granted to you under this Agreement, you are not entitled to transfer your rights under this Agreement or any interest in this Agreement, or to sublicense or allow any other person to occupy your Home. If during the term of this Agreement, you marry or enter into a civil

union, there will be no change to this Agreement and it will remain in your sole name. If you wish for your spouse or partner to occupy the Home with you then, provided that they meet our terms and conditions for entry, we may consent and if so will require you and your spouse or partner to sign a Long Term Guest Agreement (on our then current terms) setting out the terms of occupation by your spouse or partner.

- 2.6 If you get our written consent, you may borrow against, or grant a security interest over, your right to receive the Exit Payment. However, you are not entitled to borrow against, or grant any security interest, over your interest in your Home.

### **Joint owners**

- 2.7 If this Agreement was originally for two of you, you both hold the benefits and have obligations under this Agreement jointly. If one of you dies, the interest of that person automatically transfers to the other person. No transfer of your rights into the name of your personal representative (following death) is permitted.

### **Guests**

- 2.8 Your Home is only for your own personal use and occupation.
- 2.9 You may have up to two guests (including a companion or carer) stay with you for up to four weeks in any 12-month period. If you get our consent, you may have guests stay longer or have a larger number of guests. We may require any guest to leave if we consider on reasonable grounds that other residents' enjoyment of the Village is negatively affected by the guest's presence.

### **Parking**

- 2.10 If a garage is part of your Home, you may use it for parking your motor vehicle. Some uncovered car parks may be available for general unallocated resident's use.
- 2.11 You may request a covered car park if the Disclosure Statement states that this Village offers them for licence. If one is available, we will grant you a licence for a covered car park under a separate licence agreement.
- 2.12 Unless we grant you written consent, you may not use any car park for parking caravans, boats, trailers, motorhomes or similar.
- 2.13 Your guests may only park a vehicle in the car parks set aside for visitor parking or in your designated car park (if it is not being used, while your guest is visiting you).

### **3 LIVING AT THE VILLAGE**

#### ***Your rights***

- 3.1 We will ensure that we, all people who work at the Village and all service providers at the Village treat you with courtesy, respect your rights and do not exploit you.
- 3.2 You are entitled to all the rights under the Code of Residents' Rights.
- 3.3 The Code of Practice applies to this Agreement. We will comply with our responsibilities as set out in the Code of Practice.
- 3.4 We will give you at least one month's notice and consult with you about any proposed changes in your payments, or the services or benefits we provide, that will or might have a material impact on your occupancy or your ability to pay for the services and benefits we provide.
- 3.5 We will promptly notify you about any matter that would or might have a material impact on:
  - (a) your right to occupy your Home, or your rights to quiet enjoyment; and
  - (b) your payments in consideration of your right to occupy your Home or your right to services and/or facilities within the Village.

#### ***Conduct in the Village***

- 3.6 You agree to comply with our Village Rules and to ensure that your guests are made aware of, and comply with, the Rules (as applicable to guests).
- 3.7 We may change the Rules to address any health and safety concerns, regulatory changes and/or where we reasonably consider a change is warranted for the benefit of residents or proper operation of the Village, provided we give you reasonable notice and consult with residents first. Any changes will not affect your existing rights under this Agreement and will not take effect until we give you notice of the changes.
- 3.8 If there are any inconsistencies between the Rules and this Agreement, this Agreement overrides the Rules.

#### ***Your relationships with others***

- 3.9 You agree to not cause or allow to be caused by circumstances within your control, a nuisance, annoyance or distress to any person in the Village.
- 3.10 You agree to comply with your obligations to others under the Code of Residents' Rights. You will respect the rights of, and treat with courtesy, us and all others at the Village.

#### ***Your use of Community Facilities***

- 3.11 You are entitled to enjoy the Community Facilities together with the other residents and any people we allow to use them. You agree that your use of

the Community Facilities is at your own risk and must be exercised with care and in consideration for others and in accordance with any specific conditions of entry or terms of use as advised from time to time.

### Care Days

3.12 If there is a care home adjacent to the Village and subject to clause 3.13(a), you are entitled to up to seven days' care days each calendar year in the care home adjacent to the Village. Where there are two named residents occupying your Home under this Agreement, you are each entitled to the care days as set out in this clause. The Disclosure Statement will state if there is a care home adjacent to the Village (and if there is not, you are not entitled to care days as provided in this clause). Any unused days do not carry over into the next year. Care days are available:

- (a) To enable a carer to have a break from their caring responsibilities through us caring for you;
- (b) If you become mildly unwell but not to the extent that you would require hospitalisation; and
- (c) In other situations which will be considered in consultation with the care home or general manager, such as convalescing care after a medical illness, post-operative care and unforeseen emergency situations where a care home level of care would be appropriate. Residents may not use the seven care days to access the care home if they have infectious conditions such as gastro or COVID/influenza type viruses.

3.13 The seven care days are:

- (a) Subject to availability, you meeting our admission criteria and the care home/ general manager's approval to ensure that the care home can safely meet your medical needs; and
- (b) At rest home or hospital level care for a standard room only. If a standard room is not available, we will provide you care in a premium room (if available) without charging you any premium room charges.

3.14 You are responsible for the costs of:

- (a) Your usual Services Fee for the duration of the seven days (we will waive the Services Fee for any longer period you stay in the care room);
- (b) The usual daily bed rate for any stays longer than seven days;
- (c) Any premium room charges if you opt to stay in a premium room when a standard room is available;
- (d) Any stays at a higher level of care than rest home or hospital level care; and

- (e) The provision of any additional services for any stay, which will be charged at our standard rates.

## 4 COSTS PAYABLE DURING YOUR STAY

### *Village Fee*

- 4.1 The Village Fee is your contribution to the cost of the Village Outgoings and is payable from the Commencement Date until the Vacation Date. The amount of the Village Fee is set out in clause 1.7. If clause 1.7 records that the Village Fee is:
  - (a) Fixed, then the amount of the Village Fee recorded in clause 1.7 is fixed for the term of this Agreement; or
  - (b) Variable, then your Village Fee will increase on 1 July each year. The Village Fee will be increased by the annual percentage increase in the Superannuation Rate set as at 1 April each year ("**Annual Increase**"). The amount we receive from residents in village fees is intended to be a contribution only to the Village Outgoings and does not generally cover in full the Village Outgoings we incur and pay. However, in the unlikely event that the total amount of village fees we expect to receive from residents of the Village in any year (after taking into account the proposed Annual Increase) exceeds the Village Outgoings we have forecast for that year, then we will either not increase the Village Fee for that year, or we may set the increase at a lower percentage to recover no more than the forecast Village Outgoings. We will give you at least one month's notice of the increased amount of the Village Fee.

### *Services Fee*

- 4.2 If a Services Fee is set out in clause 1.8, we will provide you with the Services set out in Schedule 5 and you will pay us the Services Fee.
- 4.3 Your Services Fee set out in clause 1.8 (if applicable) will not change for the term of this Agreement except as set out in clause 4.5 below.
- 4.4 The Services Fee is payable by you from the Commencement Date until the earlier of:
  - (a) the date we permanently stop providing the Services; or
  - (b) the date you stop permanently living in your Home.
- 4.5 We will provide a 50% discount to the Services Fee when you are not occupying your Home for a period of time as set out below in this clause. The discount acknowledges that a proportion of our costs for providing the Services is fixed. To qualify for the discount, the following criteria must be met:
  - (a) if there are two of you, neither of you must be in occupation of your Home;
  - (b) the minimum absence period is four consecutive days;

- (c) the maximum discount period per calendar year is 28 days; and
- (d) you must provide Bupa with a minimum of 48 hours prior written notice of absence (excluding emergencies or hospitalisation).

The discount will not apply to any period of time during which you are temporarily resident in the care home adjacent to the Village and receiving your seven days' care days as contemplated by clause 3.14.

### ***Additional Services Fee***

- 4.6 If you ask us to provide any Additional Services, you will pay us the applicable fee as set by us at the time you request it.
- 4.7 We may change the fee for any Additional Services provided to you where there is a change in the cost to us of providing the Additional Services. Any changes to the fees for Additional Services will generally correspond, and be proportionate, to the change in the cost to us of providing the Additional Services. We will consult with you regarding any change in the fees where required under clause 3.4 but we will not be required to disclose any sensitive or confidential information regarding the changes in costs incurred by us. Any increase or decrease will take effect no less than one month after we give you notice of the change.
- 4.8 Subject to our consultation obligation noted in clause 3.4 and any applicable provisions of the Code of Practice, we can vary or cease to provide any Additional Service if the provision of that service is no longer practical or viable in our reasonable opinion. For example, if the provision of the service is operationally impractical, the service cannot be provided at a reasonable cost or if the number of residents in the Village wanting to receive the service is too low.
- 4.9 Fees for any additional services supplied by a third-party service provider will be set by them and subject to change as they determine.

### ***Invoicing and Payments***

- 4.10 We will invoice you each month for:
  - (a) Your Village Fee (based on the number of days in each month);
  - (b) Any Services Fees (based on the number of days in each month);
  - (c) Any Additional Services you request and receive; and
  - (d) Any other amounts due to us.
- 4.11 You will sign and give us an authority to deduct any invoiced amounts by direct debit from your bank account.
- 4.12 Any amount we invoice you is to be paid:
  - (a) by direct debit; or

- (b) if not paid by direct debit, by the due date stated in the invoice.

### **Utility costs**

- 4.13 You are directly responsible to the relevant provider for all utility charges incurred in respect of your use of utilities, including electricity, gas, telecommunications and water and wastewater charges. If your Home has no separate meter for a utility service or ability for a service provider to invoice you directly, the costs of such utilities are included in your Village Fee.
- 4.14 Where we provide you with any utility services directly, we will invoice you for such costs at the reasonable rate we notify you. We will consult with you (if required under clause 3.4) and will give you at least 30 days' notice of any change to the rates (and changes will only occur if the cost to us for the utility services changes).

### **Repair and upgrade costs**

- 4.15 You may be required to reimburse us for any maintenance, repair, alteration or upgrade work carried out on your Home that is at your cost under clause 5.

### **Costs for damage**

- 4.16 If we suffer any loss or damage as a result of your, or your guest's, deliberate acts, carelessness or negligence (but excluding any loss or damage for Fair Wear and Tear), we may require, acting reasonably, that you:
- (a) reimburse us for any insurance policy excess, where such loss or damage is covered by our insurance (limited to a maximum amount of \$500); or
  - (b) compensate and reimburse us in full, where such loss or damage is not covered by our insurance.

### **GST**

- 4.17 All charges payable by you under this Agreement are inclusive of GST (if any).

### **Default interest**

- 4.18 If you fail to make any payment due to us under this clause 4 within 15 Working Days of the due date, you may be required to pay interest on the amount due at the Interest Rate from the due date until the date of payment. This right does not limit or replace any other rights we have in respect of your default.

## **5 CARING FOR AND MAINTAINING YOUR HOME**

### **Our right to enter your Home**

- 5.1 You will permit us, at all reasonable times, to enter your Home to carry out inspections, give you the services we have agreed with you, or carry out any repairs or alterations we consider reasonably necessary. We will try to cause you as little disturbance as possible. We will try to give you reasonable notice

of at least 24 hours' notice. If we are providing you with services in your Home, you agree we can enter your Home at any reasonable time for the purpose of providing those services. We will, where practicable, endeavour to notify you in advance of the timeframe in which these services are likely to be provided in your Home. You agree to waive notice in cases of emergencies.

- 5.2 Where we need you to vacate your Home to carry out any repairs or alterations, you must do so provided we have given you at least 14 days' notice (unless you and we agree to a shorter notice period). We will first consult with you about any required repairs or alterations, including when they will be carried out, and we will arrange and pay for any temporary accommodation that may be required.

### ***Your responsibilities***

- 5.3 You will always keep your Home and its surrounds, together with the Operator's Chattels and any car park, in a tidy and clean order and ensure it is in good working order and proper condition.
- 5.4 You will advise us of any damage to or repairs or maintenance required for your Home or the Operator's Chattels as soon as you become aware of it.
- 5.5 You are responsible for the cost to repair any damage beyond Fair Wear and Tear to the Home, Operator's Chattels, or other buildings or chattels of the Village caused intentionally, carelessly or negligently by you or your guests (in which case the costs are payable by you in accordance with clause 4.16).

### ***Our responsibilities***

- 5.6 We will provide the Home with the Operator's Chattels for your use.
- 5.7 Subject to clauses 5.3 and 5.9, we will take responsibility for arranging any repairs or maintenance to the Home and any repairs of the Operator's Chattels or fixtures in the Home (and their replacement at the end of their normal economic life) that we consider (acting reasonably) is required. However, our obligations under this clause do not include cleaning the interior of your Home, its fixtures and/or the Operator's Chattels. We will consult with you about any works to be carried out, including the timing of any works. We will be responsible for the costs of the works, except as set out in clause 5.5.

### ***Refurbishing, modifying or upgrading your Home***

- 5.8 You are not responsible for any costs of refurbishing or upgrading your Home following termination of this Agreement. However, we can charge you for any damage to the Home which goes beyond Fair Wear and Tear as set out in clauses 9.2 and 9.3.
- 5.9 During the term of this Agreement, we are not required to (and will not) refurbish the interior of your Home, including the painting of any interior walls, the replacement or refurbishment of kitchens or bathrooms, or the replacement of carpet or other fixed floor coverings if they are, at our discretion, considered to be in proper operational order and condition.

- 5.10 If you wish to have the carpet or any other fixed floor covering changed, or the interior of your Home refurbished or upgraded during the term of this Agreement this will be at your cost and you must obtain our written consent. We will consult with you (including as to the cost and the timing of the work) and arrange for the work to be done as agreed.
- 5.11 You must not make any alterations or additions to your Home, or modify the Operator's Chattels, or fit aerials or other items such as security alarms or cameras to the exterior of your Home without our consent.
- 5.12 If you have a disability, you have the right to alter your Home if it does not meet your needs. In this situation, you must give us notice identifying what alterations you consider you need. We will consult and agree with you on what alterations are to be made and we will arrange the work. Any costs are payable by you on invoice.
- 5.13 If any alterations have been made at your request, we may require the return of your Home to its original condition on termination of this Agreement. If we require this, we will inform you at the time of your request and, on termination of this Agreement, we will arrange for the work and any such costs are payable by you on invoice. If we do not require you to reinstate your Home to its original condition, then you will not be entitled to any compensation for any of your requested alterations.

## **6 HOW WE WILL RUN THE VILLAGE**

### ***Management of the Village***

- 6.1 We will use reasonable care and skill in:
- (a) ensuring that the affairs of the Village are conducted properly and efficiently; and
  - (b) in the exercise and performance of our powers, functions and duties.
- 6.2 We are entitled to appoint an entity as the manager to undertake the day to day management of the Village. We will consult with you if we decide to appoint a new entity as manager. However, we are not required to consult with you if we employ any new staff members.

### ***Community Facilities***

- 6.3 Subject to any requirement to consult with you under clause 3.4, we are entitled to provide additional buildings, areas or amenities as part of the Community Facilities, or to remove buildings, areas or amenities from the Community Facilities permanently or temporarily. We will act reasonably in the event we make any changes to the Community Facilities. If we remove any buildings, areas or amenities from the Community Facilities either permanently or for a material length of time (not being less than six months) and this results in a material detriment to you, you can raise this with us and, if we (acting reasonably) agree, we will discuss with you whether appropriate action should be taken. We will make a decision regarding any action or outcome (which may be temporary or permanent) acting reasonably and taking into account

the interests of residents as a whole and any alternative or replacement facilities available.

### ***Maintenance of Village***

- 6.4 We will maintain and keep in good condition and order the Village including the homes and the Community Facilities.
- 6.5 We will make and keep to a long-term plan for maintaining the Village and refurbishing it. This may include improvements to the Village.
- 6.6 We will supply your Home with standard connections for water, telecommunications, television and electricity. We are not responsible for any failure in the provision or maintenance of utility services by third party providers, such as electricity, gas, telecommunications and water, but we will use reasonable endeavours to engage with the utility providers to promptly fix any material issues or failures.

### ***Insurance***

- 6.7 We will have comprehensive insurance policies covering the Village for its full replacement value (including your Home and Operator's Chattels). This will cover usual risks including damage or destruction by fire, accident and natural disaster and covering any other insurable risk which we may consider desirable.
- 6.8 We will ensure that the insurance we have arranged is to the satisfaction of the Statutory Supervisor.
- 6.9 We are not responsible for insuring your personal belongings or vehicle or for any loss of or damage to your property (except as a result of our breach of this Agreement, our negligence or if we are liable to you under this Agreement or any law). We strongly recommend that you maintain your own insurance to cover risk of loss or damage to your personal belongings. You are required to insure any vehicle that you keep at the Village.

### ***Development of the Village***

- 6.10 We will consult with you regarding any proposal to improve, extend, add to, reduce, alter or redevelop the Village. If we decide to proceed, we will try our best to cause as little inconvenience to you as is practical in the circumstances.
- 6.11 We are entitled to sell any part of the Village which we determine to be surplus to our needs.

### ***Sale of the Village***

- 6.12 We may decide to sell or otherwise dispose of our interest under this Agreement or in the Village. If we do, we will consult with residents. Our consultation will take place at a time directed by the Statutory Supervisor (if there is no Statutory Supervisor, it will be at a reasonable time before

settlement of the transaction). We will involve the proposed new operator in the consultation process.

- 6.13 With effect from the date of sale or other disposal, all our rights and obligations under this Agreement will pass to the new operator, and we will have no further rights and no further obligations to you under this Agreement. You agree to continue to observe and perform all your obligations under this Agreement for the benefit of the new operator (and the new operator will agree to observe and perform all our obligations under this Agreement).

## 7 TRANSFERRING TO ANOTHER HOME

### *Independent Living Transfers*

- 7.1 We acknowledge that you may wish to move to another independent living home within the Village. We will try to enable a transfer subject to:

- (a) the availability of another home;
- (b) our satisfaction that the home will be suitable for you; and
- (c) a new resident agreeing to purchase an occupation right agreement for your Home.

- 7.2 The terms that will apply to your transfer to another independent living home will be:

- (a) The Entry Payment for your current Home will be applied to the entry payment for your new home. If there is a difference between the entry payments then:
  - (i) If the entry payment for your new home is more than the entry payment for your current Home, you will pay us the extra amount before you move into your new home.
  - (ii) If the entry payment for your new home is less than the entry payment for your current Home, we will pay you the difference within five Working Days after we hold a new occupation right agreement and receive full settlement of the entry payment from a new resident for your current Home (or, if applicable, the Buyback date provided under clause 11.11);
- (b) You will pay a transfer fee of 5% of the entry payment of your new home.
- (c) You will pay one amenities fee which will be based on the greater of the entry payment for your current Home and your new home ("**Greater Entry Payment**"). We will apply the same maximum amenities fee percentage applicable for your current home (being 28%, 30% or such other percentage as recorded in Schedule 4 (as applicable) ("**Maximum Amenities Fee Percentage**"). The maximum amenities fee you will pay will be an amount equal to the Maximum Amenities Fee Percentage multiplied by the Greater Entry Payment.

This amenities fee will be calculated daily from the Commencement Date of your current Home until the earlier of:

- (i) the Vacation Date for your new home; or
  - (ii) the expiry of three years (based on 1,095 days).
- (d) Your Village Fees may change. We will discuss any changes to your Village Fees with you before you make a decision to transfer.
  - (e) You will enter into a new occupation right agreement based on the then current terms.
  - (f) You will be responsible for all costs of moving to your new home.
  - (g) We are not required to give preference to residents requesting transfers and you may not be able to transfer to your preferred unit if we have received an application for the same unit from an intending resident of the Village.

### **Care Suite Transfers**

- 7.3 The Disclosure Statement will state whether there is a care home adjacent to the Village and whether Care Suites are available at the care home.
- 7.4 You may apply to move to a Care Suite at the care home adjacent to the Village (if applicable), subject to:
  - (a) you being assessed by the local needs assessment coordination agency as requiring long term residential care at a level which we can provide in a Care Suite;
  - (b) there being a suitable Care Suite available to meet your needs;
  - (c) you satisfying our pre-admission assessment and signing the necessary admission documentation; and
  - (d) you entering into a new occupation right agreement for the Care Suite on our then current terms and conditions.
- 7.5 We cannot guarantee a Care Suite will be available at the time you apply. Due to daily fluctuations in occupancy levels at the Care Home, residents at the Village do not have priority over outside applicants to a room in the Care Home (including Care Suites). However, at your request, we will provide you with information regarding the admission process and we will use reasonable endeavours to facilitate your transfer to a Care Suite.
- 7.6 You have the right to be provided with information on all available options (including charges), to have an independent assessment (a needs assessment may also be required in certain circumstances in order to access subsidies administered by other government agencies such as the Ministry of Health and Work and Income) and to be consulted along with your family or representative.

- 7.7 You will be responsible for all costs of moving to your new home.
- 7.8 If you move from your Home into a Care Suite, the amount of the Amenities Fee you pay for your Home is payable following termination of this Agreement and will not be transferred to, and deducted from, the total amount of any amenities fee payable for the Care Suite. If you transfer to a Care Suite, you will need to enter into a new occupation right agreement and start a new amenities fee structure.
- 7.9 Where you are the sole resident occupying your Home and you move into a Care Suite, the following will apply:
- (a) You may leave your Home by terminating your Occupation Right Agreement before you go into care.
  - (b) You will need to enter into a new occupation right agreement for the Care Suite. We may apply the Exit Payment (less deductions under clause 11.9) for your Home towards payment of your entry payment for your Care Suite occupation right agreement. If the Exit Payment (less deductions under clause 11.9) for your Home is not sufficient to pay the amount of the Care Suite entry payment, we may at our discretion defer the payment of any shortfall and if agreed to by us we will offset it against the exit payment for your Care Suite.
- 7.10 Where there are two named residents occupying your Home under this Agreement, but only one of you moves into a Care Suite and the other one continues to live in your Home, the following will apply:
- (a) The Resident moving to the Care Suite may leave your Home to go into care and the other Resident may remain in your Home. Your Occupation Right Agreement will remain in full force and effect and the Resident not in care may remain in your Home.
  - (b) The Resident moving to the Care Suite will need to enter into a new occupation right agreement for the Care Suite. We may at our discretion defer the payment of the entry payment for the Care Suite occupation right agreement and if agreed to by us we will deduct it from the Exit Payment (less deductions under clause 11.9) for your Home. If the Exit Payment (less deductions under clause 11.9) for your Home is not sufficient to pay the amount of the Care Suite entry payment, we may at our discretion defer the payment of any shortfall and if agreed to by us we will offset it against the exit payment for your Care Suite.
- 7.11 Where there are two named residents occupying your Home under this Agreement and you are each moving into a Care Suite, the following will apply:
- (a) You both (or, where one of you has already moved into care, the remaining resident), may leave your Home by terminating your Occupation Right Agreement before you go into care.

- (b) You both (or, where one of you has already moved into care, the remaining resident), will each need to enter into a new occupation right agreement for the Care Suite. We may apply your Exit Payment (less deductions under clause 11.9) for your Home towards payment of your entry payment(s) for your Care Suite occupation right agreement(s). If the Exit Payment (less deductions under clause 11.9) for your Home is not sufficient to pay the amount of the Care Suite entry payment(s), we may at our discretion defer the payment of any shortfall and if agreed to by us we will offset it against the exit payment under your Care Suite occupation right agreement(s).

7.12 If any Care Suite occupation right agreement terminates before the Exit Payment for your Home becomes due to you, we will be entitled to deduct any money due from you under that Care Suite occupation right agreement from the Exit Payment under this Agreement.

7.13 If you are not eligible for a residential care subsidy for your care fees under your admission agreement for the Care Suite, we may at our discretion allow you to accrue any such care fees and, if so, will deduct them from the Exit Payment under this Agreement.

## **8 HOW THIS AGREEMENT ENDS**

### ***Termination by you***

8.1 You may terminate this Agreement on one month's written notice to us. Your notice should set out the date on which you intend for the Agreement to terminate. If there are two of you named as residents, then the notice must be signed by both of you.

### ***Termination on death***

8.2 This Agreement will automatically terminate on the day that you die, or, where two of you have jointly signed this Agreement, the surviving resident dies.

### ***90 Day Money Back Guarantee***

8.3 You may cancel this Agreement by giving us notice between 60 and 90 days after the Commencement Date provided:

- (a) You intended to reside permanently in the Village;
- (b) You have not been a resident in one of our villages within the last six months under an Occupation Right Agreement;
- (c) The Entry Payment has been paid to us; and
- (d) You vacate your Home and remove all your possessions from the Home within 20 Working Days of the notice.

8.4 If you cancel this Agreement in accordance with clause 8.3, you will be entitled to a refund of the Entry Payment, without deduction of the Amenities Fee but

less any other deductions in clause 11.9 on the date that is 20 Working Days after notice is given, provided you have vacated your Home and removed all your possessions. If you fail to vacate your Home and remove your possessions, the cancellation will be of no effect and this Agreement will continue in full force and effect.

- 8.5 This guarantee does not apply if you need to leave your Home for health reasons or if your Occupation Right Agreement terminates on death.

### **Termination by agreement**

- 8.6 You and we can agree in writing to terminate this Agreement.

### **Termination by us**

#### **Health**

- 8.7 We may terminate this Agreement by giving one month's written notice if a medical practitioner has certified that your physical or mental health is such that you cannot live safely in your Home or that because of you other residents in the Village cannot live safely in their homes. If your GP is not available, we will appoint, at our cost, a practitioner to carry out the medical assessment that is independent of us. The assessment must take into account:

- (a) The care, support and facilities offered in the Village;
- (b) Support services that could be brought in from outside the Village to support your aging in place.

- 8.8 If we wish you to obtain a medical assessment, then:

- (a) we will give you not less than 14 days' notice of our intention to require you to have a medical assessment;
- (b) we will consult with you, your family or appointed representative where appropriate; and
- (c) you agree to co-operate with us in obtaining this assessment.

- 8.9 You may obtain a second opinion at your cost and present this to us for our consideration within seven days of your being advised of the assessment we have obtained.

- 8.10 If we have complied with our obligations above and the grounds giving rise to our right to terminate have not changed, then we will give you not less than one month's notice of termination.

- 8.11 If there are two of you and the medical assessment applies to only one of you, we will not terminate this Agreement for health reasons provided you arrange suitable care and accommodation for the resident who has been assessed as soon as possible.

### ***Serious damage, injury, harm or distress***

- 8.12 We may terminate this Agreement if you have intentionally or recklessly caused or permitted, or we consider that you are highly likely to cause or permit:
- (a) serious damage to your Home or to the Community Facilities;
  - (b) damage to your Home or to the Community Facilities which is not of itself of a serious nature, but which is made so by its continuous nature; or
  - (c) serious injury, harm or distress to us or to another resident or person who works at the Village or to any visitors to the Village.
- 8.13 We will give you as much initial notice as is reasonable in the circumstances that we intend to terminate this Agreement unless the default is remedied. When determining the period of notice required to remedy the default, we will take into account the nature and extent of the damage, injury, harm or distress concerned.
- 8.14 If you have failed to remedy the grounds giving rise to our initial notice, we may terminate by giving you as much notice as is reasonable under the circumstances.

### ***Permanent abandonment or breach of agreement***

- 8.15 We may terminate this Agreement if:
- (a) following reasonable enquiries, we have determined that you have permanently abandoned your Home; or
  - (b) you have materially breached this Agreement.
- 8.16 We will give you at least one month's notice that we intend to terminate this Agreement unless the breach or circumstances are remedied.
- 8.17 If you have failed to remedy the breach or circumstances, we may terminate by giving you at least one month's final notice.

### ***Termination Date***

- 8.18 The Termination Date is the applicable date from the following:
- (a) the expiry of the notice period (being not less than one month) in a notice of termination given by you to us; or
  - (b) the date the last surviving resident dies; or
  - (c) the date that you and we agree in writing; or
  - (d) the date that is 20 Working Days after notice is given under clause 8.3, provided you have vacated your Home and removed all your possessions; or

- (e) the expiry of the applicable notice period in a final notice of termination given by us to you.

## 9 VACATING YOUR HOME

- 9.1 You must leave your Home, remove all personal belongings and vehicles from your Home and the Village and give us all the keys to your Home on or before the Termination Date or if the last surviving resident has died, within one month of the date of death. If for any reason you remain in the Home after the Termination Date all your usual obligations relating to living in and using the Home will apply.
- 9.2 You must leave your Home in similar repair, order and condition as it was at the Commencement Date, except for Fair Wear and Tear or any damage by fire, accident or natural disaster. You must make good any damage caused to your Home or the Village in removing your personal belongings.
- 9.3 When you have left your Home and removed your personal belongings we will enter the Home to assess (acting reasonably) whether you or your guests have caused any damage to the Home or the Operator's Chattels which is more than Fair Wear and Tear ("**Damage**"). If there is any Damage, we will obtain a quote for the repair of that Damage from a third party contractor and/or assessor (as applicable) who is suitably qualified and experienced in assessing the nature of works required to repair the Damage. We will consult with you about the nature of any works and products required and the cost to carry out the repair of the Damage. If you disagree with the cost of repairs you can let us know (in writing) and we will obtain a second quote. You can choose which one to accept. We will then arrange for the works to be carried out and the costs will be payable by you by way of a deduction from your Exit Payment.
- 9.4 If your personal belongings are not removed by the required date (as specified in clause 9.1), we may remove them and store them at an external location at your cost. We will give you at least one week's prior notice of our intention to remove and store your personal belongings and the intended location where your personal belongings will be stored for your collection. If you have not collected them within one month from our notice, we may either dispose of the items or otherwise sell them and, after deducting our expenses of removal and storage pay any proceeds to you. If you have not returned the key by the required date, we may arrange for the locks to be replaced and new keys to be made at your cost.

## 10 FINDING A NEW RESIDENT

- 10.1 After the Termination Date (or any later Vacation Date), we will take all reasonable steps to find a suitable replacement resident for your Home in a timely manner and for the best price reasonably obtainable, unless the termination was for a Damage Event.
- 10.2 You may introduce us to a prospective new resident for your Home provided they meet our normal Village entry criteria.

- 10.3 We will not give preference to finding residents for new homes in the Village ahead of your Home.
- 10.4 We will be responsible for the marketing and sale of your Home at our cost and will consult with you about the marketing of your Home. In particular, we will consult with you about when your Home goes on the market and the general nature of the marketing plan for your Home. We will continue to keep you informed on a monthly basis about progress with marketing.

## **11 PAYMENTS FOLLOWING TERMINATION**

### ***Exit Payment***

- 11.1 Your Exit Payment is an amount equal to your Entry Payment.

### ***Amenities Fee***

- 11.2 We agree to let you defer payment of the Amenities Fee until the Exit Payment Date.
- 11.3 If your Home is an Apartment or Villa, the Amenities Fee is owed to us at the rate of:
- (a) 9 $\frac{1}{3}$ % of the Entry Payment per year if one person is named as the Resident; or
  - (b) 10% of the Entry Payment per year if two people are named as the Residents.
- 11.4 If your Home is a Serviced Apartment and one person is named as the Resident, the Amenities Fee is owed to us at the rate of:
- (a) 7% of the Entry Payment on the Commencement Date; plus
  - (b) 7% of the Entry Payment per year.
- 11.5 If your Home is a Serviced Apartment and two people are named as the Residents, the Amenities Fee is owed to us at the rate of:
- (a) 7 $\frac{1}{2}$ % of the Entry Payment on the Commencement Date; plus
  - (b) 7 $\frac{1}{2}$ % of the Entry Payment per year.
- 11.6 Notwithstanding clauses 11.3 to 11.5, if we have agreed a non-standard Amenities Fee with you (as recorded in Schedule 4), the Amenities Fee will be owed to us at the rate recorded in Schedule 4.
- 11.7 The amounts owed to us in clauses 11.3, 11.4(b), and 11.5(b) are calculated daily from the Commencement Date until the earlier of:
- (a) the Vacation Date; or
  - (b) the expiry of three years (based on 1,095 days).

- 11.8 If two people are named as the Residents on the Commencement Date, then the Amenities Fee will not be reduced if one of the Residents subsequently ceases to occupy the Home.

### ***Our Payment of the Exit Payment less deductions***

- 11.9 On or before the Exit Payment Date, we will pay you the Exit Payment minus the following amounts:
- (a) your Amenities Fee;
  - (b) any unpaid Village Fees, Services Fees and/or Additional Services Fees;
  - (c) any amounts we are entitled to invoice you for during the term of this Agreement which are either unpaid or yet to be invoiced;
  - (d) any amount due to Bupa Care Services NZ Limited under your admission agreement for care services which you have agreed to be deducted from the Exit Payment and/or any amount due to Bupa Care Services NZ Limited pursuant to clauses 7.12 and/or 7.13 (as applicable); and
  - (e) any other money due or that will be due from you under this Agreement or under any occupation right agreement for a Care Suite issued to you (or to one of you if there are two named residents under this Agreement).

We will provide you with a statement setting out your Exit Payment less the deductions above together with any supporting invoices on or prior to the Exit Payment Date.

### ***Exit Payment Date***

- 11.10 Subject to clause 11.11, the Exit Payment Date is the applicable date from the following:
- (a) within five Working Days after we hold a new occupation right agreement and receive full settlement of the entry payment from a new resident for your Home; or
  - (b) if we agree in writing to pay you the Exit Payment prior to finding a new resident to enter into an occupation right agreement for your Home, the Exit Payment Date is 20 Working Days after the date we reach agreement; or
  - (c) five Working Days after the date of expiry of the applicable notice period in our final notice of termination.
- 11.11 If we have not entered into a new occupation right agreement for your Home and received full settlement thereunder within 12 months after the Vacation Date, we will pay you the Exit Payment (less deductions under clause 11.9) no later than the date which is five working days after the anniversary of the

Vacation Date (“**Buyback**”), provided that we may, having first consulted with the Statutory Supervisor (and having given you at least seven working days’ prior written notice) suspend the Buyback during any period where a Buyback Suspension Event is continuing. For the avoidance of doubt, during any period where the Buyback is suspended, any interest payable under clause 11.13 will continue to accrue and we will also continue to take all reasonable steps to find a suitable replacement resident for your Home in accordance with clause 10. We will notify you once the Buyback Suspension Event has resolved and will promptly pay you your Exit Payment (less deductions under clause 11.9) thereafter.

### **When we can defer payment**

11.12 If you (or the last resident, if there were originally two of you) have died, then we will defer making payment until your personal representative provides evidence of probate of your will, or letters of administration of your estate and appropriately signed termination documents as may be reasonably required by us or the Statutory Supervisor (“**Probate Documents**”).

### **Interest**

11.13 If:

- (a) we have not paid you the Exit Payment (less deductions under clause 11.9) by the Interest Start Date; and
- (b) if the Exit Payment is not held by the Statutory Supervisor for your benefit pending receipt of the Probate Documents,

we will pay you interest less resident withholding tax on the Exit Payment (less deductions under clause 11.9) from the Interest Start Date until the Exit Payment Date. The interest payable shall be calculated at the Interest Rate and will accrue daily from the Interest Start Date until the Exit Payment Date and will be paid to you on the Exit Payment Date.

## **12 DAMAGE OR DESTRUCTION**

12.1 If your Home is damaged or destroyed by fire, accident, natural disaster or any other risk (“**Damage Event**”) this clause 12 applies. This may override other provisions in this Agreement relating to termination and Exit Payments.

12.2 If a Damage Event occurs, the time frames for consulting, deciding, providing alternative accommodation and undertaking any works may depend on circumstances outside of our control. As such, the phrase “as soon as reasonably practicable” shall mean taking all relevant circumstances into account.

12.3 Following a Damage Event, we will consult with you to decide whether it is practicable to repair or replace your Home and if in our reasonable opinion any of the circumstances set out in clause 12.11 are likely to apply. We will consult with you as soon as reasonably practicable after the Damage Event and after we have all relevant information required to make a decision (including any engineering, surveying, insurance, resource management or

legal reports that we consider necessary). After we have consulted with you, we will notify you in writing of our decision.

### ***Repair or replacement***

12.4 If we have decided (acting reasonably) it is practicable to repair and replace your Home, we will do so as soon as reasonably practicable. We will ensure that it is replaced to a design we consider appropriate and will use our best endeavours to ensure it is of a standard comparable to that of your Home prior to the Damage Event, subject to us receiving the necessary building consents to do so. However, we are not bound to expend any more money than the actual amount of the insurance money we receive.

### ***Suspension of payments***

12.5 If your Home becomes uninhabitable following a Damage Event and which is not as a result of any of your, or your visitors', acts or omissions:

- (a) your requirement to pay the Village Fee, Services Fee and any Additional Services Fees; and
- (b) the calculation of the Amenities Fee (if applicable),

will be suspended from the date of the Damage Event to the date your repaired or replaced Home is ready for occupation by you.

12.6 However, if we are providing you with temporary accommodation (as set out below), the calculation of the Amenities Fee will resume from the date that we make temporary accommodation available to you.

### ***Temporary accommodation***

12.7 Following the Damage Event, we will use our reasonable endeavours to provide alternative temporary accommodation for you while your Home is being repaired or replaced or until this Agreement is terminated. Such accommodation may be outside of the Village and will be provided as soon as reasonably practicable after the Damage Event occurs. We will consult you before moving you to any temporary accommodation outside of the Village.

12.8 We will be responsible for the cost of providing such accommodation to you, to the extent and for the time period that we receive adequate amounts from our insurer for such costs.

12.9 We may require you to pay any outgoings relating to such accommodation and any charges for personal services provided to you whilst you are staying in the temporary accommodation. Any such costs will be determined on a case by case basis and agreed between the parties at the time of your move to the temporary accommodation.

12.10 If a Community Facility is being repaired or replaced following a Damage Event, we will use reasonable endeavours to provide alternative facilities at our cost as soon as reasonably practicable.

### ***Termination following a Damage Event***

12.11 Following a Damage Event and after consultation with you, we may (acting reasonably) decide it is not practicable to repair or replace your Home in the following circumstances:

- (a) repair or replacement of your Home is not practicable due to the nature or extent of the damage or destruction;
- (b) we are unable to obtain the necessary building consents or consent of any necessary authority to repair or replace;
- (c) the insurance money we receive is not adequate to meet the cost of repairing or replacing the property damaged or destroyed by the Damage Event; or
- (d) we receive no insurance money.

12.12 If we decide not to repair or replace your Home, this Agreement will terminate on the date we give you notice of our decision, unless clauses 12.13 to 12.16 apply. If this Agreement terminates under this clause:

- (a) we will pay you the Exit Payment without deducting any Amenities Fee, but we will be entitled to deduct any other amounts due to us under clause 11.9; and
- (b) the Exit Payment Date is 10 Working Days after the date we or the Statutory Supervisor receives final payment from our insurers for the loss or damage; and
- (c) we must pay you the Exit Payment even if we do not receive full payment from our insurers.

### ***Transfer to another home following a Damage Event***

12.13 If this Agreement is terminated under clause 12.12, we may offer you an option to transfer to an alternative home (either pre-existing or yet to be constructed) in the Village or in any retirement village owned by us which is in reasonable proximity to the Village, with regard to the circumstances giving rise to the Damage Event.

12.14 If we offer you such option, the entry payment for the alternative home will be no more than the Entry Payment for your Home and the Amenities Fee in relation to both homes will not exceed the amount set out in clause 1.6.

12.15 If you accept such an option, you will be responsible for moving yourself and your belongings at your own cost and your legal costs in relation to entering into a new occupation right agreement for the alternative home on our then standard terms.

12.16 If we offer you an option to transfer to an alternative home and you do not accept such option, this Agreement will be deemed terminated by you and the usual Exit Payment provisions will apply and the Amenities Fee will be

payable by you. The Exit Payment Date is 10 Working Days after the date we or the Statutory Supervisor receives final payment from our insurers for the loss or damage.

### ***Damage or destruction to part of the Village***

12.17 If a substantial part of the Village is damaged or destroyed, even if your Home is not damaged, we will consult with you to decide whether it is practicable to repair or replace such part of the Village. If you decide to terminate this Agreement in these circumstances, the usual Exit Payment and Exit Payment Date provisions will apply. For the avoidance of doubt, the Amenities Fee will be payable by you.

## **13 HOW TO SOLVE PROBLEMS**

13.1 We have established and will maintain a complaints facility to deal with any informal and formal complaints raised by you, other residents or us. This complaints facility will comply with the Retirement Villages Act and the Code of Practice.

13.2 Under the Retirement Villages Act you may have grounds to require a matter to be resolved by a disputes panel by giving us and/or any other party a dispute notice, provided you first refer the complaint to us.

13.3 If you wish to lodge a complaint because we have not found a new resident for your Home within nine months after your Home became available to us for disposal, you can give us a dispute notice in accordance with the Retirement Villages Act without first referring your complaint to our complaints facility.

## **14 GENERAL**

14.1 If any clause of this Agreement is declared illegal, invalid or unenforceable this Agreement shall be read as if that clause were not contained in it. You and we shall endeavour in good faith negotiations to replace any such illegal, invalid or unenforceable clauses.

### ***Notices and consents / waivers***

14.2 If you require our consent or approval for anything under this Agreement, it may be given conditionally or unconditionally or withheld by us at our discretion. When exercising our discretion in providing any consent or approval, we will act reasonably and without undue delay, and we will consider our respective interests, the interests of other residents, the health and safety of residents and our staff, our commercial and operational viability, and any policies we have in place at the time. Our consent or approval must be obtained before the act, matter or any action is taken.

14.3 All notices, consents or approvals given under this Agreement must be in writing. All notices to you may be given by delivering such notice either personally to you or to your Home. All notices to us may be given by delivering such notice to the Village's physical address or its registered office.

14.4 No waiver of any of the provisions of this Agreement is to constitute a waiver of any other provisions (whether or not similar), nor shall such waiver constitute a continuing waiver (unless otherwise expressly provided or agreed).

### **Meetings of residents**

14.5 We will call meetings of residents of the Village in the circumstances and for the purposes set out below:

<b>Circumstances</b>	<b>Purpose</b>
An annual general meeting within six months after the end of an accounting period for which financial statements must be prepared for the operator or the retirement village.	Considering the financial statements, a report from the Statutory Supervisor (if any), a report on maintenance and any other matters.
There is a Statutory Supervisor of the village and the meeting has been requested by the Statutory Supervisor or by at least 10% of the residents of the village.	Giving the Statutory Supervisor the residents' opinions or directions relating to the exercise of the Statutory Supervisor's powers.
There is not a Statutory Supervisor of the village and the meeting has been requested by at least 10% of the residents of the village.	Giving the operator the residents' opinions or directions.
Where the Act, Regulations or the Code of Practice require us to obtain the consent of residents of the village.	To obtain the consent of residents of the Village.
Where other enactments, the resident's Agreement or other such documents require us to obtain the residents' collective consent.	To obtain the residents' collective consent.

14.6 We will provide written notice of the meeting to you and each resident of the Village at least 10 Working Days before the meeting. The notice will specify the time, place and agenda of the meeting, and all papers to be considered at the meeting will be attached.

14.7 You and we agree that the meetings will be chaired by a person:

- (a) appointed by the Statutory Supervisor; or
- (b) appointed in accordance with the conditions (if any) of an exemption (if any) that we may have from appointing a statutory supervisor; or
- (c) appointed by the majority of the residents of the Village who are at the meeting if an appointment has not been made under paragraphs (a) or (b) above.

- 14.8 We will give to you and the other residents attending the meeting, either orally or in writing, the information that relates to the affairs of the Village and has been requested with reasonable notice by a resident of the Village.

#### ***Procedure if there ceases to be a statutory supervisor***

- 14.9 If the Statutory Supervisor ceases to be the statutory supervisor of the Village, then we will promptly appoint a new statutory supervisor with the required qualifications to act as statutory supervisor of the Village in accordance with the procedures set out in the Retirement Villages Act and the Deed of Supervision.

#### ***Government Mandates***

- 14.10 Notwithstanding any other provision of this Agreement, it may be necessary to implement changes to our business operations to comply with Government public health (including COVID-19), civil defence or other mandated restrictions. While such restrictions are in place, we will implement any changes we consider are required or to enhance and preserve the health, safety and wellbeing of all residents and staff at the Village. Restrictions may apply to the removal or restriction of access to common areas and facilities, the services that may be offered, the maintenance that we may carry out, the access of visitors to the Village and other Village operations. You agree to comply with any policies we make in this regard. Any restrictions that are imposed will not result in a reduction in any amount payable under this Occupation Right Agreement, including without limitation, the Amenities Fee or any Village Fees. You may discuss with the village or general manager the extent to which these business operational changes apply throughout any mandated restrictions.

#### ***Counterparts***

- 14.11 This Agreement may be signed in counterparts. All executed counterparts together will constitute one document. Any copy of this Agreement sent via email in PDF format may be relied on by any other party as though it were an original.

## **15 IMPORTANT DOCUMENTS**

- 15.1 Any documents made available to you as set out in this clause or as required under the Retirement Villages Act will be given to you free of charge.

#### ***Your application***

- 15.2 You confirm any reports or information you have supplied to us in connection with your application for this Agreement are correct and true. This Agreement remains subject to any conditions set out in your application for this Agreement.

#### ***Enduring powers of attorney and wills***

- 15.3 On or before the Commencement Date you must give us a copy of your properly executed enduring powers of attorney in respect of both your property

and your personal care and welfare. These powers of attorney must remain valid in the case of mental incapacity.

- 15.4 On or before the Commencement Date you must confirm to us that you have a valid last will and testament. You will keep us informed of the name, address and telephone number of your attorneys, legal personal representatives and next of kin.

### ***Personal Information and privacy***

- 15.5 We will comply with the Privacy Act 2020 in relation to your personal information.

- 15.6 As a resident of the Village, you acknowledge and accept that during the term of this Agreement:

- (a) we may become aware of and hold certain personal information relating to your health and wellbeing (including from our emergency alarm provider who may provide us with incident and other reports). This information will only be retained and used where necessary for health and safety purposes and for the purposes of assessing your continued suitability to occupy your Home or as required by law. This information will generally be collected directly from you, or in certain cases your family or representative or our emergency alarm provider (as applicable); and
- (b) we may collect certain personal information about you where it is necessary for Village administrative purposes, for example, recording your attendance at Village events, information relating to your dietary requirements, processing a transfer to another home, managing any maintenance or works to your Home or paying you the Exit Payment. This information will be collected directly from you, or in certain cases your family or representative, and only used for the specific Village administration purposes for which it was collected.

- 15.7 We have put in place a privacy policy, which aims to communicate in the clearest way possible how we treat and respect your personal information. Our privacy policy is available on request.

### ***Village documents***

- 15.8 You confirm that you have received a copy of:

- (a) the Disclosure Statement;
- (b) the Code of Residents' Rights; and
- (c) the Code of Practice.

- 15.9 Further copies of the above documents can be requested from us at any time.

- 15.10 Copies of the Deed of Supervision and our certificate of insurance for the Village can be requested from us at any time.

## ***Policies and Procedures***

15.11 We have and will maintain written policies and procedures in respect of the following matters, and copies of these policies can be requested from us at any time:

- (a) Staffing of Village;
- (b) Safety and personal security of residents;
- (c) Fire protection and emergency management (including access for people with disabilities);
- (d) Transfer of residents within the Village;
- (e) Meetings of residents with us and resident involvement;
- (f) Dealing with complaints by Village residents;
- (g) Accounts;
- (h) Maintenance and upgrading;
- (i) Termination of this Agreement;
- (j) Communication with residents (for communicating with residents who speak English as a second language or who have a limited ability to communicate); and
- (k) Privacy policy.

## ***Financial statements***

15.12 On request we will give to you a copy of the most recent audited financial statements prepared by us under the Retirement Villages Act. Your right to request a copy of the audited financial statements continues until you have received your Exit Payment.

15.13 We will prepare, at the start of each financial year, a statement forecasting for that period:

- (a) the operating expenditure relating to the Village;
- (b) all expenditure relating to the Village (including amounts repayable to residents, former residents and their estates);
- (c) all income relating to the Village; and
- (d) the amounts of the operating expenditure that must be met by the residents of the Village.

15.14 We will give a copy of the forecast statement to you and to all the other residents within three months of the start of each financial year.

## SIGNING OF THIS AGREEMENT

[Insert Resident 1  
name]

[Insert Resident 2  
name]

Signature of Resident:

\_\_\_\_\_

\_\_\_\_\_

Witness signature\*

\_\_\_\_\_

\_\_\_\_\_

Witness name

\_\_\_\_\_

\_\_\_\_\_

Witness address

\_\_\_\_\_

\_\_\_\_\_

Witness occupation

\_\_\_\_\_

\_\_\_\_\_

Date signed by the  
Resident(s):

\_\_\_\_\_

\* To be witnessed by the lawyer who certifies this Agreement. Please also sign the Lawyer's Certificate on the following page.

Signed for and on behalf of  
the Operator by:

\_\_\_\_\_

Name

\_\_\_\_\_

Signature

## YOUR RIGHT TO CANCEL OR AVOID THIS AGREEMENT

- (a) You may cancel this Agreement under section 28(1) of the Retirement Villages Act, without having to give any reason. You can do this by notice given not later than 15 Working Days after you sign this Agreement.
- (b) Where this Agreement relates to a Home which is to be built or completed after the date you sign this Agreement, then, if your Home is not finished within six months after the Target Completion Date, you may also cancel this Agreement under section 28(1) of the Retirement Villages Act. You can do this by giving notice to us at any time after the expiry of that six-month period.
- (c) Your notice of cancellation must be in writing and must clearly indicate your intention to cancel this Agreement.
- (d) Your notice may be given on your behalf by a person authorised in writing by you.
- (e) The notice of cancellation must be given to us or to any person we have told you is authorised to receive communications on our behalf.
- (f) If you cancel your Agreement under this clause, you are entitled to a refund of any payment made by you for this Agreement within 10 Working Days of your request. This refund will include any interest earned in the Statutory Supervisor's account (but less any tax) and be without deduction except where we are entitled to reasonable compensation for any services we have provided to you while you were living in the Village, and for any damage to your Home or to any facilities in the Village, for which you are responsible.

## LAWYER'S CERTIFICATE

### Lawyer's certification

Name of Village: [Insert]

Registration number of Village:

I, \_\_\_\_\_ [insert  
*name of lawyer*], certify that:

(a) I explained to

\_\_\_\_\_ [insert name of intending resident or  
*person treated by section 27(7) of the Act as the intending resident*] the general  
effect of the attached Agreement and its implications before he or she signed the  
Agreement; and

(b) I gave the explanation in a manner and in language that was appropriate to the  
age and understanding of

\_\_\_\_\_ [insert name of intending resident or  
*person treated by section 27(7) of the Act as the intending resident*].

Dated:

\_\_\_\_\_ [insert date].

Signed:

\_\_\_\_\_ [insert  
*signature of lawyer*].

Name:

\_\_\_\_\_ [insert name of signatory].

Street address:

\_\_\_\_\_ [insert street address of lawyer, including the name of the  
*organisation (such as firm or chambers) within which the lawyer works*].

Postal address:

\_\_\_\_\_ [insert postal address of lawyer, including the name of the  
*organisation (such as firm or chambers) within which the lawyer works*].

Email address: \_\_\_\_\_ [insert  
*email address of lawyer*].

Telephone number: \_\_\_\_\_ [insert telephone  
*number of lawyer*].

Fax number (optional): \_\_\_\_\_ [insert fax number for  
*lawyer, if desired*].

## Schedule 1: Definitions

**Additional Services** means any optional additional services (other than Services) we make available to you from time to time and for which, if you request to receive such services, you will pay us the applicable cost for the service concerned. These may be on a regular or ad hoc basis.

**Additional Services Fee** means the payment (if any) you make to us in exchange for our provision of the Additional Services selected by you. The initial amount for any regular Additional Services is set out in clause 1.9 and more detail is in clauses 4.6 to 4.9.

**Agreement** means this Agreement including the Schedules.

**Amenities Fee** means the Amenities Fee described in clause 1.6, which you pay us in exchange for us providing accommodation, the Community Facilities and related services.

**Buyback Suspension Event** means any event or circumstance (whether individually or taken together with other events or circumstances) which in our opinion has, or is expected to, materially and adversely impact our cash flow position (e.g., a global pandemic).

**Code of Practice** means the Retirement Villages Code of Practice 2008 as updated, amended or replaced from time to time.

**Code of Residents' Rights** means the code of resident's rights which is applicable from time to time under the Retirement Villages Act.

**Community Facilities** means the common areas and community facilities of the Village provided by us from time to time.

**Deed of Supervision** means the written document we have entered appointing the Statutory Supervisor to the Village as required under the Retirement Villages Act, as amended from time to time.

**Disclosure Statement** means the written document entitled the disclosure statement containing information about the Village, in accordance with the Retirement Villages Act.

**Entry Payment** means the payment set out in clause 1.5 and which is payable in exchange for your right to occupy the Home and to receive the Exit Payment.

**Exit Payment** means an amount equal to your Entry Payment, from which certain amounts can be deducted.

**Exit Payment Date** means the date we must pay you the Exit Payment and which is set out in clause 11.10.

**Fair Wear and Tear** means the normal change that takes place with the ageing of the Home or the Operator's Chattels through normal use by you or your guests and

having regard to the length of your stay in the Home, including where such change occurs due to incontinence or the normal use of your mobility aid such as a wheelchair, walker or walking stick. For the avoidance of doubt, it does not include any damage caused by smoking or by pets.

**Interest Rate** means the official cash rate (OCR) set by The Reserve Bank of New Zealand from time to time plus a margin of 2% per year.

**Interest Start Date** means, for the purpose of clause 11.13, the date that is six months and 15 Working Days after the Vacation Date.

**Home** means the home including fixed fittings, identified in clause 1.2 which is a residential unit for the purposes of the Retirement Villages Act.

**Operator's Chattels** means any chattels or goods installed in your Home by us as detailed in Schedule 2.

**Personal Information** means identifiable information about you, such as your name, email, address, telephone number, health information and so on.

**Retirement Villages Act** means the Retirement Villages Act 2003 as updated, amended or replaced from time to time.

**Rules** means our rules for the Village which we may change from time to time, as set out in this Agreement.

**Services** means the services set out in Schedule 5 we provide to you if indicated in clause 1.8 and in accordance with your Services Fee.

**Services Fee** means the payment (if applicable) you make to us in exchange for our provision of the Services. If applicable, the initial amount is set out in clause 1.8 and more detail is in clauses 4.2 to 4.5.

**Statutory Supervisor** means Covenant Trustee Services Limited or any other company appointed as statutory supervisor of the Village.

**Superannuation Rate** means the net (after tax at "M" Code) New Zealand superannuation rate for a single person (living alone).

**Termination Date** means the date this Agreement terminates or ends as set out in clause 8.18 or clause 12.12.

**Vacation Date** means the later of the date of the termination of your Occupation Right Agreement and the date you have stopped living in your Home and have removed all your possessions.

**Village Fee** means the periodic payment described in clause 1.7, being a contribution to the costs of the Village Outgoings in respect of the day-to-day operation of the Village. More detail is in clause 4.1.

**Village Outgoings** means the costs and outgoings of the Village including (but not limited to) goods and services tax (where applicable); land, building and water rates; compliance costs; insurance costs; staff remuneration; Statutory Supervisor fees; costs relating to providing the Community Facilities; costs of providing the 24 hour

medical alarm response system; costs relating to maintenance of the Community Facilities and the homes; and contribution to the long-term maintenance fund (if the Disclosure Statement provides that a contribution is payable by the Resident).

**Working Day** means any day of the week other than:

- (a) A Saturday or Sunday;
- (b) A public holiday (excluding anniversary days);
- (c) A day in the period commencing on 25 December in any year and ending on 2 January in the following year, inclusive.

A Working Day will be deemed to commence at 9am and end at 5pm. Any act done under this Agreement by a party after 5pm on a Working Day, or on a day which is not a Working Day, will be deemed to have been done at 9am on the next succeeding Working Day.

## Schedule 2: Operator's Chattels

*[insert details]*

## Schedule 3: Village Rules

### *No blockages, rubbish, obstructions*

- (a) You are not to do anything or allow anything within your control to occur, which could cause any blockage of stormwater drains or sewage outlets servicing your Home or the Village.
- (b) You are not to deposit rubbish other than in approved receptacles or defile any part of the land or buildings on or in the Village.
- (c) You are not to leave or place in the pathways, corridors, driveways or parking area or in the grounds or communal facilities of the Village any receptacles or obstructions (including mobility scooters) whatsoever.

### *Restriction on domestic pets*

- (d) Keeping pets in the Village (usually only cats, caged birds and aquarium fish) is subject to our approval and your entry into a Pet Agreement. As a general rule, no animals will be permitted that are likely to cause a nuisance to other residents. Any approval we give under this clause maybe withdrawn by us at any time. Our pet policy and template Pet Agreement is available on request.

### *Restrictions on noise making devices*

- (e) You are not to erect, install or place on or outside any Home any audible burglar alarms without our prior consent.

### *General*

- (f) You will only use electrical equipment in your Home that is electrically safe and will not cause a nuisance to others. We reserve the right to require you to remove any such equipment that is causing a nuisance to others or is in an unsafe condition.
- (g) You will not hold any auction, garage sale or other public event on Village property or land without our prior written consent.
- (h) You may only park your vehicle at your designated car park at the Village. You must always park in an orderly manner and comply with any carparking rules issued by us from time to time.
- (i) You may not run a business or trade of any sort from your Home without our prior consent.
- (j) You will not use your Home or common areas of the Village in such a manner as to interfere with the use and enjoyment of other residents of the Village.
- (k) Subject to our consent, you may change the internal décor of your Home, but we reserve our right to require you to reinstate it to a neutral décor upon termination of your Occupation Right Agreement (at your cost).

## SCHEDULE 4: SPECIAL PROVISIONS

### *[for Agreements with Non-Standard Amenities Fees]*

You have requested and we have agreed that your Amenities Fee will be a maximum amount of \$[insert], being equal to [insert]% of the Entry Payment.

**[For Villa/Apartments** - For the purposes of clause 11.6, your Amenities Fee is owed to us at the rate of [insert]% of the Entry Payment per year and this amount will be calculated daily in accordance with clause 11.7.] OR

**[For Serviced Apartments** - For the purposes of clause 11.6, your Amenities Fee is owed to us at the rate of:

- (a) [insert]% of the Entry Payment on the Commencement Date; plus
- (b) [insert]% of the Entry Payment per year and this amount will be calculated daily in accordance with clause 11.7.]

### *[for Agreements issued for Liston Heights villas in the unit title development]*

Notwithstanding clause 6.7, the insurance for your Home will be arranged by Body Corporate S76493. We will pay the body corporate levies.

### *[for Agreements issued for St Kilda]*

- You acknowledge that the Village land is adjacent to land zoned as Rural under the Waipa District Plan and that certain farming activities are permitted and occur in this zone which may produce adverse effects within the Village land. You agree that you shall not object to, or take any legal or other action in respect of, any effects generated by the use of the adjacent rural land for legitimate farming operations (being all farming activities and their effects which are permitted under the Resource Management Act 1991).
- You acknowledge that the Village land is nearby to the Cambridge Bypass. You agree that you shall not object to, or take any legal or other action in relation to, any effects generated by the construction, operation and use of the Cambridge Bypass provided the New Zealand Transport Agency has complied with all its legal obligations. This clause is for the benefit of and enforceable by the New Zealand Transport Agency for the purposes of section 12 of the Contract and Commercial Law Act 2017.

### *[for Agreements issued for Riverstone]*

You acknowledge that the Village land is nearby to the industrial activities of Turners and Growers Fresh Limited. You acknowledge and agree that the council will not uphold any noise complaints where the council confirms that the activities of Turners and Growers Fresh Limited are operating in accordance with the noise standards of the District Plan.

## Schedule 5: Services

### Services

The Services, if applicable, provided as a part of your Services Fee are:

- Weekly apartment cleaning (up to one hour of cleaning will be undertaken);
- Weekly laundry service for towels and bed linen (you must supply your own towels and linen); and
- For [five/seven] days a week, a main meal served at lunchtime [and a light meal served in the evening-**note: delete if light meal is not available (e.g., in Merrivale)**] in the dining room (or delivered to your Apartment by prior arrangement if you are unwell and unable to attend the dining room).