

**The Lakes Residential Retirement Village****RESIDENCE CONTRACT**

WARRINA INNISFAIL  
(Scheme Operator)

&

.....  
(Resident/s)

Date Contract Signed: ...../...../20.....

# The Lakes Residential Retirement Village

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# The Lakes Residential Retirement Village

## RESIDENCE CONTRACT

WARRINA INNISFAIL

("the Scheme Operator")

&

.....  
("the Resident/s")

### BACKGROUND:

- A. The Scheme Operator is the Registered Proprietor of the Land described in Item 2 of the Schedule.
- B. The Resident has agreed to loan to the Scheme Operator the Loan Amount upon the terms contained in the Loan Agreement which is ancillary to this Contract.
- C. The Scheme Operator has agreed to grant an exclusive right to reside in the Accommodation Unit situated on the Land to the Resident subject to the terms contained in this Contract.

### 1. DEFINITIONS

- 1.1 In this Contract, unless the contrary intention appears, the following words and expressions shall bear the meanings set out in this clause.

**"Accommodation Unit"** means the Accommodation Unit (and fixtures and fittings installed therein) at the Village details of which appear in Item 3 of the Schedule.

**"the Act"** means the *Retirement Villages Act 1999 (Qld)* and the *Retirement Villages Regulations 2000* and as amended from time to time.

**"Capital items" include:**

- a) all buildings and structures in the Village owned by the Scheme Operator other than items which are the Resident's responsibility under this Contract.
- b) all plant, machinery and equipment owned by the Scheme Operator used in the operation of the Village.
- c) all Village Infrastructure owned by the Scheme Operator
- d) any other things defined or allowed as being capital items by the Act from time to time.

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“**Capital Replacement Fund**” means a fund established by the Scheme Operator pursuant to Section 91 of the Act for replacing Capital Items.

“**Capital Replacement Fund Contribution**” is the amount that the Scheme Operator contributes to the Capital Replacement Fund from a new Resident’s Ingoing Contribution.

“**Commencement Date**” means the date shown in Item 4 of the Schedule.

“**Communal Facilities**” means roads, pathways, grounds, buildings, and all parts of the Village that may from time to time be specified in writing by the Scheme Operator to the Resident as available for the common use of all Residents.

“**Cooling-Off Period**” has the same meaning as in the Act.

“**Costs of Selling**” means the costs of the sale of the right to reside including costs of an incidental to the location of a New Resident and costs of a valuation obtained pursuant to Clause 3.6.

“**Deposit Holder**” means Vandeleur & Todd Pty Ltd Solicitors, 35 Rankin Street Innisfail Qld; who will hold as trustee the amount of ingoing contribution during the cooling-off period.

“**Exit Administration Fee**” means the expenses payable by the Resident to the Scheme Operator on the termination of the Contract relating to the sale of the right to reside pursuant to Clause 3.5 hereof as calculated in accordance with Clause 8.

“**Exit Entitlement**” means the Ingoing Contribution, less the amount to be paid by the Resident to the Scheme Operator pursuant to Clause 3.5.

“**Exit Fee**” means the fee payable by the Resident to the Scheme Operator pursuant to Clause 3.5 hereof as calculated in accordance with Clause 9.

“**General Services**” means the day to day services supplied, or made available to all Residents of the Village.

“**General Services Charge**” means the Resident’s proportion of the total costs for ‘General Services of the Village.

“**Gross Ingoing Contribution**” has the same meaning as in the Act.

“**GST**” has the same meaning as in the GST Act.

“**GST Act**” means A New Tax System (Goods and Services Tax) Act 1999 as amended.

“**Ingoing Contribution**” means the amount to be loaned by the Resident to the Scheme Operator under the Loan Agreement in consideration for this grant of this Contract.

## The Lakes Residential Retirement Village

**“Loan Agreement”** means the Loan Agreement which is ancillary to this Contract entered into between the Scheme Operator and the Resident and intended to be executed simultaneously with the execution of this Contract.

**“Maintenance Reserve Fund”** means a fund established under the Act for maintaining and repairing the Capital items of the Village.

**“Maintenance Reserve Fund Contribution”** means the Resident’s contribution to the Maintenance Reserve Fund which forms part of the General Services Charge.

**“Manager”** means the person appointed by the Scheme Operator to manage the Village on a daily basis from time to time and their authorised employees (if any).

**“Motorised Mobility Device”** means motorised wheelchairs, scooters or similar devices used for mobility purposes.

**“New Resident”** means a resident who enters into a Residence Contract of the Accommodation Unit upon or subsequent to the surrender of the right to reside granted by this Contract.

**“Personal Services”** means optional services supplied or made available for the benefit, care and enjoyment of an individual Resident.

**“Personal Services Charge”** means the cost payable by a Resident for the supply of Personal Services as set out in Clause 7.

**“Prospective Costs Document”** means the Prospective Costs Document in a form provided for by the Act giving details about the Scheme.

**“Reinstatement Work”** means work necessary due to deliberate damage or accelerated wear, or otherwise to reinstate the Accommodation Unit as nearly as practicable to its condition as at the commencement of this Contract which may include:

- a) Cleaning the interior of the Accommodation Unit;
- b) Repainting or replastering the interior of the Accommodation Unit;
- c) Replacing the carpets and other floor coverings in the Accommodation Unit;
- d) Treating the Accommodation Unit for insects and pests (including fleas);
- e) Repairing damage to the interior of the Accommodation Unit; and
- f) Replacing fixtures, fittings, equipment and appliances in the Accommodation Unit.

**“Registered Valuer”** and **“Valuer”** means a valuer registered under the *Valuers Registration Act 1992*.



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**“Residence Contract”** has the same meaning as in the Act.

**“The Resident”** means the person or persons named as Residents in Item 1 of the Schedule and includes a person for whom someone else has entered into this Contract.

**“Retirement Village Dispute”** means a dispute between the Scheme Operator and a Resident.

**“Scheme”** means The Lakes Residential Retirement Village.

**“Scheme Operator”** means Warrina Innisfail. ABN 57 719 437 739

**“Stakeholder”** means the Deposit Holder.

**“Supply”** has the same meaning as in the GST Act.

**“Taxable Supply”** has the same meaning as in the GST Act.

**“Term of Right to Reside”** means for the life of the Resident or if there is more than one, then until the death of the survivor of them.

**“Termination Date”** means the date a Resident’s right to reside is terminated as defined in the Act.

**“The Village”** means The Lakes Residential Retirement Village located at 33 Emily Street, Innisfail Qld 4860 and such other land as is from time to time determined by the Scheme Operator to form part of the Village.

**“Total Operating Costs”** has the meaning in Clause 6.1.2.

**“Tribunal”** means the Tribunal established pursuant to s172 of the Act.

**“Vacation Date”** means the date the Resident vacates the Accommodation Unit.

**“Value”** has the same meaning as in the GST Act.

**1.2** A reference to any party herein shall include a reference to that party and to its successors, permitted assigns, executors and administrators.

**1.3** A reference herein to any gender shall include the other genders.

**1.4** Where used herein the word ‘person’ shall include a natural person, firm, Scheme Operator or corporation.

**1.5** The singular shall include the plural and vice versa.

## The Lakes Residential Retirement Village

- 1.6** Any covenant or agreement on the part of two or more persons herein shall be deemed to bind them jointly and severally and any covenant or agreement relating to the Accommodation Unit shall extend to and include the Accommodation Unit, the carport and storeroom (if any).
- 1.7** The reference to a statute or ordinance includes all regulations under and amendments to that statute or ordinance whether by subsequent statute, ordinance or otherwise and a statute or ordinance passed in substitution for the statute for the statute or ordinance referred to or incorporating any of its provisions.
- 1.8** Headings and marginal notes shall not affect the interpretation hereof.

## **2. GRANT OF RIGHT TO RESIDE AND INGOING CONTRIBUTIONS**

### **2.1 Right to Reside**

Subject to clause 2.2, and in consideration of payment of the Ingoing Contribution by the Resident, the Scheme Operator grants to the Resident the exclusive right to reside in the Accommodation Unit upon the terms contained in this Contract.

### **2.2 Deposit**

- 2.2.1** The Resident must pay a Deposit equivalent to 10% of the incoming contribution to the Deposit Holder to hold on behalf of the Scheme Operator upon signing the Application for Residence Form.
- 2.2.2** The Scheme Operator is at liberty to waive the requirement of the Resident to pay a Deposit at its discretion.
- 2.2.3** The Scheme Operator is to record on the Schedule annexed to the Application for Residence Form the deposit payable by the Resident or record whether the Scheme Operator has waived the requirement for a deposit.
- 2.2.4** The Deposit Holder will hold the Deposit until such time it is instructed by the Scheme Operator to pay it to the party entitled to it.

### **2.3 Payment of Ingoing Contribution**

On or before the Commencement Date, the Resident must loan the Ingoing Contribution by way of an interest free loan to the Scheme Operator less any amount previously paid by the Resident to the Scheme Operator by way of deposit or reservation fee. The Trustee for the Scheme Operator must hold the Ingoing Contribution in trust until the latest of:

- (a) the day the conditions precedent, if any, to the creation of the right to reside to which the amount relates are fulfilled; or
- (b) the day the cooling-off period ends.

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### 2.4 Acknowledgements

The Resident acknowledges that:

- 2.4.1 it has received and read a copy of the Prospective Costs Document before signing this Contract;
- 2.4.2 it has had the opportunity to seek independent legal, financial and other advice as it considers appropriate about this Contract, the Prospective Costs Document and living in the Village;
- 2.4.3 it has been given the opportunity to inspect the Accommodation Unit and the Village and is satisfied with the condition of the Accommodation Unit;
- 2.4.4 it has not received or relied upon any representations or promises which are not set out in this Contract or the Prospective Costs Document ; and
- 2.4.5 any information it has provided to the Scheme Operator in any application form it has completed is true and correct.

### 2.5 Cooling-Off Period

- 2.5.1 This Contract forms part of a Residence Contract that was created when the Resident and Scheme Operator entered into the application to reside in respect of the Accommodation Unit.
- 2.5.2 The Contract is subject to a Cooling-Off Period which commences on the date specified in Item 5 of the Schedule to this Contract and ends at 5.00 pm on the date specified in Item 6 of the Schedule to this Contract.
- 2.5.3 If the Contract is entered into or commences before the Cooling-Off Period ends then the Resident may rescind this Contract before the Cooling-Off Period ends.

## 3. TERMINATION BY RESIDENT

### 3.1 Notice to Scheme Operator

The Resident may terminate the right to reside in the Accommodation Unit at any time during the term of this Contract upon giving one month's written notice to the Scheme Operator stating the date that the Resident wishes to vacate the Village.

### 3.2 Reinstatement of Accommodation Unit

- 3.2.1 Within 30 days after the Termination Date the Resident and the Scheme Operator must negotiate in good faith and if possible agree in writing on the Reinstatement Work but if agreement cannot be reached the Scheme Operator must obtain a statement of the work and an itemised quotation for carrying out the work from an appropriately qualified tradesperson within a further 14 days.
- 3.2.2 If the Resident and the Scheme Operator agree on the Reinstatement Work then this must be completed within the time agreed between the parties but if no time is agreed then no later than 90 days after the Accommodation Unit is vacated by the Resident or by the time fixed by the Tribunal. The Cost of the Reinstatement Work must be paid by the Resident unless otherwise payable by the Scheme Operator pursuant to the Act.

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### 3.3 New Residence Contract for the Accommodation Unit – where;

- 3.3.1 in the case of a sole Resident, the Resident dies or, in the case of joint Residents, the survivor of them dies; *or*
- 3.3.2 the right to reside is terminated by the Scheme Operator, pursuant to clause 4; *or*
- 3.3.3 the Resident gives notice to the Scheme Operator in accordance with clause 3.1, *then:*  
the Scheme Operator shall use its best endeavours to locate a person who satisfies the requirements of clause 3.4 to accept a new Residence Contract for the right to reside in the Accommodation Unit.

### 3.4 Location of New Resident

A new Residence Contract for the Accommodation Unit may only be granted to a person who:

- 3.4.1 has attained the age of 65 years. Where one partner is under the age of 65 years, each case is considered individually.
- 3.4.2 is responsible, solvent and reputable and has been assessed medically as being suitable to be a resident of the Village;
- 3.4.3 who pay an Ingoing Contribution by way of an interest free loan; *and*
- 3.4.4 who executes Loan and Residence Contract documentation.

### 3.5 Payment due to Scheme Operator by Resident

Subject to clauses 4.1 and 19.1, the Resident agrees that the Resident will, on the day on which the Scheme Operator grants a Residence Contract for the right to reside in the Accommodation Unit to a New Resident in accordance with Clause 3.3 pay to the Scheme Operator any of the following amounts, which will be by way of set off against any moneys to be paid by the Scheme Operator to the Resident pursuant to the Loan Agreement:

- 3.5.1 the Exit Fee; *plus*
- 3.5.2 the cost of the Reinstatement Work pursuant to clause 10.18; *plus*
- 3.5.3 outstanding General Services Charges, or Personal Services 'Charges (if any); *plus*
- 3.5.4 the Exit Administration Fee; *plus*
- 3.5.5 any other payments payable by the Resident as provided in this Contract.

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### 3.6 Sale of Right to Reside

3.6.1 The Scheme Operator will have the right of controlling the sale of the Resident's right to reside in the Accommodation Unit for 6 months from the Termination Date. The Costs of Selling will be shared by the Scheme Operator and the Resident in the same proportion as they are to share the Gross Ingoing Contribution on the sale of the right to reside in the Accommodation Unit.

3.6.2 If a New Resident is not found within 6 months of the Termination Date then the Resident or its executors may engage a real estate agent to effect the sale of the right to reside in the Accommodation Unit, and the cost of the re-sale and commission are to be borne by the Resident.

### 3.7 Payment Due to Resident by Scheme Operator

3.7.1 Subject to Clauses 4.1 and 19.1 the Scheme Operator will, within fourteen (14) days from the day upon which it receives the Ingoing Contribution from a New Resident on the sale of the right to reside in the Accommodation Unit, pay to the Resident the Resident's Exit Entitlement.

3.7.2 A deceased Resident's Exit Entitlement will require further evidence of probate (the official proving of a will) or letters of administration (authority to administer the estate of someone who has died without making a will) before funds will be released.

### 3.8 Surrender of Right to Reside

The Resident must, prior to or at the time of the payment by the Scheme Operator of the Exit Entitlement, deliver to the Scheme Operator.

3.8.1 where the right to reside has been terminated pursuant to Clause 3.1, a properly executed surrender of the right to reside and such other documents as are reasonable required by the Scheme Operator;

3.8.2 where the right to reside has been terminated because the Resident has died;

- a) evidence to the absolute satisfaction of the Scheme Operator that a Grant of Probate or Letters of Administration have issued or been resealed in Queensland to the personal representative of the Resident; *and*
- b) an office copy of the Certificate of Death of the Resident; *and*
- c) any other document reasonably required by the Scheme Operator.

3.8.3 An acknowledgment that upon payment of the Exit Entitlement, the Loan Amount as set out in the Loan Agreement has been paid in full.

### 3.9 Capital gain and capital loss

For the avoidance of doubt, the Resident is not entitled to any capital gain and is not liable for any capital loss on the sale of the right to reside in the Accommodation Unit.

## The Lakes Residential Retirement Village

### 4. TERMINATION BY SCHEME OPERATOR

#### 4.1 Scheme Operator's Right to Terminate Right to Reside

4.1.1 The Scheme Operator may terminate a Resident's right to reside by giving fourteen (14) days' notice in writing if:

- a) the Resident has intentionally or recklessly:
  - (i) injured any person while the person is in the Village;
  - (ii) seriously damaged the Accommodation Unit or the Communal Facilities; or
  - (iii) seriously damaged property of another person in the Village;
- b) the Resident is likely, intentionally or recklessly to do something mentioned in clause 4.1.1(a)(i) to 4.1.1(a)(ii).

4.1.2 The Scheme Operator may terminate a Resident's right to reside by giving two (2) months written notice if:

- a) the Resident has committed a material breach of the terms of this Contract;
- b) the Scheme Operator reasonably believes the Resident has abandoned the right to reside in the Village;
- c) the Scheme Operator and a person who has assessed the Resident's care needs under the Aged Care Act 1997 reasonably believes the Resident's type of accommodation is now unsuitable for the Resident.

4.1.3 Any notice given pursuant to Clauses 4.1.1 and 4.1.2 must state the grounds upon which the right to reside is being terminated and the date by which the Resident must vacate the Village.

#### 4.2 Payment to Resident on Termination by the Scheme Operator

The Scheme Operator must no later than six(6) months after the termination by the Scheme Operator, pay the Loan Amount due to the Resident less any moneys to be paid by the Resident to the Scheme Operator as calculated in accordance with Clause 3.5.

### 5. MAINTENANCE RESERVE FUND

5.1 The Scheme Operator has established and will maintain in the Maintenance Reserve Fund and hold amounts to contribute on trust for the benefit of the Residents in a trust account pursuant to the requirements of the Act.



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**5.2** The Residents of the Village are solely responsible for contribution to the Maintenance Reserve Fund for the purpose of:

- 5.2.1 maintaining and repairing the Village's Capital Items; or
- 5.2.2 paying the quantity surveyor's reasonable fees for giving a report pursuant to s.98(1) of the Act; or
- 5.2.3 paying tax on amounts paid into the fund by the Residents.

**5.3** The Maintenance Reserve Fund Contribution will be billed along with the General Services Charge on a monthly basis.

### **6. GENERAL SERVICES CHARGE**

#### **6.1 Calculation of General Services Charge**

6.1.1 The General Services Charge is the amount determined by the Scheme Operator in the manner described in the Prospective Costs Document as the Resident's fair proportion of the estimated Total Operating Costs.

6.1.2 For the purpose of this clause, 'Total Operating Costs' means the aggregate of all outgoings, costs and expenses of the Scheme Operator in connection with the ownership, operation, management and administration of the Village and the Scheme including but not limited to:

- a) all rates and taxes (to the extent they are not prohibited at law from recovery from the Resident), charges, assessment, duties, impositions and fees levied, assessed or charged by any public, municipal, governmental or semi- governmental agency in respect of the Village, but excluding the amount of any GST;
- b) all charges for water, gas, oil, electricity, telephone, facsimile, email, sewerage, waste disposal and other services supplied to the Village and for the maintenance and repair of all electrical, plumbing, filtration, sewerage and other installations located in the Retirement Village;
- c) all insurance premiums payable by the Scheme Operator in respect of the Village and the Scheme against such risks as the Scheme Operator deems necessary or desirable from time to time, including but not limited to public risk and liability, fire, lightning, storm, tempest, water, earthquake, malicious act, explosion, impact and riot or civil commotion;
- d) the costs of all services provided to residents of the Village by the Scheme Operator or any manager, caretaker, employee or independent contractor employed or engaged by the Scheme Operator;
- e) the costs of minor repairs and day to day maintenance (including preventative maintenance) necessary to keep the Village in good order

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and condition, including provision at the discretion of the Scheme Operator for future contingencies;

- f) all costs of the cleansing and day to day maintenance of the exterior of all accommodation units in the Village and the interior and exterior of all buildings and other improvements in common use by residents of the Village;
- g) all costs of the day to day maintenance and caretaking of the gardens, landscaped areas, lawns, pathways, roads and other parts of the Communal Facilities;
- h) all costs of the control and eradication of pests in the Communal Facilities;
- i) all costs of the day to day maintenance, testing and monitoring of fire-fighting and protection equipment installed in the Village, including sprinkler systems, hydrants, fire extinguishers and smoke detectors;
- j) the costs of day to day maintenance, monitoring and responding to the emergency alarm system and the other security services and emergency care services provide to residents of the Village;
- k) all payments made to or in respect of any manager, caretaker, employee or independent contractor employed or engaged by the Scheme Operator in connection with the Village or the Scheme including but not limited to wages and salaries, superannuation contributions, sick leave, holiday leave, long service leave, payroll tax, workers' compensation insurance premiums and other statutory taxes and charges;
- l) expenditure incurred in carrying on the business and operations of the Scheme Operator that relates to the operation, management or administration of the Village or the Scheme;
- m) the costs of management, secretarial, legal, audit, book-keeping, accounting and banking services provided in connection with the Village and the Scheme;
- n) all costs of complying with the requirements of any government or statutory authority in connection with the operation, management and administration of the Village and the Scheme;
- o) the fees of any auditor engaged to resolve any dispute between the Scheme Operator and the Resident in respect of the reasonableness or fairness of the calculation of the General Services Charge;
- p) any items of expenditure carried forward from any previous accounting period;



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- q) any other expenditure properly incurred in respect of the operation, management or administration of the Village or the Scheme, *but excluding amounts payable:*
- r) directly by the Resident under this Contract or the Act, or other residents of the Village under their licences or the Act;
- s) for or towards maintaining and repairing the Village's capital items that are properly payable out of the Maintenance Reserve Fund;  
*and*
- t) for or towards replacing the Village's capital items that are properly payable out of the Capital Replacement Fund.

6.1.3 If the estimated Total Operating Costs in respect of any period is greater or less than the Total Operating Costs actually incurred during that period, then for the purpose of calculating the General Services Charge payable during the next succeeding period the estimated Total Operating Costs for that period must be increased or decreased accordingly by a sum equal to the difference.

### 6.2 Current General Services and General Services Charge

The General Services will be provided to the Resident, and the amount of the General Services Charge payable by the Resident, will commence from the Commencement Date.

### 6.3 Adjustments to General Services Charge

6.3.1 The Scheme Operator must calculate adjustments for the General Services Charge and notify the Resident from time to time of the adjusted General Services Charge payable by the Resident.

6.3.2 Notification to the Resident of the amount of the adjusted General Services Charge payable by the Resident must be given no later than fourteen (14) days before the commencement of the period to which the notification relates.

6.3.3 Notification under clause 6.3.2 must contain the dates in each period on which the adjusted General Services Charge is payable.

### 6.4 Limit on Increase

Nothing in clauses 6.1 shall permit the Resident's General Services Charge to be increased beyond the maximum amount from time to time permitted by the Act.

### 6.5 Payment of General Services Charge

The Resident shall pay the General Services Charge to the Scheme Operator or its manager without formal or other demand by the Scheme Operator and without any deduction whatsoever in advance on such dates and in respect of such periods as the

## The Lakes Residential Retirement Village

Scheme Operator shall from time to time nominate and shall pay to the Scheme Operator interest on the outstanding amount at the rate equal to the greater of 6% or interest per annum which is one (1) percentage point higher than the national benchmark rate published by the National Australia Bank on the first day of each calendar month (if not published on the first day, then the first national benchmark rate published in that month) to be reviewed monthly.

### **6.6 Continuing Obligation to Pay General Services Charge and Maintenance Reserve Charge.**

The Resident's obligation to pay the full amount of the General Services Charge and Maintenance Reserve Charge continues until the first of the following happens –

- 6.6.1 the right to reside in the Accommodation Unit is sold to a New Resident who has paid an Ingoing Contribution;
- 6.6.2 ninety (90) days after the Resident vacates the Accommodation Unit ("90 day period");
- 6.6.3 a Tribunal orders the Scheme Operator to pay the Resident's Exit Entitlement. If the Accommodation Unit has not been sold to a New Resident within the 90 day period the Resident and Scheme Operator must share in the General Services Charge after the 90 day period ends in accordance with the relevant provisions of the Act.

### **6.7 Goods and Services Tax**

If any Supply made by the Scheme Operator to the Resident under this Contract is a Taxable Supply then in addition to any consideration payable by the Resident to the Scheme Operator under this Contract, the Scheme Operator shall be entitled to recover from the Resident an additional amount on account of GST, such amount to be equal to the amount of the Scheme Operator's GST liability in respect of the Supply calculated in accordance with the GST Act and on the basis that the consideration otherwise payable under this Contract is the Value of the Taxable Supply and shall be recoverable at the same time as any of the amount is payable under this Contract.

## **7. PERSONAL SERVICES CHARGE**

The Personal Services Charge is a fee charged by the Scheme Operator from time to time for any Personal Services provided by the Scheme Operator including for additional electrical consumption by a Resident in an Accommodation Unit in relation to additional white good items (dryer, freezer, air-conditioner).

## **8. EXIT ADMINISTRATION FEE**

The Exit Administration Fee shall be the Resident's share of the Costs of Selling plus all of the costs of and incidental to termination including, all legal and other costs in respect of the preparation and execution of a surrender of the right to reside.

## The Lakes Residential Retirement Village

### 9. EXIT FEE

The Exit Fee shall be an amount calculated as a percentage of the Ingoing Contribution paid by the Resident depending on the period of time that has elapsed from the Commencement Date to the Termination Date (“time elapsed”).

The percentage of the Ingoing Contribution that is payable by the Resident as an Exit Fee is:

Year	Time Elapsed	Exit Fee (% of the Ingoing Contribution)
0 - 1	Less than 1 year	10% for the first year calculated daily
1	1 year or more but less than 2 Years	10% for the first year plus 10% per annum calculated daily during the 2 <sup>nd</sup> year
2	2 years or more but less than 3 years	20% for the first 2 years plus 10% per annum calculated daily during the 3 <sup>rd</sup> year
3	3 years or more but less than 4 Years	30% for the first 3 years plus 5% per annum calculated daily during the 4 <sup>th</sup> year
4	4 years or more	35% (maximum Exit Fee 35%)

### 10. COVENANTS OF THE RESIDENT

The Resident undertakes and agrees with the Scheme Operator:

#### 10.1 Place of Residence Only

To use the Accommodation Unit as a place of residence only and for no other purpose without the prior written consent of the Scheme Operator.

#### 10.2 Use of the Accommodation Unit

Not to use the Accommodation Unit or any part of the Village or permit the same to be used for any illegal purpose or noisy gathering or any breach of the rules and regulations of the Village or in such a manner as to unreasonably interfere with the use and enjoyment of the Village by or to cause a hazard or nuisance to other residents of the Village or their guests.

#### 10.3 Maintenance of Accommodation Unit

10.3.1 To pay the Scheme Operator via the Maintenance Reserve Fund to maintain the Accommodation Unit and every part thereof including fixtures, fittings and electrical or mechanical appliances, air conditioning, hot water system provided by the Scheme Operator in good working order and in a state of good repair.

10.3.2 To leave the Accommodation Unit in good repair at the termination of the right to reside; and to perform those obligations in a manner consistent with the

## The Lakes Residential Retirement Village

Lakes Retirement Village Fair Wear and Tear Policy/Guidelines (Prospective Costs Document Attachment 21).

10.3.3 To give the Scheme Operator vacant possession and to remove all of the Resident's property from the Accommodation Unit upon termination of this Contract, failing which:

- a) the Scheme Operator may remove that property and store it;
- b) the Scheme Operator may charge the Resident reasonable removal and storage costs; and
- c) if the Resident has not collected their property within 14 days from when the Resident left the Accommodation Unit, the Scheme Operator may dispose of that property as the Scheme Operator sees fit.

10.3.4 Not to deposit any fats, oils, tea leaves or other waste matter in sewerage or drain pipes servicing the Accommodation Unit.

### **10.4 To Grant Access**

To permit the Scheme Operator with or without workmen and others at all reasonable times during the day to have access to the Accommodation Unit to view its condition and the Resident shall (so far as the Resident is able in accordance with the covenants herein contained) execute all repairs and works required to be done in accordance with written notice from the Scheme Operator;

### **10.5 Emergency Access**

If in the opinion of the Scheme Operator any emergency exists whether in the Accommodation Unit or elsewhere to permit the Scheme Operator its employees and others at any time to enter the Accommodation Unit of the Resident and deal with that emergency and all repairs necessary as a result of the Scheme Operator and its employees entering the Accommodation Unit as a result of the emergency shall be borne by the Resident.

### **10.6 Not to Invalidate Insurance Policies**

Not to do or permit to be done anything which has the effect either directly or indirectly of invalidating or vitiating any policies of insurance effected by the Scheme Operator in respect of the Accommodation Unit, the Village or any part thereof and any improvements erected thereon or which has the effect of increasing the rate of premium payable on any such insurance policies. If the Resident does or permits to be done anything having such an effect, then the Resident shall be responsible for any damage loss or extra expense which the Scheme Operator may suffer or incur as a result which shall be a debt due from the Resident to the Scheme Operator;

## The Lakes Residential Retirement Village

### **10.7 To Pay All Personal Accounts**

To pay all telephone, electricity, gas and other charges separately rated, taxed, charged, assessed or imposed on the Accommodation Unit;

### **10.8 To Keep Pets Only With Consent of Scheme Operator**

Dogs and cats are not to permanently reside within the Accommodation Units within the Village. Dogs and cats are permitted in the Accommodation Units if accompanied by a visitor or are being cared for on a temporary basis by a resident for a period no longer than a period of seven (7) days or unless prior approval in writing from the Manager is obtained. Residents may keep a bird or fish unless the Scheme Operator consents thereto in writing to that particular animal or bird and such consent has not been revoked or withdrawn. The Scheme Operator may in its absolute discretion impose and the Resident shall comply with all reasonable conditions concerning the keeping of such animals or bird and may revoke any such consent if the animal or bird, the subject of the consent, creates a nuisance which does not cease within a reasonable time after notice thereof is given by the Scheme Operator to the Resident.

### **10.9 To Give Scheme Operator Notice of Accident or Defects**

To give to the Scheme Operator proper notice of any accident to or defect in the sewer connections, water pipes, electricity and gas installation or fixtures in the Accommodation Unit.

### **10.10 Not to Make Alterations or Additions**

Not without the prior written consent of the Scheme Operator first obtained and then only upon the terms and conditions specified in any such written consent make or permit to be made alterations or additions whether structural or otherwise to the interior or exterior of the Accommodation Unit or any part thereof (including the erection of any external blinds or awnings)

Subject to obtaining any consent from the Scheme Operator, if the Resident will be hiring tradespeople for the work then the Resident must ensure they have all the required licences and necessary policies of insurance, including public liability, in place for the work and the Resident must advise the Scheme Operator who they are and when they will be coming to the Village to do the work. The Resident must have them report to the Manager on their arrival at the Village.

If the work involves the repair or replacement of electrical or plumbing fixtures (other than changing tap washers) then the Resident must use tradespeople who have been approved by the Scheme Operator and who have the appropriate licences and insurance cover to do that work.

### **10.11 Not to Bring Items Causing Structural Damage In to the Accommodation Unit**

Not to bring into the Accommodation Unit any item which may in the reasonable opinion of the Scheme Operator be likely to cause structural damage to the Accommodation Unit;

## The Lakes Residential Retirement Village

### **10.12 To Perform All Statutory Obligations**

The Resident shall not permit or suffer the Accommodation Unit or any part thereof to be or become in an unsanitary condition and shall at the cost of the Resident perform and observe all duties and obligations in relation to the Accommodation Unit as may be imposed under and by virtue of any Act of Parliament, State or Federal or any rules, regulations, ordinances or local laws of any government instrumentality or local authority and to indemnify and keep indemnified the Scheme Operator from and against all suits, actions, causes, claims and demands arising in relation thereto;

### **10.13 To Hang Clothing Only in Approved Locations**

Not to place, hang or suffer to be hung any clothes or other articles from the outside of the Accommodation Unit other than on a clothesline and in a place approved by the Scheme Operator;

### **10.14 To Observe Garbage Regulations**

To observe and perform all regulations relating to garbage and the positioning of receptacles for the disposal of garbage in or about the Accommodation Unit or its surrounds;

### **10.15 Only to Store Goods in Approved Locations**

Not without the Scheme Operator's prior written consent to store any goods or chattels outside the Accommodation Unit except in the storeroom (if applicable) or such place or places as may be specifically set aside by the Scheme Operator for such purpose and the Resident shall only use the garage (if applicable) for the purposes of storing the Resident's motor vehicle or storage of goods and clutter unless the Scheme Operator consents in writing to any other use

### **10.16 To Notify Scheme Operator of Visitors**

To promptly notify the Scheme Operator in advance that the Resident intends for a visitor to stay overnight or for a period of up to three (3) weeks. Where the intended visitor is under the age of eighteen (18) years of age, the prior approval of the Scheme Operator is required. In the event that the Resident intends for a visitor to stay for a period in excess of three (3) weeks the Resident shall seek the prior written approval of the Scheme Operator. The Resident shall ensure that visitors comply with the rules of the Village and that his or her visitors shall not interfere with the rights and enjoyment of other Residents at the Village;

### **10.17 To Comply with Statutory Notices**

To comply at the Resident's own expense with the requirements of any notice issued by a local or statutory authority insofar as they are applicable to the Accommodation Unit;

### **10.18 To Reinstate Accommodation Unit Upon Termination**

Following vacation of the Accommodation Unit to pay to the Scheme Operator the cost of the Reinstatement Work as defined.



## The Lakes Residential Retirement Village

### **10.19 To Keep Contents Insured**

Individual decision to ensure that the contents of the Accommodation Unit (excluding such of the fixtures and fittings therein as are from time to time owned by the Scheme Operator) and any vehicle or boat owned by the Resident stored at the Village are kept insured against loss, theft, damage or destruction in not less than their insurable value with a reputable insurer.

### **10.20 To Indemnify Scheme Operator for Misuse**

To indemnify and save harmless the Scheme Operator from all liability, loss, damages, expenses and costs caused by or arising out of:

10.20.1 the negligent use or misuse, waste or abuse of the water, gas or electricity or emergency call system supplied to the Accommodation Unit by the Resident or by any person or persons claiming under the Resident or caused by faulty water, gas, or electric light fittings or fixtures installed by the Resident or by any of his servants or agents and at the Resident's own cost and charge to pay for all such damage or any costs incurred in unnecessary calls by the fire brigade;

10.20.2 the placing on the Village of any motor vehicle or boat owned by the Resident.

### **10.21 Not to Mortgage, Etc.**

Not at any time to mortgage, charge or otherwise encumber the Accommodation Unit or the Resident's interest therein.

### **10.22 Not to Assign, Etc.**

Not to assign, sublicense or transfer or otherwise part with possession of the Accommodation Unit.

### **10.23 Right to Remove Property in Case of Death**

Where in the case of a sole Resident, the Resident dies or, in the case of joint residents, the survivor of them dies, the Scheme Operator shall after thirty (30) days of the death of such Resident, have the right to enter upon the Accommodation Unit licensed to the deceased Resident and to remove and store any items of property of the deceased Resident in a place to be set aside for their storage until such time as they shall be dealt with by the executor or administrator of the estate of the deceased Resident. Except in the case of negligence by the Scheme Operator, the Scheme Operator shall have no liability to any person for any loss or damage to any of the said items of property during such removal or storage.

### **10.24 Resident's Fixtures and Fittings**

On or reasonably soon after the termination of this Contract the Resident may remove any fixtures and fittings attached by the Resident to the Accommodation Unit provided that the Resident at its cost shall repair all holes, cracks or other damage resulting from such removal and in default the costs of making good such damage may be deducted by the Scheme Operator from the monies due to the Resident.

## The Lakes Residential Retirement Village

### 10.25 Peaceably reside

To observe the rights of all Residents in the Village to live peaceably and to conduct himself or herself so as not to interfere with or substantially detract from the peace, comfort and privacy of other residents. To respect the right of the operator and employees to work in an environment free from harassment and intimidation. To respect the right of people working in the retirement village, to work in a safe workplace. Breach of this clause will be a material breach of this Contract.

In the event that a dispute between Residents is not able to be settled to the satisfaction of the Scheme Operator, the Residents can be required to enter into mediation.

All dispute resolution processes between Residents will be funded by Residents involved.

If the Scheme Operator needs to be involved in a dispute between Residents (i.e. Resident v Resident) and incurs costs due to its' involvement in the dispute, the Scheme Operator will seek to recoup those costs from the Residents involved. Costs may be recouped directly from the Residents involved at the time of the dispute or by deducting from the Exit Entitlement upon departure.

### 10.26 Liability for replacing capital items

Notwithstanding the provisions of clause 12.9, if a Capital Item of the Village is deliberately damaged by the Resident, or subjected to accelerated wear caused by the Resident's actions, the Resident is liable for the cost of replacing the item.

### 10.27 Use of motor vehicles

10.27.1 Not to drive any unregistered or uninsured motor vehicle while at the Village.

10.27.2 Not to drive any vehicle unless licensed to do so.

10.27.3 To adhere to the appropriate speed limits and other rules with respect to the use of motor vehicles in the Village.

10.27.4 Not to use or allow visitors to use a Motorised Mobility Device with the Village unless:

(a) a current comprehensive insurance policy is held providing coverage of not less than \$5,000,000.00 in respect of any liability, injury, or damage arising in connection with the use of the Motorised Mobility Device.

(b) if required by law the Motorised Mobility Device is duly registered with the relevant government authority; and

(c) a copy of the relevant registration and/or insurance certificates is provided to the Scheme Operator if requested

### 10.28 Unapproved plants

10.28.1 To co-operate with the Scheme Operator in preservation of the gardens and landscaping in the Village.

10.28.2 Not to grow, or permit to be grown, in any part of the Village, any species of plants, shrub or tree without obtaining the prior approval of the Scheme Operator.



## The Lakes Residential Retirement Village

### 10.29 Antennae and heating

10.29.1 Not to erect on or about the Accommodation Unit, any aerial, antenna or other similar structure likely to be seen from outside the Accommodation Unit.

10.29.2 Not to install any additional heating in the Accommodation Unit without the prior written consent of the Scheme Operator.

### 10.30 Notify Scheme Operator of absences

To notify the Scheme Operator if the Resident will be absent from the Retirement Village overnight or for longer periods.

### 10.31 Health

10.31.1 To notify the Scheme Operator of any significant developments in the state of the Resident's health;

10.31.2 To immediately notify the Scheme Operator in the event of contracting an infectious disease and to thoroughly fumigate and disinfect the Accommodation Unit at the Resident's expense and to the satisfaction of the Scheme Operator or the local health inspector;

10.31.3 To pay for any medical assistance engaged by the Scheme Operator for the Resident in the event of a sudden illness and to acknowledge that the Scheme Operator is entitled in the event of sudden illness of the Resident to have the Resident taken from the Accommodation Unit to a hospital or other health care facility at the cost of the Resident.

## 11. By-laws

### 11.1 By-Laws

It is hereby agreed between the Scheme Operator and the Resident that the Scheme Operator may from time to time make such By-Laws as it may consider appropriate for the good management and control of the Village.

### 11.2 Residents May Make Alter or Revoke By-Laws

The parties acknowledge and agree that a meeting of Residents may, by special resolution, and with the agreement of the Scheme Operator make, alter or revoke any By-Laws.

### 11.3 Resident to Observe By-Laws

The Resident will at all times during the continuance of the term hereby granted and in all respects observe and obey all By-Laws as may from time to time be made under clauses 11.1 and 11.2 for the good management and control of the Village, but only to the extent the By-Laws are not inconsistent with the terms of this Contract.

### 11.4 Notice to Comply

In the event of any breach or non-compliance by the Resident of any provision of the By-Laws made under clauses 11.1 and 11.2 and in force for the time being, the Scheme Operator or its manager may serve upon the Resident a notice in writing specifying the nature of such breach or non-compliance and requiring that the said By-Laws shall thereafter be observed and in the event of such breach or non-observance being repeated or continued by the Resident the Scheme Operator (in addition to any other

## The Lakes Residential Retirement Village

remedies to which it may be entitled) may exercise all or any of the powers reserved to the Scheme Operator by clause 4 hereof.

### **12. OTHER COVENANTS OF THE SCHEME OPERATOR**

#### **12.1 Quiet Enjoyment**

The Resident shall and may peaceably hold and enjoy the Accommodation Unit during the term hereby granted without any interruption by the Scheme Operator or any other person or persons claiming by, from or under it PROVIDED THAT the Scheme Operator shall be entitled from time to time to improve, extend and further construct the Village and utilise passageways, pathways, roads and corridors giving access to and egress from other parts of the Village and the Resident acknowledges and agrees that any interference to the quiet and uninterrupted enjoyment of the Resident due to building operations continuing in any other areas of the Village and the use by tradesmen and others of Communal Facilities whilst such building operations are in progress shall not amount to a breach of the Scheme Operator's covenant of quiet enjoyment and PROVIDED FURTHER THAT in conducting such further building operations the Scheme Operator will endeavour to cause as little inconvenience to the Resident as is practicable in the circumstances.

#### **12.2 Insure**

The Scheme Operator must insure and keep insured the Village, all Accommodation Units, the communal facilities to the full replacement value and must cover to the greatest practicable extent -

10.2.1 damage; *and*

10.2.2 costs incidental to the reinstatement or replacement of insured buildings, including the cost of taking away debris and the fees of architects and other professional advisers; *and*

10.2.3 public liability; *and*

10.2.4 must provide for the reinstatement of property to its condition when new.

#### **12.3 Pay Rates, Land Tax, Etc.**

The Scheme Operator will, subject to the provisions hereof, at all times during the term hereof pay all municipal water and sewerage rates and charges and land tax in respect of the Village and all Accommodation Units in the Village except to the extent to which the Resident or any other resident of the Village is liable for same and all charges payable for water (including excess water charges) and electricity consumed or used in any common land or common buildings, facilities or improvements at the Village from the General Services Charge collected from the Residents of the Village.

#### **12.4 Ensure Compliance**

If any resident of an Accommodation Unit in the Village shall make default in complying with any order or direction lawfully made or given with respect to any works, acts or things required to be done to or in such Accommodation Unit, the Scheme Operator will take such action as may be necessary and proper to acquire or secure compliance with such order or direction.

## The Lakes Residential Retirement Village

### 12.5 Twenty-four Hour Emergency Call System

Where requested, the Scheme Operator agrees to install, maintain and have monitored, a general emergency call system 24 hours a day, 7 days a week.

### 12.6 Control Manage Etc.

The Scheme Operator will control, manage and administer the Village and do all things reasonably necessary for the enforcement of any By-Laws relating to the Village.

### 12.7 Communal Facilities

The Scheme Operator will permit the Resident to have the right in common with the Scheme Operator, and all persons from time to time residing at the Village to use the Communal Facilities.

### 12.8 Financial Statements

The Scheme Operator will provide, at the request of the Resident, copies of the audited and unaudited financial statements for the retirement village for each financial year and copies of the quarterly financial statements for the Capital Replacement Fund and Maintenance Reserve Fund.

### 12.9 Capital Improvement

The Scheme Operator will bear the cost of the Village's capital improvements including the capital improvement of the Communal Facilities but if the Resident gives a written request for a particular capital improvement to the Accommodation Unit and the Scheme Operator makes the improvement the Resident is to pay the cost.

### 12.10 Capital Replacement Fund

The Scheme Operator will establish the Capital Replacement Fund pursuant to the Act and will pay and hold the funds pursuant to the Act in an account entitled 'The Lakes Residential Retirement Village Secured Capital Replacement Fund Account'.

### 12.11 Maintenance Reserve Fund

The Scheme Operator will establish and keep the Maintenance Reserve Fund and hold the monies standing to the credit of the fund on trust solely for the benefit of Residents in a trust account that is established and kept for that purpose.

### 12.12 Maintain and Repair

12.12.1 The Scheme Operator must keep in a state of good and serviceable repair, and properly maintain, the Village (including the Communal Facilities) fair wear and tear excepted.

12.12.2 The Scheme Operator is not responsible for repair or maintenance necessary through any deliberate or wilful act or neglect or negligence on the part of the Resident or any agent, contractor, employee, licensee, invitee or visitor of the Resident.

12.12.3 Nothing in this clause requires the Scheme Operator to maintain or repair the interior of the Accommodation Unit.

## The Lakes Residential Retirement Village

### 13. DAMAGE TO OR DESTRUCTION OF THE ACCOMMODATION UNIT

#### 13.1 Restoration of Damaged Premises

If the Accommodation Unit shall at any time during the term hereof be partially destroyed or damaged so as to render it substantially unfit for use and occupation by the Resident then the Scheme Operator will as soon as practicable repair, replace and make good the whole of the destroyed or damaged portion of the Accommodation Unit as nearly as possible to the condition in which it was immediately prior to such damage or destruction and upon the happening of such damage or destruction the General Services Charge hereby reserved or a proportion or part thereof according to the nature and extent of the damage sustained shall abate until the Accommodation Unit shall have been rebuilt or reinstated or made fit for use and occupation.

#### 13.2 Destruction of Premises

If the Accommodation Unit, in the opinion of the Scheme Operator, is totally destroyed or damaged so extensively as to render the repair or making good of such damage impracticable or undesirable then the Scheme Operator will rebuild or reconstruct the Accommodation Unit substantially in accordance with its original design or such other design as the Scheme Operator may consider desirable in which event the General Services Charge shall abate from the happening of the damage or destruction until the Accommodation Unit is fit for use and occupation by the Resident but that if in the opinion of the Scheme Operator the rebuilding or reconstruction of the Accommodation Unit is impracticable or undesirable the Resident's right to reside contained in this Contract may be terminated without compensation by the Scheme Operator by written notice to the Resident in which case the Scheme Operator shall within fourteen (14) days of receiving the proceeds due to the Scheme Operator from its policy of Insurance covering the destruction or damage pay to the Resident the amount due to the Resident calculated in accordance with clause 3.5 hereof but on the basis that:

13.2.1 the Exit Fee is calculated under clause 9 in respect of the period which has elapsed since the commencement of this Contract on the basis that the ingoing contribution which would have been paid by a new resident was the Ingoing Contribution;

13.2.2 no amount for the Reinstatement Work shall be deducted under clause 3.5.2 from the amount due to the Resident.

#### 13.3 Alternate Accommodation

In the event of the Accommodation Unit being totally destroyed or so damaged as to render it substantially unfit for use and occupation the Scheme Operator shall use its best endeavours to make available to the Resident suitable similar alternate accommodation on such terms and conditions as the Scheme Operator considers reasonable in the circumstances.

## The Lakes Residential Retirement Village

### 14. DISPUTE RESOLUTION PROCESS

14.1 The dispute resolution process for a retirement village dispute between a resident and the Scheme Operator is governed by the provisions of the Retirement Villages Act. The dispute resolution process does not apply to disputes between residents or disputes relating to the operation of the Body Corporate.

Refer Section 10.25 'Peaceably reside' for Resident v Resident dispute resolution process.

#### 14.2 Preliminary Negotiation

14.2.1 The first step in the dispute resolution process is to engage in an internal negotiation between the parties. The First Party to the dispute must give the Second Party written notice stating the matters in dispute and nominating a day for a meeting within the village to attempt to resolve the dispute. The day nominated must be after a period of 14 days from giving the notice.

14.2.2 The Second Party must then give the First Party a written response to the notice within 7 days of receiving the notice.

14.2.3 The parties must then meet to attempt to resolve the dispute

#### 14.3 Mediation

14.3.1 In the event that the dispute is not resolved by internal negotiations, an application can then be made to the Principal registrar at the Queensland Civil and Administrative Tribunal for a mediator to be appointed to assist the parties to resolve the dispute.

14.3.2 Within 14 days after receiving the dispute notice, the Registrar will appoint a mediator, give written notice to the parties of the name of the mediator and the time, date and place of the mediation conference.

14.3.3 The types of disputes that can be mediated under the Act are all disputes other than:

- (a) disputes that are subject to arbitration;
- (b) disputes that are subject to an arbitration award;
- (c) disputes that are either before a court or have been decided by a court;
- (d) disputes between residents;
- (e) disputes relating to the operation of the Body Corporate.

## The Lakes Residential Retirement Village

14.3.4 A lawyer or agent may represent each party at the mediation conference unless the mediator thinks a lawyer or agent should not represent the party. The mediation conference is held in private and no official record is kept.

14.3.5 A party to the dispute cannot be compelled to attend mediation.

14.3.6 If an agreement is reached on the dispute, the parties must sign a mediation agreement.

### 14.4 Tribunal Hearings

14.4.1 In the event that the parties cannot reach an agreement, one party does not attend mediation, the dispute is not settled within 4 months or a party has not complied with the agreement within a specified time or within 2 months, a party can apply to the Queensland Civil and Administrative Tribunal to hear the dispute.

14.4.2 The resident can make an application for an order from the Tribunal without undertaking the internal negotiation or mediation process if the resident is threatened with removal or is removed from the retirement village, is threatened with deprivation or is deprived of the right to reside or is threatened with restriction or is restricted in use of the retirement village land under the residence contract.

14.4.3 A resident can also ask for an order by the Tribunal to have the residence contract set aside if the Scheme Operator gives the resident false or misleading documents and the resident is materially prejudiced by it.

14.4.4 The Tribunal Hearings are open to the public and parties to the dispute will have to pay their own costs for the tribunal hearing unless the tribunal decides otherwise in the interests of justice.

14.4.5 A group of residents may apply jointly about a matter arising from similar circumstance.

14.4.6 The tribunal can hear disputes other than those that are or have been subjected to arbitration or that are or have been decided by a court. The Tribunal can hear disputes that involve amounts less than \$25,000.00. The contact details for the Tribunal can be located at page 13 of the Prospective Costs Document.



## The Lakes Residential Retirement Village

### 15. POWER OF ATTORNEY

The Resident hereby irrevocably appoints the Scheme Operator to be his or her attorney at any time after the Scheme Operator's right to terminate this Contract has become exercisable or has been exercised (sufficient proof whereof shall be the statutory declaration of the person for the time being appointed by the Scheme Operator as Manager of the Village or the Secretary of the Scheme Operator) to execute a surrender of the Resident's right to reside in the Accommodation Unit and to this purpose to use the name of the Resident and from time to time to appoint one or more substitute attorneys and at any time to revoke any such appointment all and whatsoever the said attorneys or any substitute shall lawfully do or cause to be done in pursuance of this clause.

### 16. REPRESENTATIONS AND CONDITION OF ACCOMMODATION UNIT

#### 16.1 No Representations

The Resident acknowledges that no promises, representations, warranties or undertakings whether express or implied have been given or made by the Scheme Operator in respect of the suitability of the premises for the purpose for which they will be used by the Resident.

#### 16.2 Conditions of Accommodation Unit

The Resident acknowledges that he or she has immediately prior to the execution of this Licence, inspected the Accommodation Unit and is satisfied with the condition, appearance and state of repair of the Accommodation Unit.

### 17. COSTS

The Resident shall bear his or her own costs and the Scheme Operator's legal and other costs of and incidental to the preparation and execution of this Contract and any ancillary documentation relating to the right to reside and all stamp duty payable hereon.

### 18. CONTRACT TO PREVAIL

It is expressly agreed and declared by and between the Scheme Operator and the Resident that whenever any inconsistency may exist between the covenants, powers and other provisions of this Contract and those implied by the Property Law Act and by the Land Title Act or by the Residential Tenancies Act then the covenants, powers and other provisions of this Contract shall prevail over those respectively applied by any of those said Acts except to the extent however that any such covenant, power or other provision of this Contract may not be lawful in which event the relative covenants, power or other provision of the Property Law Act, the Land Title Act or the Residential Tenancies Act, as the case may be, shall apply.

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### 19. SALE OF VILLAGE

The Scheme Operator may at any time during the term hereof sell the Village to any person or corporation and assign its interest in the Contract and any contract between the Scheme Operator and the Resident to that person or corporation, without the consent of the Resident, provided that it has first obtained from the purchaser a covenant to be bound by the terms hereof and by the terms of any other contract between the Scheme Operator and the Resident. Upon completion of such sale, the Scheme Operator shall be deemed to have been fully released and discharged from all of its obligations hereunder except breaches by the Scheme Operator which shall have occurred before completion of the sale.

### 20. TERMINATION OF VILLAGE

#### 20.1 Payment Due After Termination of Village

In the event that the Scheme Operator gives the Resident notice at any time that it intends to cease to operate the Village as a Retirement Village following the termination of all then current rights to reside, then the Scheme Operator shall, within fourteen (14) days of the occurrence of one of the events described in clause 3.3 pay to the Resident the amount due to the Resident calculated in accordance with clause 3.5 hereof but on the basis that:

20.1.1 The Exit Fee is calculated under clause 9 in respect of the period which has elapsed since the commencement of this Contract on the basis that the ingoing contribution which would have been paid by a new resident was the Ingoing Contribution

20.1.2 No amount for the cost of Reinstatement Work shall be deducted under clause 3.5.3 from the amount due to the Resident.

20.1.3 No amount for the cost of repairing the Accommodation Unit after the removal of the Resident's fixtures and fittings shall be deducted from the amount due to the Resident.

### 21. NOTICES

Any notices required to be served under this Contract shall be sufficiently served on the Resident if left at or forwarded by post addressed to the Resident at the Accommodation Unit. A notice sent by post shall be deemed to be given at the time when in the ordinary course of post it would be delivered to the address to which it is sent. A notice given by the Scheme Operator hereunder shall be deemed to have been properly given if signed by the Chief Executive Officer or a Manager of the Scheme Operator.

### 22. ASSESSMENT OF CARE NEEDS

22.1 The Scheme Operator may require the Resident to have their care needs assessed from time to time by a doctor or other appropriate person nominated by the Scheme Operator so that the Scheme Operator can ensure the Accommodation Unit is suitable for the Resident. To exercise this right, the



## The Lakes Residential Retirement Village

Scheme Operator must give the Resident a notice appointing a reasonable day and time on which the assessment will take place.

- 22.2 If, because of reasonable grounds, the Resident will not be available at the time nominated by the Scheme Operator then the Resident may nominate another time and day. The time and day the Resident nominates must be within seven days of the day nominated by the Scheme Operator unless there is a good reason to nominate a day outside that period. The assessment must take place at the Accommodation Unit or another reasonable place specified by the Scheme Operator.
- 22.3 In the event the Scheme Operator and a person who has assessed the Resident's care reasonably believe the Resident is temporarily unable to remain in the Accommodation Unit, Scheme Operator may ask the Resident to arrange alternate appropriate accommodation which could be a rehabilitation or aged care facility.
- 22.4 If the Scheme Operator, and a person who has assessed the Resident's care needs reasonably believe that the Accommodation Unit has become unsuitable the Scheme Operator may terminate this Contract in accordance with clause 4.1.2(c).
- 22.5 The Resident may meet with the Scheme Operator informally at any time to discuss their health, wellbeing and ability to cope in the Village.

## The Lakes Residential Retirement Village

### SCHEDULE

- Item 1 - Resident/s:** .....  
**Item 2 - Land:** L147 NR 839141  
**Item 3 - Accommodation Unit No:** UNIT .....  
**Item 4 - Commencement Date:** ...../...../.....  
**Item 5 - Cooling-off Period Start Date:** ...../...../.....  
**Item 6 - Cooling-off Period End Date:** 5.00 pm on ...../...../.....

**SIGNED** for and on behalf of **WARRINA INNISFAIL** in the presence of:

\_\_\_\_\_  
*Signature of Warrina Representative*

\_\_\_\_\_  
*Signature of Witness*

DATE: ...../...../.....

\_\_\_\_\_  
*Name of Witness (Print)*

DATE: ...../...../.....

**SIGNED** by ..... )

\_\_\_\_\_  
*Signature of Resident*

in the presence of:

\_\_\_\_\_  
*Signature of Witness*

DATE: ...../...../.....

\_\_\_\_\_  
*Name of Witness (Print)*

DATE: ...../...../.....

**SIGNED** by ..... )

\_\_\_\_\_  
*Signature of Resident*

in the presence of:

\_\_\_\_\_  
*Signature of Witness*

DATE: ...../...../.....

\_\_\_\_\_  
*Name of Witness (Print)*

DATE: ...../...../.....