



(ABN 11 109 853 278)

RESIDENCE AND SERVICE CONTRACT

IN RESPECT OF SELF CARE UNIT

Carrington Centennial Care Ltd.
Carrington Retirement Village
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(Sections 14 & 21) 3. If any part of the Ingoing Contribution will be paid by a party other than the Resident, the person(s) who will be entitled to any refund payable under clause 21.01 of the Contract Conditions is/are:-
• the Resident as to a share
• as to a share

(Sections 14 and 21) 4. If more than one person named as Resident will be entitled to the whole or any part of the refund, they will be entitled:
 as joint tenants
 as tenants in common
in *equal shares / *the following shares:-
.....(identify if not equal shares)

(Section 15) 5. The Resident also agrees to pay Recurrent Charges in accordance with this Contract for the period commencing on/...../..... the earlier of the Proposed Date of Occupancy and the date on which the Resident enters into occupation. The amount of Recurrent Charges payable by the Resident will be \$..... per month unless the Recurrent Charges are varied in accordance with requirements of the retirement villages legislation before the period commences or during the continuance of this Contract.

(Sections 16 and 21) 6. If the Resident does not rescind this Contract during the cooling off period (clause 2.01) or terminate this Contract before the end of the settling-in period (clauses 19.01 and 19.02), the amount of any refund will be reduced by departure fees calculated in accordance with this Contract and any other monies payable under this Contract.

(Clause 25.03(b)) 7. The person (if any) appointed by the Resident as the Resident's agent for the purpose of receiving notices or other documents to be given to the Resident is:-
(Name) ("the Resident's Agent")
(Address).....
.....

8. The agent (if any) of the Operator is:-

(Name or office) ("the Operator's Agent")
(Address)
.....

9. The Operator supplies the following information regarding any other operator of the Village who is not a party to this Contract:-

(Names)

(Address).....
.....

10. The Resident acknowledges that:-

(a) the Disclosure Statement, a copy of which is annexed to this Contract, was provided to the Resident (or to a person acting on behalf of the Resident) on/...../.....;

(b) information was provided to the Resident (or to a person acting on behalf of the Resident) pursuant to section 19 of the Act on/...../.....;

(c) this Contract, or a copy of this Contract, was provided to the Resident (or to a person acting on behalf of the Resident) on/...../.....

11. If clause 2 of these Terms provides for payment of the whole or any part of the Ingoing Contribution (“the deferred amount”) by a date after the Proposed Date of Occupancy, the Resident shall pay to the Operator interest at the rate of 5 % per annum (being a rate that does not exceed the maximum rate prescribed under the retirement villages legislation) on so much of the deferred amount as shall from time to time remain unpaid, the interest to be calculated from the earlier of the Proposed Date of Occupancy or the date on which the Resident commences living in the Premises, until the date on which the deferred amount and all accrued interest is paid and in the meantime the interest to be paid monthly in arrears, the first payment falling due one (1) calendar month after the date from which interest is calculated.

12. CONTRACT CONDITIONS

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CONTRACT CONDITIONS

1. WORDS, EXPRESSIONS AND INTERPRETATION

1.01 In the Terms of Contract, reference is made to:

"the Date of the Contract"
"the Operator"
"the Resident"
"the Premises"
"the Village"
"the Proposed Date of Occupancy"
"the Ingoing Contribution"
"the Resident's Agent"
"the Operator's Agent"

Whenever these words or expressions are used in these Conditions, they will have the same meaning as in the Terms of Contract unless the wording or context indicates differently.

1.02 In this Contract, unless the wording or context indicates otherwise,

- (a) (i) "the Act" shall mean the Retirement Villages Act 1999,
- (ii) "the Regulation" shall mean the Retirement Villages Regulation 2009,
- (iii) "retirement villages legislation" shall mean the Act and the Regulation, in each case as amended from time to time;
- (b) "the Premises" shall include the fixtures, furniture, furnishings, fittings and contents supplied with the unit or room mentioned in the Terms of Contract;
- (c) "capital gain" shall have the same meaning as in the Act;
- (d) "the condition report" shall mean the residential premises condition report which shall be annexed to this Contract if construction of the Premises has been completed at the date of this Contract;
- (e) "consent of the residents" has the meaning set out in the retirement villages legislation;
- (f) "Consumer Price Index" shall have the same meaning as in the Act;
- (g) "the disclosure document" shall mean the disclosure document, a copy of which is annexed to this Contract;
- (h) "end of the settling-in period" shall mean the later of:

- (i) the day that is 90 days after the Proposed Date of Occupancy; or
 - (ii) if the Resident occupies the Premises before the Proposed Date of Occupancy, the day that is 90 days after the Resident first occupies; or
 - (iii) such date as may be agreed by the Operator and the Resident.
- (i) “general services” shall mean services provided, or made available, by or on behalf of the Operator (and any other operator), to all residents of the Village;
 - (j) “items of capital” include buildings and structures, plant, machinery and equipment, village infrastructure and fixtures, fittings, furnishings and non-fixed items, provided by the Operator;
 - (k) “the Operator” shall include successors and assigns of the person or body named as Operator in this Contract, so far as the law permits;
 - (l) “optional services” shall mean optional services provided, or made available, by or on behalf of the Operator (and any other operator) to individual residents of the Village and include, if and when agreed, the provision of meals, laundry services and home cleaning;
 - (m) “the parties” shall mean the Operator and the Resident and any other contracting party that is a signatory to this Contract;
 - (n) "permanently vacated" shall have the same meaning as set out in section 7 of the Act;
 - (p) “Recurrent Charges” shall mean the recurrent charges payable by the Resident under this Contract, as varied from time to time;
 - (q) “special resolution” has the meaning set out in the retirement villages legislation;
 - (r) “the Tribunal” shall mean the Consumer, Trader and Tenancy Tribunal established by the Consumer, Trader and Tenancy Act 2001 as amended from time to time and shall include any other court or tribunal which from time to time has relevant jurisdiction;
 - (s) “Village Rules” shall mean the Village Rules as amended from time to time;
 - (t) if a person named as Resident in the Terms of Contract shall die, the executor or administrator of that person shall be bound by that person’s obligations under this Contract but shall not personally be entitled to occupy the Premises unless the person has a residence right under the retirement villages legislation;

- (u) the Resident's obligations regarding the Premises apply also, where appropriate, to any garage, parking space or storeroom referred to in the Terms of Contract;
- (v) words indicating the singular shall be read as including plural and vice versa.

2. COOLING OFF PERIOD

2.01 The retirement villages legislation provides:-

- (a) The Resident may within the period of 7 business days after entering into this Contract ("the cooling off period") serve a written notice on:
 - (i) the Operator; and
 - (ii) each other party to this contract,to the effect that the Resident rescinds this Contract.
- (b) For this purpose, the Contract is taken to have been entered into at midnight on the day on which a copy of the contract signed by the Resident is given to the Operator and the cooling off period ends at midnight 7 business days after that day.
- (c) The Contract must not be completed until after expiry of the cooling off period.
- (d) The cooling off period is waived by the Resident if the Resident commences to live in the Premises.
- (e) The Resident will be entitled to a refund of money paid by or on behalf of the Resident, free of any loss or penalty, as soon as reasonably practical, and no later than one (1) month after the rescission notice mentioned in paragraph (a) takes effect .

3. PROPOSED DATE OF OCCUPANCY

- 3.01 The Resident may live in the Premises from the Proposed Date of Occupancy unless the Resident and the Operator agree in writing to a different date of commencement of occupancy.
- 3.02 The retirement village's legislation provides that if construction of the Premises has not been completed at the date of this Contract, a condition report in respect of the Premises must be completed by the parties and provided to the Resident fourteen (14) days before the Resident occupies the Premises.

4. OCCUPANCY RIGHTS AND OBLIGATIONS OF THE RESIDENT

- 4.01 (a) The Resident's right to live in the Premises and use any garage, carspace or storage area referred to in the Terms of Contract, pursuant to this Contract, is a licence which is personal to the Resident. The Resident must not transfer or let the Premises or permit any other person to live in the Premises without first obtaining the consent in writing of the Operator.
- (b) The Resident will not permit any other person to stay in the Premises as a guest of the Resident for more than 4 weeks or to commence living in the Premises with the Resident without first obtaining the consent in writing of the Operator.

Note: Consent may be granted subject to conditions. The conditions will be at the discretion of the Operator and may include matters such as entry into a contract with the proposed occupant or a new contract with both the Resident and the proposed occupant to replace this Contract, payment of an additional ingoing contribution or additional recurrent charges or variations to the terms and conditions in this Contract.

- 4.02 The Resident will use the Premises for the purpose of residence and will use any garage, carspace or storage area in conjunction with that use.
- 4.03 While the Resident lives in the Premises, the Resident will be able to share the use of the other parts of the Village which are made available for use by residents and other authorised people at the times and subject to the conditions on which they are made available.
- 4.04 This Contract, and the Resident's right to live in the Premises, and to use a garage, carspace or storage area, referred to in the Terms of Contract, may be terminated in accordance with the provisions of the Contract and the retirement villages legislation.
- 4.05 The Resident agrees:-
- (a) not to use the Premises, or cause or permit the Premises to be used, for any illegal purpose;
 - (b) not to cause or permit a nuisance;
 - (c) not to damage, or do or cause or permit anything which will cause damage to, the Premises (other than fair wear and tear) or any property belonging to the Operator or the Village or any other resident;
 - (d) to notify the Operator as soon as practicable of any damage to the Premises;

- (e) to notify the Operator as soon as practicable of any damage to other property of the Operator caused by the Resident or for which the Resident is responsible;
 - (f) to notify the Operator as soon as practicable of any burst water service or blocked or broken lavatory system or roof or gas leak or dangerous electrical fault in the Premises or failure or breakdown of any essential service on or to the Premises or any fault or damage that causes the Premises to be unsafe or not secure; and
 - (g) not to hinder or obstruct the Operator or a person authorised by the Operator from carrying out maintenance or capital replacement in respect of an item of capital for which the Operator is responsible.
- 4.06 (a) The Resident will respect the rights of other residents of, and other persons in, the Village.
- (b) In particular, the Resident:-
- (i) must not interfere or cause or permit any interference with the reasonable peace, comfort or privacy of another resident, and
 - (ii) must respect the rights of the Operator and each other operator of the Village, and agents and employees of each of them, to work in an environment free from harassment or intimidation, and
 - (iii) must not act in a manner that adversely affects the health and safety of persons working in the Village and other residents and members of the Village community.

5. OPERATOR'S ACCESS TO PREMISES

- 5.01 The Operator, or a person authorised by the Operator, may enter the Premises in the following circumstances:-
- (a) if the Resident consents to the entry; or
 - (b) in an emergency; or
 - (c) if the Operator has reasonable cause for concern about the health or safety of a person that the Operator believes is on the Premises; or
 - (d) in order to carry out urgent repairs; or
 - (e) in order to carry out general maintenance, but only if 7 days' notice has been given to the Resident; or

- (f) in order to carry out a general inspection of the Premises but only if 7 days' notice has been given to the Resident and a general inspection of the Premises has not been carried out more than once in the immediately preceding 12 months; or
- (g) in order to install a smoke alarm that is legally required to be installed or to replace a battery in any installed smoke alarm but only if 2 days notice has been given to the Resident; or
- (h) in accordance with an order of the Tribunal.

5.02 The Resident will not unreasonably withhold consent to the Operator or a person authorised by the Operator entering the Premises in connection with the provision of any of the general services or any of the optional services which are from time to time provided to the Resident or any person who is residing in the Premises.

5.03 The Resident agrees that the Operator does not have any responsibility to enquire regarding, or act upon any concern relating to, the health or safety of a person that the Operator believes is on the Premises at any time unless the Operator has agreed to accept the responsibility.

6. VILLAGE RULES

6.01 The Resident and the Operator must comply with the Village Rules.

6.02 The Resident will use the Resident's best endeavours to ensure compliance with the Village Rules by:-

- (a) any other person who is lawfully on the Premises (other than a person exercising a right of entry to the Premises without the Resident's consent), and
- (b) any other person who is in the Village at the Resident's invitation.

6.03 The Operator will use the Operator's best endeavours to ensure compliance with the Village Rules by:-

- (a) tenants of the Operator, and
- (b) employees of the Operator, and
- (c) any other person who is in the Village at the Operator's invitation.

6.04 The retirement villages legislation provides that this Contract shall include a statement to the effect that if any provision of the Contract conflicts with a Village Rule, as amended from time to time, the Village Rule prevails over the conflicting provision in the Contract.

6.05 The Village Rules may be amended from time to time subject to the provisions of the retirement villages legislation including provisions relating to amendments which impose additional costs.

7. SERVICES AND FACILITIES

7.01 The services that will be provided or made available to the Resident by or on behalf of the Operator, are listed and described in Schedule One.

7.02 Any additional or optional services that will be made available to the Resident on a “user pays” basis, and the cost of those services as at the date of preparation of this Contract, are listed in Schedule One.

7.03 The facilities in the Village that are available for the use of the Resident are listed in Schedule One.

7.04 The services or facilities that any development consent for the Village requires to be provided for the life of the Village are identified in Schedule One.

7.05 If it is proposed that any services or facilities will be provided or made available in future, they are listed and identified with the date(s) when they will be provided and made available in Schedule One.

7.06 This Contract distinguishes between general services and optional services. The retirement villages legislation provides that the Contract must include a statement that the Tribunal has power to override a determination by the Operator that a service is a general service or an optional service, as the case may be, in the event of a dispute.

7.07 The retirement villages legislation requires the Resident’s attention to be drawn to the fact that services and facilities may be reduced or (except for those required by the development consent to be provided for the life of the Village) withdrawn or otherwise varied but only if the residents of the Village pass a special resolution in accordance with the provisions of the retirement villages legislation or if an administrator is appointed under the Act and the administrator varies them with the consent of the Director General of the Department of Fair Trading.

7.08 The retirement villages legislation provides that the Resident will have no right to compensation if services or facilities are reduced or withdrawn or otherwise varied in accordance with a special resolution of the residents.

7.09 The Operator will not be obliged to provide optional services unless the Resident complies with the conditions subject to which the optional services are made available or provided. The Operator or other provider may from time to time vary charges in respect of optional services. Any variation of Recurrent Charges for optional services will be made in accordance with the provisions of the retirement villages legislation relating to variation of Recurrent Charges.

8. FIXTURES, FITTINGS, FURNISHINGS AND NON-FIXED ITEMS

8.01 The fixtures, fittings and furnishings and any other non-fixed items that are provided with the Premises are listed in Schedule Two.

9. REPAIRS AND MAINTENANCE

9.01 The retirement villages legislation:-

- (a) provides that the Operator of a retirement village must maintain items of capital in the village for which the Operator is responsible under the Act in a reasonable condition having regard to matters specified in the legislation;
- (b) provides that an Operator's obligation does not extend to repairs of damage (fair wear and tear excepted) caused by a resident of the village or by an invitee of a resident; and
- (c) specifies the circumstances in which a resident of a retirement village may carry out urgent capital maintenance or capital replacement.

9.02 The Resident may request the Operator to carry out necessary repairs and maintenance which are within the Operator's responsibility by the following process:

- (a) A maintenance slip is to be completed by the Resident and lodged with the Operator at the appropriate collection point.
- (b) The maintenance slip will be collected by an employee of the Operator, and the necessary repairs and maintenance carried out.
- (c) When scheduling repairs and maintenance the Operator has discretion in determining the priority of work to be carried out, having regard to the urgency of matters to be attended to.

9.03 When the Resident permanently vacates the Premises, the Resident must, after allowing for any renovations or alterations made with the written consent of the Operator and conditions relating thereto, leave the Premises (including all fixtures, fittings, furnishings and other items provided with the Premises) as nearly as possible in the same condition (fair wear and tear excepted) as they were in at the commencement of this Contract or, if the Premises were under construction at that time, when the Resident entered into occupation.

9.04 Subject to clause 9.03 the Resident is not liable to refurbish, or pay for the costs of the refurbishment of, the Premises when the Resident permanently vacates the premises.

10. ALTERATIONS AND ADDITIONS

10.01 The retirement village legislation provides:-

- (a) that a resident of a retirement village may:
 - (i) add, remove or alter any fixtures or fittings on or within the resident's residential premises; or
 - (ii) make renovations to the resident's residential premisesbut only with the written consent of the operator of the retirement village;
- (b) that the consent of the operator may be subject to such reasonable conditions as the operator may include in, or attach to, the written consent;
- (c) that one of those conditions may be that the premises be returned to the same condition as they were in immediately before the consent was given;
- (d) that the operator must not unreasonably withhold consent;
- (e) that despite (a) above, consent is not required:
 - (i) to remove or alter any fixtures or fittings that were added by a resident unless the removal or alteration is likely to cause significant damage to the premises; or
 - (ii) to make renovations or to add, remove or alter any fixtures or fittings prescribed by the Regulations;
- (f) that these provisions do not authorise:
 - (i) a person to add, remove or alter any fixtures or fittings in, or renovate any residential premises within the village if consent to do so is required under any Act of Parliament and consent has not been obtained;
 - (ii) a person to carry out development within the meaning of the Environmental Planning and Assessment Act, 1979 in contravention of that Act.

10.02 The Resident may at any time before permanently vacating the Premises remove any fixture that the Resident has added to the Premises provided that the Resident complies with the provisions mentioned in clause 10.01.

10.03 If the Resident fails, before permanently vacating the Premises, to remove any fixture that the Resident has added to the Premises, the fixture shall become the property of the Operator without compensation to the Resident unless the Operator gives notice in writing to the Resident within twenty-eight (28) days of the Resident permanently vacating the Premises, requiring the Resident to remove the fixture and/or to repair any damage caused by installation and/or removal of the fixture or to compensate the Operator for the cost of removal and repair.

11. RESIDENT'S PROPERTY AND INSURANCE

11.01 The Operator will not be responsible for loss, damage, maintenance or repair of any property belonging to the Resident or any other resident except in the case of loss or damage caused by negligent act or omission of the Operator or an employee or agent of the Operator.

11.02 It is the Resident's responsibility to take out and maintain any insurance which the Resident may require in respect of the Resident's furniture, furnishings and contents of the Premises and any other personal property of the Resident.

11.03 The Resident agrees that neither the Resident nor any guest or invitee of the Resident will use a motorised wheelchair in the Village unless the Resident or the guest or invitee is insured for an amount of not less than \$5,000,000 in respect of any liability arising from the use of the motorised wheelchair. The Resident shall upon request provide satisfactory evidence of a current insurance policy in respect of any motorised wheelchair.

12. TRANSFERS

12.01 (a) The Resident may request a transfer to other residential premises within the Village or to other accommodation for older people run by the Operator.

(b) The Operator will consider any such request but does not make any promise that the Operator will agree to the transfer or be able to provide the alternate accommodation.

12.02 If in the opinion of the Operator it is desirable by reason of the Resident's state of health or for any other sufficient reason that the Resident should transfer to a hospital or nursing home or other accommodation which the Operator considers will be more suitable, the Operator will, after consultation with the Resident and where appropriate, the Resident's medical practitioner, endeavour to assist the Resident and the Resident's family to arrange the transfer. If the Operator and the Resident are unable to agree, the Operator may exercise any rights, which the Operator may have, to apply to the Tribunal for an order terminating this Contract.

- 12.03 The Operator does not promise that the Resident will be able to transfer to a facility of the Operator in which residential care is provided under the Aged Care Act 1997 of the Commonwealth when the Resident wishes or needs to transfer. Places in such facilities are allocated on a "needs" basis and entry is subject to an assessment for admission by a Commonwealth approved assessment authority and availability at the time.
- 12.04 If the Resident transfers from the Premises to other premises in the Village or to other accommodation in a retirement village under the management or control of the Operator (the "substitute premises"):-
- (a) the Operator will notify the Resident of the amount of refund due to the Resident under this Contract and of the ingoing contribution and current recurrent charges and any other charges for the substitute premises before the Resident commences living in the substitute premises;
 - (b) the ingoing contribution for the substitute premises shall be the amount of any refund due or to become due to the Resident under this Contract unless the Operator notifies the Resident of a higher ingoing contribution for the substitute unit;
 - (c) the Operator may retain the refund due to the Resident under this Contract on account of the ingoing contribution payable to the Operator for the substitute premises in accordance with paragraph (b);
 - (d) if the ingoing contribution for the substitute premises is more than the refund due or to become due to the Resident under this Contract, the difference will be paid by the Resident before the Resident commences living in the substitute premises;
 - (e) the Resident will enter into a new contract in respect of the substitute premises; and
 - (f) the retirement village legislation provides that the Resident shall be taken to have a continuous residence right for the purpose of the calculation of departure fees.
- 12.05 If the Resident transfers to substitute premises that are managed or controlled by the Operator and are premises in which the Resident will be provided with residential care under the Aged Care Act 1997 of the Commonwealth:-
- (a) the provider of residential care will advise the Resident of the amount of any accommodation bond or charge and the resident fees payable by the Resident;
 - (b) the accommodation bond for the substitute premises shall be the amount of any refund due or to become due to the Resident under this Contract unless:

- (i) the Operator notifies the Resident of a higher accommodation bond for the substitute unit; or
 - (ii) the maximum accommodation bond permissible under the Aged Care Act 1997 is lower than the refund;
- (c) the Operator may retain so much of the refund due to the Resident under this Contract as is required to pay the accommodation bond payable to the Operator for the substitute premises in accordance with paragraph (b);
- (d) the Resident will enter into accommodation bond and residence agreements which comply with the Aged Care Act;
- (e) if the accommodation bond for the substitute premises is more than the refund due or to become due to the Resident under this Contract, the difference will be paid by the Resident in accordance with the accommodation bond agreement; and
- (f) any retentions from the accommodation bond in respect of the substitute premises shall be in addition to any non-refundable amount of the Ingoing Contribution under this Contract and any departure fee payable pursuant to this Contract.

12.06 If the Resident transfers to other premises within the Village or to premises in another retirement village operated by the Operator, the Resident will pay recurrent charges at the rate applicable from time to time and any other amounts which fall due.

12.07 If the Resident transfers to premises used for the provision of residential care within the meaning of the Aged Care Act 1997 of the Commonwealth, the Resident will pay resident fees payable from time to time at the maximum rate permissible under the Aged Care Act 1997.

13. PAYMENTS BY THE RESIDENT

13.01 The Resident agrees to pay:-

- (a) the Ingoing Contribution (if any) mentioned in the Terms of Contract;
- (b) Recurrent Charges;
- (c) any other charges for optional services which are payable on a 'user pays' basis and which are not payable on a recurrent basis;
- (d) any charges for electricity, gas, telephone or water usage which are separately metered in respect of the Premises and invoiced to the Resident;

- (e) departure fees to the extent that they exceed any amount otherwise refundable to the Resident; and
- (f) one-half of legal and other expenses incurred by the Operator in connection with the preparation of this Contract when the Operator supplies a copy of the account presented to the Operator in respect of those expenses together with evidence that the Operator has paid the account or the Operator's half share provided that the amount payable by the Resident shall not exceed \$200.00.

14. INGOING CONTRIBUTION

- 14.01 The Terms of Contract specify whether the Ingoing Contribution is payable by instalments and the terms and conditions under which it is to be paid.
- 14.02 Interest is not payable to the Resident while the Operator has the use of the Ingoing Contribution except as provided in clause 21.07.
- 14.03 The Terms of Contract specify whether any part of the Ingoing Contribution is not refundable.
- 14.04 If more than one person is named as "Resident" in the Terms of Contract, they will be regarded as joint tenants unless the Terms of Contract specify otherwise. This means that:-
- (a) any amount which is paid by the parties in respect of the Ingoing Contribution, is regarded as belonging to both of them and they are not entitled to separate shares; and
 - (b) if one of the parties dies, the survivor will be entitled to any refund payable in respect of so much of the Ingoing Contribution as has been paid by them or either of them, after the Contract is terminated and the Premises are permanently vacated.

Alternatively, the Terms of Contract may specify that the parties are tenants in common. This means that the amount which they have paid in respect of the Ingoing Contribution, is regarded as belonging to each of them in the shares specified in the Terms of Contract and each of them is entitled to share any refund in respect of the amount of the Ingoing Contribution paid by them or either of them in those proportions when the refund becomes payable.

- 14.05 When more than one person is named as Resident in the Terms of Contract - if one of them dies or leaves and the other continues to reside in the Premises, no one will be entitled to any refund until after this Contract is terminated and the Premises have been permanently vacated.

14.06 If the person(s) named as Resident in the Terms of Contract die(s) after expiry of the cooling off period and before taking up residence in the Premises, the Operator will refund an amount calculated by deducting the following amounts from the amount paid in respect of the Ingoing Contribution:-

- (a) any Recurrent Charges which are payable and
- (b) any departure fees payable pursuant to this Contract

14.07 If the Resident, after taking up residence, permanently vacates the Premises:

- (a) before the end of the settling-in period the Operator will refund to the Resident or to the person entitled to the refund, the balance of the Ingoing Contribution that has been paid after offsetting any amounts that the Resident is liable to pay under the retirement villages legislation for rent, costs of repairs and administration fee or any other permissible deductions; or
- (b) after the end of the settling-in period, the Operator will refund the amount calculated pursuant to clause 21.01 in respect of the Ingoing Contribution.

15. RECURRENT CHARGES

15.01 The Resident will pay Recurrent Charges fortnightly in advance coinciding with the payment of Department of Social Security aged pensions, commencing on the date referred to in clause 5 of the Terms of Contract.

The Resident will pay Recurrent Charges for any initial broken period before entry into occupation.

15.02 Recurrent Charges (other than for an initial broken period) will be paid pursuant to a direct debit authority which the Resident shall give to the Operator

15.03 Different rates of Recurrent Charges may from time to time be payable by different residents within the Village. In determining Recurrent Charges payable by new residents and in proposing any variations of Recurrent Charges (other than those determined by fixed formula) the Operator may, at the Operator's discretion, take into account matters such as the size of the premises, the number of persons residing in the premises, the facilities and services provided to them, goods and services tax payable in respect of taxable supplies and, when the Operator considers it appropriate, their respective means and any changes to their means.

15.04 If the Resident is temporarily absent from the Village for any reason for a period of at least 28 consecutive days, the Resident will not be liable for Recurrent Charges for optional services in respect of the remainder (if any) of that period of absence.

15.05 If Recurrent Charges which have fallen due are unpaid when the Resident permanently vacates the Premises and the Contract is terminated, or become due and payable thereafter and are not paid on the due date(s), interest will accrue on the amount unpaid in respect of each Recurrent Charge from time to time and be payable from the later of the following dates:-

- (a) the date on which the Resident permanently vacates the Premises;
- (b) the date of termination of the contract; and
- (c) the date on which the Recurrent Charge falls due

at the maximum rate of interest prescribed by the retirement villages legislation.

15.06 Recurrent Charges will not be varied according to a fixed formula:

- (a) The Recurrent Charges may be varied not more than once in any 12 month period.
- (b) The Operator does not agree to an upper limit on any proposed increase.
- (c) If the proposed variation does not exceed the variation that would result from the Recurrent Charges being increased in proportion to the variation in the Consumer Price Index (since the Recurrent Charges were last varied) and rounded to the nearest whole dollar as provided in section 105A of the Act, the Operator must give at least fourteen 14 days written notice of the proposed variation to the Resident and the notice must be in a form that complies with the retirement village legislation.
- (d) If paragraph (c) is not applicable:
 - (i) the Operator must give the Resident at least, 60 days notice of a proposed variation in Recurrent Charges in accordance with the retirement village legislation; and
 - (ii) the retirement villages legislation provides that the amount of Recurrent Charges cannot be varied unless affected residents consent to the variation or the Tribunal orders that the variation take effect.

15.07 Where the Resident has moved out or died, liability to pay Recurrent Charges for optional services ceases from the date:

- (a) the Resident moved out; or
- (b) the Operator is notified of the Resident's death.

However, any such liability does not cease in relation to services provided before that date.

15.08 The liability of the Resident or in the case of the Resident's death, the Resident's estate, to pay Recurrent Charges (in respect of general services) that arise after the Premises are permanently vacated ceases on:-

- (a) the date when the Operator enters into:-
 - (i) a village contract with an incoming resident; or
 - (ii) a residential tenancy agreement with an incoming tenantin relation to the Premises; or
- (b) the date on which a person takes up residence in the Premises with the consent of the Operator; or
- (c) if the Tribunal has terminated this Contract – the date on which the Resident permanently vacates the Premises; or
- (d) if the Resident permanently vacates the Premises after receiving notice of the Operator's intention to apply to the Tribunal for an order terminating this Contract – the date on which the Resident permanently vacates; or
- (e) the date that is 42 days after the date on which the Resident permanently vacates the Premises

whichever date occurs first or such earlier date as the Operator and the Resident may agree.

15.09 The income of the Operator from Recurrent Charge

- (a) shall normally be used to meet, or make reasonable provision for, the costs of operating the Village (including costs (if any) associated with the Operator's head office or management or administration fees, where the costs or fees are associated with providing services to residents within the village), and
- (b) where permitted under the retirement villages legislation, may be used for making good a deficit.

15.10 If the Premises are otherwise than as a result of a breach of this Contract, destroyed or rendered wholly or partly uninhabitable or cease to be lawfully usable for the purpose of residence or are appropriated or acquired by any authority by compulsory process, the Recurrent Charges payable by the Resident shall abate and if the Operator and Resident do not agree on abatement or the extent that they should abate either party may apply to the Tribunal for a determination of the issue.

16. DEPARTURE FEES

- 16.01 A departure fee is payable to the Operator on or after termination of this Contract.
- 16.02 If the whole or any part of the Ingoing Contribution has been paid and a departure fee is payable, the departure fee will be paid firstly by deduction from any amount which would otherwise be refundable and any unpaid balance shall be payable by the Resident on or before the date on which the Premises are permanently vacated.
- 16.03 The departure fee shall be calculated in respect of the period commencing on
- * the Proposed Date of Occupancy
 - * the date of commencement of the period during which the Resident is taken to have had a continuous residence right, for the purpose of calculation of the departure fee
- and ending on the date when the Premises are permanently vacated.
- 16.04 The departure fee does not include Recurrent Charges.
- 16.05 The departure fee will be calculated on a daily basis.
- 16.06 If the Resident moves to other residential premises in the Village (or in another retirement village that is managed or controlled by the Operator or a close associate of the Operator) the Resident shall be taken to have a continuous period of residence for the purpose of the calculation of the departure fee.
- 16.07 The method of the calculating the departure fee is set out in Schedule Four.

17. RETIREMENT VILLAGES LEGISLATION

- 17.01 The retirement villages legislation provides that this Contract must draw the Resident's attention to the existence of the Act and the Regulation.
- 17.02 The Contract is subject to the provisions of the retirement villages legislation, and any other laws, so far as they govern and determine the rights and obligations of the parties to this Contract. Where there is any inconsistency, the provisions of this Contract shall be read down only so far as is necessary to comply with the retirement villages legislation or the relevant law. If any provision of this Contract is invalid or unenforceable, the validity and enforceability of the remainder of the Contract shall not be affected unless the invalidity or unenforceability relates to an essential condition. Essential conditions are conditions relating to:-
- the Resident's right to live in the Premises
 - the Resident's right to receive general services
 - Ingoing Contributions, non-refundable amounts, departure fees and Recurrent Charges.

17.03 A reference in this Contract to a provision of the retirement villages legislation shall be read as a reference to that provision as amended from time to time so far as applicable.

17.04 Whenever this Contract makes a reference to a provision of the retirement villages legislation in accordance with a requirement of the legislation, the reference shall not create contractual rights and obligations between the parties except insofar as the retirement villages legislation or this Contract requires.

18. CHANGES IN OPERATOR

18.01 The retirement villages legislation provides that the Contract must include a statement to the effect that the terms of the Contract are enforceable against any Operator for the time being of the Village.

19. TERMINATION OF CONTRACT

19.01 This Contract terminates:-

- (a) when the Resident permanently vacates the Premises before the end of the settling-in period;
- (b) on the date on which the Resident permanently vacates the Premises being a date that is (except as otherwise provided in the retirement villages legislation or in this Contract) at least one month after the date on which the Resident gives the Operator written notice of intention to vacate the Premises; or
- (c) on the date on which the Resident permanently vacates the Premises with the prior consent of the Operator; or
- (d) on the date on which the Resident permanently vacates the Premises after receiving notice of the Operator's intention to apply to the Tribunal for an order terminating the Contract; or
- (e) on disclaimer (for example, on renunciation by the Resident accepted by the Operator); or
- (f) on the death of the last surviving Resident under the Contract; or
- (g) on the date specified by the Tribunal in an order declaring that the Resident has abandoned the Premises; or
- (h) on the date on which the Contract is terminated by the Tribunal;
- (i) if the Contract is frustrated:

- (i) on the 8th day after the date specified in the notice of termination unless application is made to the Tribunal within the time allowed (or the notice of termination is withdrawn within that time); or
 - (ii) on the date specified by the Tribunal if the Tribunal determines that the Contract is frustrated.
 - (j) on the date when any order of the Supreme Court to terminate the Contract takes effect.
- 19.02 When this Contract is terminated by the Resident before the end of the settling-in period, the liability of the Resident and any liability of the Operator to make a payment or refund shall be determined in accordance with the provisions of the retirement village legislation.
- 19.03 Termination of the Contract does not affect any other right or obligation of a party under this Contract or any other contract unless the Tribunal shall determine otherwise or the retirement villages legislation provides otherwise.
- 19.04 If the Premises are destroyed, or rendered wholly or partly uninhabitable otherwise than as a result of a breach of the Contract or any other contract between the parties, or if they cease to be lawfully usable for the purpose of residence or are appropriated or acquired by any authority by compulsory process, the Resident or the Operator may give immediate notice of termination to the other party or parties to this Contract and in the event of a dispute an application may be made to the Tribunal under the retirement village legislation for determination of the matter
- 19.05 The retirement villages legislation provides that an application can be made to the Tribunal for termination of the Contract on the following grounds:-
- a) The Operator or the Resident may apply to the Tribunal for an order terminating the Contract if the Operator or Resident is of the opinion that the Premises are unsuitable for occupation by the Resident because of the Resident's physical or mental incapacity.
 - b) The Operator may apply to the Tribunal for an order terminating the Contract if the Resident breaches the Contract or breaches a Village Rule.
 - c) The Resident may apply to the Tribunal for an order terminating the Contract if the Operator breaches the Contract or breaches a Village Rule.
 - d) The Operator may apply to the Tribunal for an order terminating the Contract on the ground that the Resident has intentionally or recklessly caused or permitted, or is likely intentionally or recklessly to cause or permit:-
 - (i) serious damage to any part of the Village; or
 - (ii) injury to the Operator or an employee of the Operator or any other resident.

e) The Operator may apply to the Tribunal for an order terminating the Contract on the ground that:-

- (i) for the purpose of improving the Village, the Operator intends to carry out such substantial works in the Village as require the Premises to be permanently vacated; or
- (ii) it is appropriate that the land on which the Village is situated should be used for a purpose other than a retirement village.

19.06 The retirement villages legislation requires this Contract to contain a statement to the effect that the Contract cannot be terminated by the Operator unless the Operator obtains an order from the Tribunal.

19.07 The retirement villages legislation provides that, if the Operator or the Resident intends to apply to the Tribunal for an order terminating the Contract, the intending applicant must give the other party or parties to the Contract, written notice of that intention except as otherwise provided by the retirement villages legislation.

19.08 If the Contract is terminated and goods are left in the Premises, the Operator may dispose of them in accordance with provisions in the retirement villages legislation.

20. CAPITAL GAIN OR LOSS

20.01 Unless this Contract specifies otherwise, the Resident will not share in any capital gain or in any increase in the amount of ingoing contribution paid by an incoming resident who enters into occupation of the Premises after the Resident permanently vacates.

20.02 This Contract specifies whether:-

- (a) an Ingoing Contribution is payable by the Resident;
- (b) any of the Ingoing Contribution is non-refundable;
- (c) departure fees are payable by the Resident;
- (d) deductions will be made from any amount otherwise refundable to the Resident after the Premises are permanently vacated; and
- (e) the period of time within which any refund will be payable.

No capital loss is to be shared between the Resident and the Operator.

21. REFUND OF PAYMENT TO RESIDENT

21.01 After this Contract is terminated and the Premises are permanently vacated, the Operator will, unless clause 19.02 is applicable, refund to the person who is entitled to the refund, the amount calculated by deducting from the amount of the Ingoing Contribution:-

- (a) any part of the Ingoing Contribution which is not refundable;
- (b) any departure fee payable under this Contract (including any fee that is calculated in relation to the period, or part of the period during which the Resident had a continuous residence right in the Village for the purpose of calculating the departure fee);
- (c) accrued or outstanding Recurrent Charges, if any, payable by the Resident;
- (d) any interest payable by the Resident under this Contract in respect of the Ingoing Contribution or on Recurrent Charges or any other amount payable under this Contract which have or has not been paid on the date or dates on which they or it became due for payment
- (e) any amount payable by the Resident in respect of repairs to the Premises; and
- (f) any other amount payable by the Resident under this Contract or any other contract with the Operator.

21.02 The Operator will, unless clause 19.02 is applicable, pay any refund due no later than:-

- (a) the date that is 14 days after the date on which the Operator receives full payment under a residence contract with an incoming resident in respect of the Premises, or
- (b) the date that is 14 days after the date on which the Operator enters into a residential tenancy agreement with an incoming tenant of the Premises, or
- (c) the date that is 14 days after the date on which a person takes up residence in the Premises with the consent of the Operator after the Resident has permanently vacated the Premises, or
- (d) if the Tribunal terminates this Contract – the date that is one month after the date of termination, or
- (e) if the Resident permanently vacates the Premises after receiving notice of the Operator's intention to apply to the Tribunal for an order terminating this Contract – the date that is one month after the date on which the Resident permanently vacates, or

- (f) the date that is 6 months after the date on which the Resident permanently vacates the Premises.

whichever date occurs first, or such earlier date as the Operator and the Resident may agree.

- 21.03 The Operator will give to the Resident a statement setting out the manner in which any refund is calculated and containing such information as the retirement villages legislation may require.
- 21.04 If the Operator is of opinion that the Operator will not be able to enter into a residence contract with another person in respect of the Premises within the time specified in clause 21.02(f), the Operator may apply to the Tribunal for an order extending the time allowed for payment or allowing payment by instalment.
- 21.05 If a refund is payable to the executor or administrator of the Resident's estate and the Operator is unable to ascertain the identity of the executor or administrator, the Operator may apply to the Tribunal for an order regarding the payment.
- 21.06 In the event that two or more persons are named as the Resident in this Contract, a partial refund shall not be payable if one of them shall vacate the Premises unless this Contract provides otherwise or the Operator and one or both of the persons named as Resident agree in writing otherwise.
- 21.07 The Operator will pay any interest that the retirement village legislation requires to be paid by reason of a failure to pay any refund in respect of the Ingoing Contribution by the due date.
- 21.08 If the Resident is or becomes liable to pay an amount which exceeds the amount of any refund which would otherwise be or become payable by the Operator to the Resident after termination, the Resident shall make the payment on or before permanently vacating the Premises or if the amount due is not known at that time, not later than 7 days after receiving notice of the amount due.

22. DISPUTE RESOLUTION

- 22.01 The retirement villages legislation provides that the Resident has the right to apply to the Consumer, Trader and Tenancy Tribunal if the Resident considers that a term of the Contract is harsh, oppressive, unconscionable or unjust.
- 22.02 The retirement villages legislation requires this Contract to draw the Resident's attention to the existence of the Tribunal and the ability of the Resident to apply to it for a range of orders including the following:-
 - (a) an order that varies or sets aside a provision of the Contract or a Village Rule that conflicts with the retirement villages legislation;

- (b) an order that the Operator comply with the retirement villages legislation; and
- (c) an order to enforce a provision of the Contract or a Village Rule.

22.03 The retirement villages legislation provides that a village contract must not require the parties to attempt to resolve disputes between them by any process other than process provided in the Act.

22.04 Schedule Five sets out Village procedures for dealing with complaints and guidelines / procedures which parties may, but are not required to, use for resolving any disputes which are not taken to the Tribunal.

23. CHANGES TO THIS CONTRACT

23.01 The retirement villages legislation requires this Contract to include a statement to the effect that the Resident is not obliged to agree to amend the Contract, or to terminate the Contract and enter into a new one, because of changes in legislation (unless the legislation requires the amendment or termination) or for any other reason.

24. ANNEXURES

24.01 The retirement villages legislation provides that the following must be annexed this Contract:-

- (a) a copy of the Disclosure Statement provided to the Resident or to a person on behalf of the Resident;
- (b) a copy of the current Village Rules, if any
- (c) a copy of the Condition Report, if applicable.

25. NOTICES

25.01 The Operator's address for service of notices or other documents is:

Name / Officer Chief Executive

Address PO Box 269
CAMDEN NSW 2570

unless the Operator notifies the Resident of a change of address.

25.02 The retirement villages legislation provides that:-

- (a) Subject to paragraph (b), any notice or other document which the Resident may wish to give or send to the Operator pursuant to this Contract may be:-

- (i) delivered personally to the Operator; or
 - (ii) sent by post to the Operator's usual place of business; or
 - (iii) in the case of any notice (other than a termination notice) or other document;
 - delivered by hand to the letterbox of the Operator; or
 - given by facsimile or other electronic means.
- (b) If a receiver, or receiver and manager, or an administrator has been appointed, any notice or document must be given to the receiver, receiver and manager or administrator concerned.

25.03 The retirement villages legislation provides that:-

- (a) Subject to paragraphs (b) and (c), any notice or other document which the Operator may wish to give or send to the Resident pursuant to this Contract may be given:-
- (i) by delivering it personally by the Resident;
 - (ii) by sending it by post to the Premises addressed to the Resident; or
 - (iii) in the case of a notice (other than a termination notice) or other document:-
 - by delivery by hand to the letterbox of the Resident; or
 - by facsimile or other electronic means.
- (b) If the Resident has appointed an agent under the retirement villages legislation for the purpose of receiving notices and documents and has not revoked the appointment, the notice or document must be given to the Resident's agent;
- (c) If the Resident is a protected person (within the meaning of the Protected Estates Act 1983) or has a guardian, any notice or other document required to be given under the retirement villages law is to be given to the Protective Commissioner or guardian as appropriate or to both of them.

26. REPRESENTATIVE OF THE OPERATOR

26.01 The Operator may from time to time authorise a person to represent the Operator for the purposes of the Contract or for any particular purpose. Any authority given by the Resident to the Operator may be exercised by the authorised person.

27. NOMINATED REPRESENTATIVE OF THE RESIDENT

27.01 The Resident may by notice to the Operator authorise a person to represent the Resident in dealings with the Operator and, where appropriate, with staff of the Village, and as the person to whom matters affecting the Resident may be referred in the event of the Resident's illness or unavailability. The use of the nominated representative will be at the Resident's discretion. If the Resident desires, the nominated representative will be invited to participate in any major consultation between the Resident and the Operator. The nomination will continue until the Resident notifies the Operator that the nomination is cancelled.

Schedule One
Services and Facilities

Refer to Schedule 1, Disclosure Statement page 7 and 8

Note: Services and facilities may from time to time be changed in accordance with this Contract and the Retirement Villages legislation.

Schedule Two

Fixtures, Fittings and Furnishings and Non-fixed items

The following fixtures, fittings and furnishings and other non-fixed items (if any) are provided in the Premises:

- Carpet
- Light fittings
- Washing machine
- Clothes dryer [not in Carrington South Units]
- Security screen doors
- Fly/insect screens
- Stove/oven
- Vital call pendant.

Schedule Three

Variation of Recurrent Charges according to a Fixed Formula

* Not applicable

Schedule Four

(clause 20.01)

Method of Calculation of Departure Fee

- 5.0 % per annum, or part thereof, for the first two years;
- 3.0 % per annum, or part thereof, for the next four years; and
- 2.0 % per annum, or part thereof, thereafter for a further period of four years, up to a maximum of ten years of occupancy.

Schedule Five

Complaints procedure and dispute resolution options

This Schedule sets out Village procedures for dealing with complaints and guidelines/procedures which parties may, but are not required to use, for resolving any disputes which are not taken to the Tribunal. Residents are encouraged in the first instance to use the procedures/options outlined in this Schedule.

The aggrieved parties and/or their representatives agree by acceptance of the conditions of this Contract that the disputes and complaints, whether resolved internally or by the relevant Tribunal, will be addressed without resorting to other avenues such as press, radio or television.

1. COMPLAINTS PROCEDURE

Residents are advised that if they are not satisfied with some aspect of the operation of the Village they have a number of options for addressing their concerns.

Residents are assured that their confidentiality will be preserved at all times in respect of any issue, and that no reprisals or any form of intimidation or harassment arising from the lodging of a complaint will be tolerated.

Often matters can be sorted out immediately by speaking to the staff directly involved. If satisfaction of a solution is not achieved the matter should be referred to the Village Liaison Officer/Village Manager. Where the Village Liaison Officer/Village Manager is unable to assist the matter should be referred to:-

Name / Officer: Chief Executive
Address: PO BOX 269
CAMDEN NSW 2570

2. DISPUTE RESOLUTION OPTIONS

It is recognised that in any communal living situation such as a Retirement Village where facilities are shared, disputes between Residents and the Operator and between Residents will arise from time to time. Parties to a dispute are encouraged to resolve the dispute themselves.

DISPUTES COMMITTEE

The Operator will, upon request, convene a Disputes Committee to hear and mediate disputes that arise within the Village. The Disputes Committee shall consist of three independent members:-

- (a) one person appointed by the Residents, being a Resident of the particular Village;

- (b) one person appointed by the Operator; and
- (c) the Operator's official mediator, provided that he/she is acceptable to both the Resident and the Operator.

APPLICATION TO THE DISPUTES COMMITTEE

Applications to be heard by the Disputes Committee will be received for:

- (a) disputes between Residents; or
- (b) disputes between Residents and the Operator

Prior to applying to be heard by the Disputes Committee, the disputing parties:-

- (a) should raise the matter in the first instance in writing to the Village Liaison Officer/Village Manager;
- (b) if not resolved, raise the matter in writing to the Chief Executive Officer.

If the dispute is originated by the Operator, they must first address the dispute in writing to the Resident and/or the nominated next of Kin. If the matter remains unresolved, then it will be addressed in writing to the Village Resident Committee for Consideration.

If the dispute is still not resolved to the satisfaction of both parties, application should be made in writing to the Chief Executive Officer to be heard by the Disputes Committee.

Applications must contain:-

- (a) the dispute details
- (b) the parties to the dispute
- (c) the applicant's preferred resolution

The Committee should meet as soon as possible after being notified of a dispute. The Committee must advise the parties to the dispute, in writing, of its decision within 30 days of receiving notice of the dispute.

SIGNED for and on behalf of)
Carrington Centennial Care Ltd) Raad Richards (Chief Executive)

in the presence of)
) Witness

SIGNED by the Resident in the)
presence of:)
)
) Residents

.....)
Witness signature)
) Residents

.....)
Name & Address of Witness)