



Heatherlie Homes

Residence and Management Contract

103-111 Koroit Street Warrnambool VIC 3280

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THE UNITING CHURCH IN AUSTRALIA PROPERTY TRUST (VICTORIA)

of 130 Little Collins Street, Melbourne, 3000

("Owner")

EXAMPLE

RESIDENT(S) NAME

Unit

103-111 Koroit Street OR

Christ Church Close, 66 Henna Street

Warrnambool VIC 3280

Regulation 14 (1)

HEATHERLIE HOMES

2021

RESIDENCE AND MANAGEMENT CONTRACT

COOLING-OFF RIGHT

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

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

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

Date contract signed:	
Name and address of the person who is the village owner:	THE UNITING CHURCH IN AUSTRALIA PROPERTY TRUST (VICTORIA) of 130 Little Collins Street, Melbourne (referred to in this Contract as " Owner ")
Address for service of notices:	Heatherlie Homes PO Box 365 Warrnambool VIC 3280 (referred to in this Contract as " Manager ")
Name and unit number of resident:	Name: Unit Heatherlie Homes OR Christ Church Close (referred to in this Contract as " Resident ")
Address of Resident's Premises:	103-111 Koroit Street Warrnambool OR 66 Henna Street Warrnambool (referred to in this Contract as " Resident's Premises ")
Date of occupation of Resident's Premises:	
Date contract commences:	(referred to in this Contract as " Commencement Date ")
Term of contract:	Lifetime lease, unless terminated earlier in accordance with this Contract
Garage and parking entitlements:	
Fixtures, fittings and furnishings provided by the village owner and manager with the Resident's Premises are as follows:	As listed in Schedule Two
<p>The services to be provided to the resident – including any service that, before the resident entered into the contract, The Owner or its agents represented to the Resident would be provided or made available, and the date (if any) on or by which it was represented that such service would be provided or made available – are as follows:</p> <p>The Manager will provide the Services from the Commencement Date.</p> <p>The Services available as at the Commencement Date are set out in Schedule Three.</p>	

OPERATIVE WORDS

- 1 In consideration of the payment of the Ingoing Contribution and the covenants made by the Resident under this Contract, the Owner grants a lease of the Resident's Premises together with the Fixtures, Fittings and Furnishings, and the right to use the Chattels to the Resident from the Commencement Date for the term of this Contract.
- 2 The Resident acknowledges that:
 - (a) the Village is fully managed by **Heatherlie Homes Warrnambool**;
 - (b) Heatherlie Homes Warrnambool is fully authorised by the Owner to manage all matters with respect to the Village, including:
 - (i) collecting all fees, charges and payments payable by the Resident under this Contract; and
 - (ii) managing all matters arising in relation to the Contract or the Resident's occupation in the Village; and
 - (c) all matters in relation to this Contract or the Village should be raised with **Heatherlie Homes Warrnambool**.

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

3 Primacy of the Retirement Villages Act 1986 and regulations

This Contract must comply with the **Retirement Villages Act 1986**, the regulations made under that Act and any other applicable legislation, and is void to the extent of its inconsistency with that Act, those regulations and other applicable legislation, including any inconsistency with these prescribed terms.

4 Basic obligations of the Owner and Manager

The Owner must:

- (a) give exclusive and vacant possession of the Resident's Premises and in a clean and tidy condition; and
- (b) use best endeavours to ensure that its tenants, employees and invitees or other persons lawfully on Village premises comply with the by-laws relating to the Village; and
- (c) if the manager is required to carry out repairs or replacements to the Common Facilities and other areas under its control that are funded from Maintenance Charges, promptly carry out repairs or replacements necessary for the safety or security of residents; and
- (d) obtain the Resident's consent to enter the Resident's Premises unless in an emergency or if a resident's safety or property is endangered, subject to any other term that enables entry for reasonable cause on reasonable notice; and

- (e) give receipts for payments made by the Resident and keep a record of such payments.

5 Basic obligations of the Resident

The Resident must:

- (a) use best endeavours to ensure that the Resident's invitees or other persons lawfully on the Resident's Premises comply with the by-laws relating to the Village; and
- (b) respect the rights of other residents and persons in the Village; and
- (c) not interfere with other residents' reasonable peace, comfort and privacy; and
- (d) respect the rights of the Owner, its employees and agents to work free from harassment and intimidation; and
- (e) not adversely affect the occupational health and safety of people working in the Village; and
- (f) if the Owner or Manager exercises a right to relocate the Resident to other premises with the consent of the Resident, not withhold consent unreasonably.

6 Basic rights of the Resident

The Resident has the right:

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

7 General

- (a) These prescribed terms, and any other terms prescribed under the **Retirement Villages Act 1986** or regulations, take precedence over any inconsistent terms of this Contract or any inconsistent by-laws relating to the Village.
- (b) The Owner or Manager and the Resident must deal with each other in good faith.

**MATTERS REQUIRED BY REGULATION 11 OF THE RETIREMENT VILLAGES
(CONTRACTUAL ARRANGEMENTS) REGULATIONS 2017 TO BE ADDRESSED**

8 Costs payable on entry [*refer to regulation 11(2)(j)*]

- 8.1 The Resident must pay:

- (a) the Ingoing Contribution;
- (b) an amount equal to two month's Maintenance Charge (to be applied towards the Maintenance Charge payable from the Commencement Date);

to the Owner or Manager on or before the Commencement Date. The Resident is not entitled to possession of the Resident's Premises until these amounts have been paid in full.

8.2 In the event that the Owner or Manager allows the resident to occupy the unit on the entry date as specified in clause 6 of Schedule One, but prior to payment of the required entry contribution pursuant to clause 7 of Schedule One, the resident agrees to pay interest on the outstanding amount as follows:

- (a) where the balance has been owing for more than 29 days but less than 91 days interest shall be payable at the current RBA rate plus 3 % calculated daily
- (b) where the payment has been outstanding for more than 90 days but less than 180 days interest shall be payable at the current RBA rate plus 8% calculated daily;
- (c) in the event that the entry contribution is not paid within 180 days the organisation reserves the right to terminate the lease.

8.3 No interest is payable to the Resident in relation to the payment of the Ingoing Contribution.

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

The Resident must pay:

- 9.1 the Maintenance Charge to the Manager, payable in the manner as directed by the Manager. The Maintenance Charge payable is the amount set out in item 11 of Schedule One as at the date there set out. Upon termination of this Contract, the Maintenance Charge continues to be payable to the Manager until the earliest of the dates set out in clauses 10.1, 10.2, and 10.3, and
- 9.2 all charges for telephone, PAY television, internet connection and any other special utilities and services in respect of the Resident's Premises. Such amounts continue to be payable by the Resident upon termination of this Contract, until the Resident provides vacant possession of the Resident's Premises to the Manager.

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

Upon the earliest of the following:

- 10.1 14 days after the Owner or Manager receives the New Ingoing Contribution from the New Resident;
- 10.2 14 days after the New Resident takes up permanent occupation of the Resident's Premises; and
- 10.3 6 months after this Contract is terminated and the Resident has provided vacant possession of the Resident's Premises to the Owner or Manager;

the Resident must pay the following amounts to the Owner or Manager:

10.4 any outstanding service fees;

11 Legal costs [refer to regulation 11(2)(j) and (4)(b)]

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

12 Costs of renovation or reinstatement [refer to regulation 11(2)(a)]

The Manager agrees to consult with the Resident regarding any exceptional cleaning costs or damages beyond normal wear and tear, payment for which (if required) will be deducted from the bond.

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

13.1 Refer to Disclosure statement 5.1, 5.2, 5.3 and 5.4 for possible exit entitlements.

13.2 Payment under clause 13.1 must be made to the Resident, or if the Resident is deceased, to the Resident's legal personal representatives after receipt by the Manager of a certified copy of the grant of probate of the Resident's will or letters of administration of the Resident's estate within 90 days after the unit is vacated.

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

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

15 Special levies [refer regulation 11(4)(g)]

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

15.2 If the total maintenance charges (for any one financial year) collected from all the residents of the Village is insufficient to cover the Operating Costs for that financial year ("shortfall"), the Owner or Manager may impose a special levy to cover the cost of the shortfall under section 38(6) of the Act.

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

The parties agree that the Maintenance Charges must be applied towards the Operating Costs.

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

17.1 During the Resident's occupancy of the Resident's Premises, the Resident must, at all times, keep the Resident's Premises, the Chattels and the Fixtures, Fittings and Furnishings clean, tidy and in good condition at the Resident's cost, fair wear and tear excepted (and except for damage covered by the Owner's or Manager's insurance under clause 46.16(d)). This includes:

- (a) repairing any damage caused to the Resident's Premises by the Resident or the Resident's guest;
- (b) keeping the Resident's Premises free from rubbish and vermin;
- (c) ensuring that no works are carried out or anything else is done which may affect the structure of the floors, walls and roof of the Resident's Premises;

- (d) immediately bringing to the attention of the Owner or Manager any apparent defect in the structure of the floors, walls or roof of the Resident's Premises;

However, this explicitly excludes maintaining the exterior of the Resident's Premises unless the maintenance is required as a result of neglect or misuse by the Resident.

17.2 Bring to the attention of the Owner or Manager any apparent breakdown in the fixtures and fittings related to fair wear and tear. The Owner or Manager will arrange to have them promptly repaired or replaced. Minor damage to fixtures and fittings that does not affect the safety or performance of them, may be left in their current state, at the Owner's or Manager's discretion.

17.3 The Resident must leave the Resident's Premises, the Chattels and the Fixtures, Fittings and Furnishings clean, tidy and in good repair and condition at the time the Resident permanently vacates the Resident's Premises. If the Resident has breached this covenant, or if the Resident's Premises require refurbishment (such as repainting, replacing any Chattels or the Fixtures, Fittings or Furnishings) to achieve a maximum new ingoing contribution, the Owner or Manager is hereby authorised to enter the Resident's Premises and carry out the necessary works, following vacation of the unit by the Resident.

18 The repair and maintenance procedure [*refer to regulation 11(4)(f)*]

18.1 The repair and maintenance of the Resident's Premises is the Manager's responsibility under this Contract. If the repairs or maintenance are necessary for the safety or security of the Resident, the Manager must promptly carry out the required works.

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

19.1 The Owner or Manager must procure the following insurances in relation to the Village:

- (a) building reinstatement insurance;
- (b) public liability insurance;
- (c) workers compensation, common law and statutory liability insurance in respect of employees employed by the Manager for the Village; and
- (d) any other insurances deemed necessary by the Manager.

19.2 All the insurances procured by the Owner or Manager must be for such amounts and with such conditions, extensions and exclusions as the Owner or Manager may deem appropriate. The cost of procuring these insurances form part of the Operating Costs of the Village, and must be funded from the Maintenance Charges payable by the residents of the Village.

19.3 The Owner or Manager will not procure insurance for the contents of the Resident's Premises or public liability insurance with respect to the Resident's Premises. It is recommended that the Resident arrange insurance for the contents of the Resident's Premises.

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

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

21 Any restrictions relating to the Resident's Premises [refer to regulation 11(2)(a) to (h)]

21.1 Alterations

- (a) The Resident must not make any structural alterations or additions to the Resident's Premises or construct any installations, awnings or trellises on the Resident's Premises without the written consent of the Manager. If consent is given, the Resident must maintain and repair any such additions or alterations at the Resident's cost. Upon termination of this Contract, the Manager may elect to:
 - (i) require the Resident to remove the additions, alterations or installations and to make good the Resident's Premises at the Resident's cost; or
 - (ii) allow the additions, alterations or installations to remain whereby the additions, alterations or installations become and remain the property of the Owner.
- (b) The Resident must not paint or wall paper the interior or paint the exterior of the Resident's Premises without the written consent of the Manager.

21.2 Transfer to other Units

- (a) The Resident has no right to require the Manager to transfer the Resident to other residential premises in the Village or to other types of accommodation.
- (b) If a resident wishes to transfer to another residential premises in the Village, they may apply to do so at the Manager's absolute discretion and in compliance with the Manager's conditions regarding any transfer.

21.3 Design, construction of Resident's Premises

If the Resident's Premises are incomplete, the Resident has no ability to determine the design, construction and furnishing of the Resident's Premises except with the Manager's consent.

21.4 Use of Resident's Premises

The Resident must not use or permit the Resident's Premises to be used for any purpose other than as a private residence.

21.5 Car Parking

The Resident must:

- (a) only park a vehicle in designated areas within the Village;
- (b) not use or allow to be used any car park area which the Resident may be permitted to use for any purpose other than for parking a motor vehicle in a fair and reasonable manner. The parking of any motor vehicle larger than a

station wagon (other than for the delivery or removal of furniture) shall be deemed to be an unreasonable use;

- (c) not assign or sublet any right to use a designated car park area without the Owner's prior written consent.

21.6 **Pets**

The Resident shall not keep any bird or animal pet at the Resident's Premises.

However special consideration by the Manager may be given to a resident who requires a Seeing Eye dog or Hearing dog after consultation with relevant health authorities

21.7 **Guests**

- (a) The Resident must not permit any person to occupy the Resident's Premises for a period of more than 14 consecutive days without the prior consent of the Manager.
- (b) The Resident must not allow any person to occupy the Resident's Premises while the Resident is absent without the prior written approval of the Manager.

21.8 **Dealing with interest in Resident's Premises**

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

21.9 **Access to Resident's Premises**

- (a) The Resident must permit the Manager at all reasonable times between the hours of 9.00am and 5.00pm Monday to Friday (except in the case of emergency in which case clause (b) applies) to:
 - (i) enter the Resident's Premises to enable the Manager to comply with any of their obligations under this Contract;
 - (ii) enter the Resident's Premises to examine its state and condition. If the Resident fails to comply with the Resident's maintenance and repair obligations, the Resident must also allow access by such workmen as the Manager may consider necessary for the purpose of maintaining the Resident's Premises in a reasonable and safe state of repair and condition.

The Manager must not use such right of inspection to harass or embarrass the Resident or to interfere with the Resident's right of quiet enjoyment beyond what is necessary for the proper maintenance and repair of the Resident's Premises. The Resident acknowledges that the grounds upon which the Manager may access the Resident's Premises under this clause are reasonable.

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

21.10 Relocation

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

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

The Resident must permit any manager appointed or engaged by the Manager to access the Resident's Premises in the circumstances set out in clause 21.9.

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

23.1 The term of this Contract commences on the Commencement Date and terminates on the happening of any of the following events:

- (a) on the death of the Resident, or if more than one person is named as Resident, on the death of the last of the survivors;
- (b) 30 days after the date of the Resident's written notice to the Manager of the Resident's intention to terminate this Contract. If there is more than one Resident, this notice must be given by each of them unless, in the Manager's opinion, they are incapable of doing so, in which case, the notice may be given by the person who is so capable;
- (c) if two qualified medical practitioners (one appointed by the Manager and the other nominated by the Resident) certify in writing that the Resident needs care of a kind not available at the Village, this Contract terminates after the Manager has complied with section 16(5) of the Act (a summary of which is set out in Schedule Seven). For the purpose of the medical assessment, the Resident agrees to be examined and assessed by the Manager's medical practitioner and to be bound by his or her decision in consultation with the Resident's medical practitioner and the Manager; or
- (d) if the Resident breaches this Contract, this Contract terminates after the expiry of the notices served by the Manager under sections 16(2) and (3) of the Act (a summary of which is set out in Schedule Seven).

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

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

The Village By-laws are set out in Schedule 6

MATTERS THAT MAY BE INCLUDED IN RESIDENCE OR MANAGEMENT CONTRACTS 12

25 If an Occupier should marry or re-marry during the term of this Agreement such new spouse shall be entitled to reside in the Unit during the Occupier's period of occupancy subject always to such terms as the Manager may direct. Any such new spouse shall not be entitled to continue in occupation after the death or permanent placement in care of the Occupier unless such new spouse shall have before the death or permanent placement in care of the Occupier made application to and been accepted

by the Manager as an additional Occupier hereunder on such terms as the Manager may direct.

- 26 A period of 6 months of occupancy of two bedroomed units can be continued following the loss of a partner before a resident may be required to consider their future options.

**OTHER TERMS – WHICH MUST NOT INCLUDE ANY TERM PROHIBITED
BY THE RETIREMENT VILLAGES ACT 1986 OR REGULATIONS**

27 Residence Documents

27.1 The Resident acknowledges, warrants and confirms that:

- (a) the Resident received a copy of the factsheet and disclosure statement (both as defined in the Act), this Contract, the By-Laws (if any) (together “**Residence Documents**”), and was notified of the Resident’s right to inspect the prescribed documents referred to in the Act, at least 21 days before entering into this Contract;
- (b) the Resident has had the opportunity to seek independent legal, financial and other advice in relation to the Residence Documents provided to the Resident;
- (c) the Resident has had the opportunity to inspect the Resident’s Premises and the Village, and are satisfied with the condition, appearance and state of repair of the Resident’s Premises and the Village;
- (d) as at the date of this Contract, the Resident is an Eligible Resident;
- (e) all information provided by the Resident to the Manager before signing this Contract is true and correct at the time the information was provided; and
- (f) the Manager has not made any representations to the Resident to the effect that medical care will be available to the Resident at the Village, or that the Resident may reside in or have priority on any waiting list to enter any residential aged care facilities.

27.2 The date of this Contract and the Commencement Date are as set out in page 2 of this Contract. However, if after this Contract has commenced, and for any reason whatsoever, any of these dates has not been so inserted, the Manager or the Manager’s legal practitioner is deemed authorised by the Resident to insert the relevant dates into page 2 of this Contract. In that event, the Manager or the Manager’s legal practitioner must notify the Resident that the relevant dates have been inserted according to this clause.

28 Covenants by the Resident

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

29 Covenants by The Owner/ Manager

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

30 Reallocation of Resident's Premises

30.1 After termination of this Contract:

- (a) the Manager must use its reasonable endeavours to locate a new resident for the Resident's Premises who qualifies for occupancy at the Village on the terms then applying to residence contracts for the Village. The Manager may grant a residence right in respect of the Resident's Premises on the terms and conditions that then apply to new Resident Contracts; or
- (b) the Manager may decide not to immediately offer the Resident's Premises for occupation to a new resident whilst the premises undergoes refurbishment.

31 Damage to Resident's Premises

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

31.1 relocate the Resident to other suitable premises in the Village; or

31.2 make any alternative arrangements as may be mutually agreed by the parties.

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

32 Resident's goods

Subject to any legislation to the contrary, if upon the termination of this Contract there remains in the Resident's Premises any goods or chattels belonging to the Resident:

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

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

- (a) arrange storage of those items; or
- (b) sell those items and pay the net sale proceeds to the Resident or the Resident's legal personal representative;

32.3 The Owner is not liable for any loss suffered by the Resident as a result of any reasonable action taken by the Owner under this clause; and

32.4 The Owner is entitled to deduct from any money payable to the Resident under this Contract any expenses it incurs in storing and/or selling those items.

33 Interest on late payment

If the Resident defaults in payment of any money due under this Contract, then interest at the rate being 2% higher than the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act 1983* computed upon the money overdue during the period of

default shall be paid by the Resident to the Owner without necessity for a demand and without prejudice to any other rights or remedies of the Owner.

34 Resident's releases and indemnities

34.1 The Resident occupies the Resident's Premises and the Village at the Resident's own risk. The Resident releases to the full extent permitted by law, the Owner and its agents, contractors and employees, in the absence of negligence on their part, from all claims resulting from any accident, damage or injury suffered by the Resident in the Village. This includes personal injury to the Resident and loss of or damage to the Resident's property.

34.2 The Resident indemnifies the Owner against all claims, damages and expenses arising from:

- (a) the negligent use, misuse or waste by the Resident or any invitee of the Resident of the water, electricity, gas and other services and facilities in and to the Resident's Premises;
- (b) overflow of water (excluding rain water) originating from within the Resident's Premises and caused or contributed to by the Resident or any guest or agent of the Resident; and
- (c) loss, damage or injury to property or person caused or contributed to by the Resident or any invitee of the Resident.

35 Loss or damage

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

36 Goods and services tax

Each amount, of whatever description, payable by the Resident to The Owner under this Contract is expressed exclusive of GST. In addition to any amounts payable, the Resident must, to the extent permitted by law, pay to The Owner, on demand, a sum equivalent to the GST payable, if any, by The Owner in respect of that amount.

37 Notice

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

To the Owner: **c/- the Executive Officer, Heatherlie Homes, PO Box 365 Warrnambool VIC 3280**, or delivered to the Heatherlie Homes Office at 103-111 Koroit Street Warrnambool VIC 3280

To the Resident: the Resident's Premises.

In the case of service by post, service is deemed to have been effected two clear Business Days after posting.

38 Retirement Villages Act 1986

Copies of the following documents are set out in Schedule Eight:

- 38.1 exemptions applicable to the Village under the Act; and

38.2 the Complaint Procedure applicable to the Village.

39 Further assurances

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

40 Payments

Any moneys paid by the Resident to the Owner prior to the Resident becoming entitled to possession under this Contract shall be held by the Owner on deposit in its common fund. All interest accrued on that account shall be paid to the party ultimately entitled to those moneys.

41 Alterations to Village

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

42 Privacy

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

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

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

43 Applicable law

This Contract is governed by the laws of Victoria.

44 General

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

44.2 No variation or waiver of any provision of this Contract has any force or effect unless confirmed in writing and signed by the parties. The agreed variation or waiver shall be effective only to the extent for which it may be made or given.

44.3 No failure, delay or indulgence on the part of either party in exercising any of that party's rights under this Contract operates as a waiver of such right. A single or partial exercise of any such right does not preclude any other or future exercise of that right, or the exercise of any other right under this Contract.

44.4 If any provision of this Contract is invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement without regard to the invalid provisions are and continue to be valid and enforceable in accordance with their terms.

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

45 Special conditions

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

46 Definitions

46.1 "**Act**" means the Retirement Villages Act 1986 (Vic).

46.2 "**Business Day**" means a day other than a Saturday, Sunday or public holiday in Melbourne.

46.3 "**By-laws**" or "**Village by-laws**" means the rules and regulations for the Village as amended or adopted from time to time, and the rules as at the date of this Contract are set out in 0.

46.4 "**Chattels**" means the chattels owned by the Owner located in the Resident's Premises described in Schedule Two.

46.5 "**Commencement Date**" means the date this Contract commences, being the date set out on page 2 of this Contract.

46.6 "**Common Facilities**" means those facilities located on that part of the Village intended for the use of all residents of the Village but excludes any building intended for the exclusive occupancy of any resident.

46.7 "**Contract**" means this contract including any schedules or annexures to this contract.

46.8 "**Eligible Resident**" means a person who is at least 55 years of age, or who has retired from fulltime employment, or an approved person with special needs, who is capable of independent living, is ambulant and suitable to reside in the Resident's Premises, and if required by the Owner, has been assessed by a medical practitioner as being so suitable to reside at the Resident's Premises.

46.9 "**GST**" means the goods and services tax levied under the GST Act or any other goods and services tax, value added tax, consumption tax or tax of similar effect levied from time to time.

46.10 "**GST Act**" means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

46.11 "**Ingoing Contribution**" means the amount specified in item 7 of Schedule One.

46.12 "**input tax credit**" has the meaning ascribed to it by:

(a) the GST Act; or

(b) if the GST Act is repealed or no longer contains a definition of "input tax credit" but a GST is still levied, the term, if any, in the Act which imposes the GST that most closely approximates the meaning ascribed to the term "input tax credit" by the GST Act (at the date of this Contract).

46.13 "**Maintenance Charge**" means the charge payable by the Resident to the Owner as the Resident's contribution towards the Operating Costs, and may also be referred to as a "**service charge**".

- 46.14 "**New Ingoing Contribution**" means the new ingoing contribution received from a New Resident in respect of the Resident's Premises.
- 46.15 "**New Resident**" means a new occupant of the Resident's Premises to be procured by the Owner, and who must be an Eligible Resident.
- 46.16 "**Operating Costs**" means the operating costs of the Village. This includes:
- (a) the cost of obtaining and providing the Services;
 - (b) all rates, taxes, charges, fees and other similar outgoings which are now or may after this Contract be rated, taxed charged or imposed in respect of the whole or part of the Village by any relevant authority;
 - (c) all charges for electricity, gas, water and all other utilities and services;
 - (d) the cost of all premiums for insurances in respect of the Village, including building reinstatement insurance, machinery breakdown insurance, public liability insurance, workers compensation, common law and statutory liability insurance in respect of employees employed by the Owner for the Village and any other insurances deemed necessary by the Owner, all such insurances to be in respect of such amounts and with such extensions and exclusions as the Owner shall reasonably think fit but specifically excluding insurance for the contents of the Resident's Premises and public liability insurance with respect to the interior of the Resident's Premises;
 - (e) the salary or fee of the manager and any other employee or contractor appointed by the Owner, including long service leave and superannuation entitlements, payroll tax and their associated costs;
 - (f) any other expenditure reasonably and properly incurred by the Owner in the operation of the Village; and
 - (g) any GST payable by the Owner with respect to the supply by the Owner of any goods, services or other things to the Resident of a kind referred to in this clause or as part of the services;
- less the value of any input tax credits accrued by the Owner with respect to the purchase of any goods, services or other things, the cost of which forms part of the Operating Costs.
- 46.17 "**Owner**" means the party so named on page 2 of this Contract and includes the Owner's successors in title.
- 46.18 "**Personal Information**" has the meaning given in the Privacy Act.
- 46.19 "**Privacy Act**" means the *Privacy Act 1988 (Cth)* and includes the Australian Privacy Principles as defined in that Act.
- 46.20 "**Regulations**" means the *Retirement Villages (Contractual Arrangements) Regulations 2006 (Vic)*.
- 46.21 "**Resident**" means the party so named on page 2 of this Contract and, if there is more than one person named, the survivor or survivors of them.
- 46.22 "**Residence Documents**" means a copy of the village Factsheet and Disclosure Statement, this Residence & Management contract and By-Laws.

- 46.23 "**Resident's Premises**" means the premises so described on page 2 of this Contract and includes the garage or parking space (if any) described on page 2 of this Contract.
- 46.24 "**Services**" means the services set out in Schedule Three.
- 46.25 "**Unit**" means a unit in the Village, and where the context permits, includes the Resident's Premises.
- 46.26 "**Vacant Possession**" means when the keys to the Resident's Premises as described on page 2, are delivered and received by the owner.
- 46.27 "**Village**" means the retirement village set out in item 2 of Schedule One including the land upon which the village is located and all improvements.

47 Interpretation

In this Contract, unless the contrary intention appears:

- 47.1 the singular includes the plural and vice versa;
- 47.2 words importing one gender include other genders;
- 47.3 a reference to a document or instrument, including this Contract, includes that document or instrument as novated, altered or replaced from time to time;
- 47.4 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa;
- 47.5 a reference to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;
- 47.6 other grammatical forms of defined words or expressions have corresponding meanings;
- 47.7 a covenant, undertaking, representation, warranty, indemnity or agreement made or given by:
- (a) two or more parties; or
- (b) a party comprised of two or more persons,
- is made or given and binds those parties or persons jointly and severally;
- 47.8 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- 47.9 a recital, schedule, annexure or description of the parties forms part of this Contract;
- 47.10 if an act must be done on a specified day that is not a Business Day, the act must be done instead on the next Business Day;
- 47.11 if an act required to be done under this Contract on a specified day is done after 5.00pm on that day in the time zone in which the act is performed, it is taken to be done on the following day;

- 47.12 all monetary amounts are in Australian dollars;
- 47.13 a party that is a trustee is bound both personally and in its capacity as trustee;
- 47.14 a reference to an authority, institution, association or body ("**original entity**") that has ceased to exist, been reconstituted, renamed or replaced or whose powers or functions have been transferred to another entity, is a reference to the entity that most closely serves the purposes or objects of the original entity; and
- 47.15 headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Contract.

SCHEDULE ONE

1	The Owner	Uniting Church in Australia Property Trust (Vic) ABN 29 263 185 760
2	The Manager	Heatherlie Homes 103-111 Koroit Street, Warrnambool
3	The Occupier	
4	The Communal Facilities	Gardens and grounds, laundries, resident lounges, access ways, stairs and lifts
5	The Unit	Unit No. at 103-111 Koroit Street, Warrnambool or Christ Church Close, 66 Henna Street, Warrnambool
6	Date of entry	
7	Ingoing Contribution	\$128,000 for a one bedroom unit Or \$180,000 for a two bedroom unit
8	Entry contribution drawdown:	\$93,000 drawn down over 6 years in 72 monthly payments of \$1,291.67 (one bedroom unit or \$145,000 drawn down over 6 years in 72 monthly payments of \$2,013.89 (two bedroom unit)
9	Refundable Interest Free Loan	\$30,000 to be repaid from the beginning of the seventh year in six payments of \$5,000
10	Bond	\$5,000
11	Initial Service Fee	\$1,572 (one month, plus one in advance) followed by subsequent payments of \$786.00 per calendar month (single, one bedroom unit) payable by direct deposit or \$1,706 (one month, plus one in advance) followed by subsequent payments of \$853.00 per calendar month (couple, one bedroom unit) payable by direct deposit or \$1,846 (one month, plus one in advance) followed by subsequent payments of \$923.00 per calendar month (single/couple, two bedroom unit) payable by direct deposit
12	Special Conditions:	Garage bond: \$15,000 if garage space available or \$50 per calendar month Air conditioner bond: \$500
13	Interest on overdue monies	Refer clause 8.2 p6

SCHEDULE TWO

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

Item	Tick if provided
Ceiling fan	<input checked="" type="checkbox"/>
Clothes line (at laundry)	<input checked="" type="checkbox"/>
External window furnishings (blinds, awnings)	<input type="checkbox"/>
Fixed floor coverings	<input checked="" type="checkbox"/>
Flyscreens to windows or doors	<input checked="" type="checkbox"/>
Garage remote control	<input type="checkbox"/>
Heater or heating system	<input checked="" type="checkbox"/>
Hot water system	<input checked="" type="checkbox"/>
Internal window furnishings (curtains, blinds)	<input checked="" type="checkbox"/>
Light fittings	<input checked="" type="checkbox"/>
Power and telecommunications fittings	<input checked="" type="checkbox"/>
Rangehood	<input checked="" type="checkbox"/>
Security screen door	<input checked="" type="checkbox"/>
Smoke detectors	<input checked="" type="checkbox"/>
Stove/cooktop	<input checked="" type="checkbox"/>
Oven	<input checked="" type="checkbox"/>
Taps and bathroom fittings	<input checked="" type="checkbox"/>
Telephone handset	<input type="checkbox"/>
Window locks	<input checked="" type="checkbox"/>

SCHEDULE THREE SERVICES

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

- 1 collecting the Maintenance Charges;
- 2 arranging for garbage and waste disposal from the Units and the Common Facilities;
- 3 cleaning and lighting of the Common Facilities;
- 4 gardening, lawn mowing and landscaping of the Common Facilities;
- 5 arranging for the maintenance and repair of the Common Facilities (including fixtures, fittings and furnishings, plant and equipment, furniture and all mechanical and other services), but this does not include maintenance and repair which is the responsibility of the Resident under this Contract or of any other resident. The Owner may replace any item which it is obliged to repair under this clause, where in the Owner's reasonable opinion, to repair that item would be uneconomical;
- 6 arranging for the maintenance and repair of the Units within the Village (including any repairs required, as determined by the Owner, to keep any item comprising part of the Fixtures, Fittings and Furnishings in working order), but this does not include maintenance and repair which is the responsibility of the Resident under this Contract or of any other resident;
- 7 endeavouring to introduce the residents of the Village to each other;
- 8 attending to the reasonable requests and demands of the residents of the Village;
- 9 arranging for cleaning roof gutters of all units in the Village;
- 10 arranging for the monitoring of the emergency call system;
- 11 maintaining the Village camera surveillance system;
- 12 arranging for the maintenance of the fire protection systems for the Common Facilities, including providing and maintaining any fire alarms or fire protection systems;
- 13 the administration and general management of the Village including any off-site management and administrative services provided by or to the Owner in connection with its management of the Village; and
- 14 such other services as the Owner shall agree from time to time to provide to the residents of the Village.

SCHEDULE FOUR COVENANTS BY RESIDENT

The Resident covenants as follows:

1 By-laws

to comply and ensure that the Resident's guests and invitees comply with the by-laws;

2 No nuisance, illegal purpose

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

2.2 not to make any undue noise in or about the Resident's Premises which may cause annoyance or a nuisance to other residents;

2.3 not to use the Resident's Premises for any purpose which may be illegal or injurious to the reputation of the Owner or the Village;

3 Insurance policies

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

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

3.2 render cover under such policies to be denied; or

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

4 Damage to Resident's Premises or village

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

5 Fire regulations

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

6 Gardens and plants

6.1 not to alter or modify, remove plants from or reshape any gardens within the Village unless with the prior approval in writing of the Owner and subject to such conditions as the Owner may impose in granting any approval

7 Absences

7.1 to advise the Owner of any overnight absences from the Resident's Premises; and

7.2 not to leave the Resident's Premises unoccupied for any period of time that would result in the Resident's Premises no longer being the Resident's principal place of residence unless prior written notice has been given to the Owner;

8 Signs

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

9 Washing

to hang all clothes or any other articles which are visible from outside of the Resident's Premises only on clothes lines in the Village which are provided for that purpose;

10 Rubbish and Recycling

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

11 Values

to accept the concept of Christian commitment and to be sympathetic to the aims and ideals of the Owner in the operation of the Village;

12 Compliance with laws

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

13 Compliance with orders

to comply with any order or direction lawfully made or given under any Act of Parliament or any regulation or by-law with respect to anything to be done on or to the Resident's Premises;

14 Will and power of attorney

to advise the Owner of:

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

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

15 No caveat

in consideration of the Owner complying with Part 5 of the Act (which provides for a statutory charge over the title to the Village in favour of the Resident), not to lodge a caveat or any form of security against any of the titles to the Village.

**SCHEDULE FIVE
COVENANTS BY THE OWNER**

The Owner covenants as follows:

1 Quiet enjoyment

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

2 Services

to provide the Services;

3 Rates and taxes

to pay all municipal and other statutory rates and charges in respect of the Village;

4 Insurance

to maintain the insurances described in clause 46.16(d) and to effect any other insurance with respect to the Village which the Owner is required by law to take out;

5 Personal support services

if requested by the Resident, to use all reasonable endeavours to facilitate a referral and assessment for personal support services required by the Resident, such as home-help, meals on wheels or personal care services, at the Resident's cost;

6 Annual meetings and financial statements

- 6.1 in compliance with section 33 of the Act, to convene annual meetings of the residents of the Village;
- 6.2 to provide any financial information to residents as required under section 34 of the Act.

SCHEDULE SIX HEATHERLIE HOMES BY-LAWS

1 Visitors And Guests

- 1.1 Residents are encouraged to have their family and friends within Heatherlie Homes, ('Heatherlie') but are requested to ask their visitors and guests to show full consideration when using the common areas and for the safety and property of residents.
- 1.2 If a resident wishes to have their visitor or guest stay at Heatherlie for a period longer than 14 days, they are required to seek prior approval from an Executive Officer. The resident shall also reside at Heatherlie with their visitor or guest unless an Executive Officer consents to their absence.

2 Breaches By Visitors Or Guests

Residents are responsible for the behaviour of any of their visitors or guests and for any breach of any of the Heatherlie Homes By-Laws by a resident's visitors or guests.

3 Resident Advocacy

- 3.1 All residents are required to nominate, in writing, preferably a person who agrees to be contacted if a crisis arises for the resident. The nominated person must have signed the appropriate form indicating that they have consented to the arrangement and will assist the resident in their crisis.
- 3.2 The appropriate form is titled 'Resident Advocacy' and is to be reviewed and where required updated annually and filed in each resident's confidential file.

4 Noise

- 4.1 All residents have the right to peaceful enjoyment of their homes. Residents shall refrain from making undue noise in the Heatherlie environs so that others are not disturbed.
- 4.2 If one resident requests another resident to reduce the noise they are making mutual respect shall be shown and the noise shall be reduced to the satisfaction of both parties.

5 Disputes

- 5.1 In the event of an irresolvable dispute arising between residents, those residents may inform an Executive Officer who may offer assistance in the form of mediation. Resolution of such disputes is entirely the responsibility of the residents involved. In addition, residents may refer to the 'Complaints Procedure' pp32-35 of their Residence Management Contract.

6 Rubbish and Disposable Items

- 6.1 Residents are responsible for the disposal of their rubbish. Everyday rubbish and recyclables are to be placed in the designated rubbish bins.
- 6.2 If a resident wishes to dispose of larger items such as furniture or mattresses, they may arrange such disposal themselves or ask an Executive Officer who may attempt to arrange removal at the resident's expense.

- 6.3 Residents must not place rubbish or items for disposal outside their units or around Heatherlie grounds.

7 Vehicle Use

- 7.1 Residents and their guests must ensure vehicles are parked in the designated car spaces, or garages and shall not use these spaces for any purpose other than for parking a motor vehicle.
- 7.2 Residents are not to drive or park on garden or grassed areas.
- 7.3 Residents are entitled to unload or load items from their vehicle which may be temporarily parked in a driveway or through-way, provided access is only blocked for others for the minimum time taken to unload or load their goods. Vehicles left locked and unattended for more than 15 minutes blocking other residents' access will be deemed to be in breach of these By-Laws and may be removed at the resident's expense.
- 7.4 Residents shall not assign or sublet their car parking rights to any other person.
- 7.5 Guests of Residents or Short Stay guests shall not park on Heatherlie grounds unless they obtain, from the Heatherlie Office, a permit to park on Heatherlie grounds between hours specified on the permit, at the discretion of the Executive Officers.
- 7.6 Any vehicle larger than a Station Wagon or SUV (other than for the delivery of furniture or a tradesman's vehicle engaged in work in Heatherlie) parked on Heatherlie grounds shall be deemed to be unreasonable use of parking spaces and shall be required to leave.

8 Scooters and Electric Wheelchairs

- 8.1 In consideration of the safety of other residents, residents using such vehicles on Heatherlie grounds may be required to undergo appropriate assessments by an Occupational Therapist of their proficiency in operating such vehicles.
- 8.2 Storage will be provided for scooters at Heatherlie's discretion in designated areas where power is available for charging. Where provided, storage must be used and scooters are not to be left on common property.

9 Communal Facilities

- 9.1 Residents and their guests are encouraged to use the communal facilities at Heatherlie but must ensure they leave the facilities in a clean and tidy state.
- 9.2 If any furniture or equipment is moved during use, residents are requested to return such furniture items or equipment items in their designated positions for other residents to use.
- 9.3 Residents wishing to use common property (eg a Lounge) for a private function must book the facility through the Office.

10 Communal Laundries

- 10.1 Communal laundry facilities may be used only between the hours of 8:00am and 7:00pm Monday to Saturday.
- 10.2 Residents shall clean and tidy the laundry facilities after using them.

- 10.3 Laundries are not permitted to be used on Sundays, Christmas Day or Good Friday except for extenuating circumstances.

11 Washing

- 11.1 Residents will hang all washing needing open-air drying only on the clotheslines provided for that purpose.

12 Resident Gardens

A resident may place and tend to plants in areas outside of their private unit at the discretion of Heatherlie. Should any such planting in the reasonable opinion of Heatherlie interfere with the use and or access to or within Heatherlie property or pose a risk to any Heatherlie property then Heatherlie will be entitled to either remove the plants or cut them back and the resident will be liable for any costs incurred by Heatherlie.

13 Care Of Unit

- 13.1 Residents shall keep their unit and every part thereof, tidy and free from rubbish and vermin.
- 13.2 Residents are to immediately report to an Executive Officer any defects or damage to the structure, fixture and fittings including the appliances installed within their unit.
- 13.3 Residents may be required by Heatherlie, at their own expense, to make good any damage caused to the unit or to any part of the residential complex, fixtures or fittings by reason of any act or omission or by reason of any neglect or negligence on the part of the resident or any guest of the resident.

14 Safety

- 14.1 Residents are required to have their electrical appliances 'Tested and Tagged' by a qualified electrical tester prior to taking up residence. Heatherlie Council reserves the right to have electrical appliances checked periodically at the owner's expense. If found to be non-compliant, the appliances are to be either 'Tested and Tagged' or removed from the premises.
- 14.2 For safety reasons, portable heaters are not encouraged. Radiant heaters are prohibited.

15 Access and Egress

- 15.1 Residents must ensure that placement of property or items within and around their unit must allow for clear paths of travel at all times.

16 Telephone

- 16.1 Landlines are provided to every unit and residents may have a telephone connected at their own expense. All telephone and other telecommunications accounts are the responsibility of the resident.

17 Personal Alarm System

- 17.1 A Personal Alarm System (such as MEPACs, Safety Link etc) is available to all residents at their own expense.

17.2 Residents should advise an Executive Officer if they have an alarm system, and provide all details of the system, at its installation.

18 Sale

Residents shall not, without the prior consent of an Executive Officer, permit any public sale whether by auction or otherwise to be held or conducted within their unit or on any part of the communal areas.

19 Absence

In the interests of security, residents are asked to inform an Executive Officer if they intend to be absent overnight.

20 Pets

Pets are not permitted within the residential complex or individual units, with the exception of registered disability service animals (eg Seeing Eye Dogs).

21 Storage Of Goods

21.1 Residents shall not store dangerous goods, such as explosives, firearms, illegal substances or large quantities (> than 1litre) of flammable solvents in their units

21.2 In order to preserve clear access throughout the complex, residents shall not store any other goods in walkways or any other common areas.

22 Insurance

22.1 Residents are advised to take out their own insurance policies to protect furniture and personal belongings in their unit, at their own expense. Such items are not covered by Heatherlie Homes' insurance policies.

22.2 Residents shall not undertake any action or permit any action which may in any way invalidate or violate the terms of any relevant Heatherlie Homes insurance policy or which might cause the premium thereon to be increased.

23 Alcohol

Alcohol may be consumed in the common areas of Heatherlie providing all social conventions are observed in consideration of respect to other residents and responsible behaviour.

24 Smoking

Heatherlie Homes is a 'Smoke-free' environment and therefore smoking is prohibited on any Heatherlie grounds, in any of the common areas or in individual residential units.

25 Unreasonable Demands

Any resident shall not make unreasonable demands on any of the staff members working on behalf of Heatherlie Homes.

26 General

These By-Laws have been devised to ensure that residents shall have full rights to live together in harmony.

27 Dealings with Heatherlie Council and Staff

Each resident must respect the rights of Heatherlie Council, it's employees and agents to work free from harassment and intimidation and not adversely affect the occupational health and safety of any approved persons working in the residential complex.

28 Amendments To By-Laws

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

- 28.2 Heatherlie Homes Residents' Committee may recommend to Heatherlie Council any suggested changes to By-Laws from time to time. Any suggested change, on which all residents have had the opportunity to vote, at least 75% support may be submitted for formal consideration and approval by Heatherlie Council. Heatherlie Council will manage these situations, and update its by-laws, according to any decision that may be decided by Heatherlie Council in consultation with the Residents' Committee.

Reviewed annually

SCHEDULE SEVEN

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

- 16(2) If a resident is in breach of the agreement, The Owner may serve on the resident a notice ("**first notice**") specifying the breach and:
- (a) requiring the breach to be remedied; or
 - (b) if the breach is not capable of being remedied, requiring the resident to cease committing the breach;

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

- 16(3) If:
- (a) The Owner has served on the resident the first notice;
 - (b) the resident has not complied with the first notice at the end of the 28 day period after the date of service of the first notice; and
 - (c) the breach specified in the first notice is substantial.

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

- 16(5) If:
- (a) the residence contract authorises the giving of the notice by The Owner; and
 - (b) the notice includes a certificate signed by two medical practitioners, one of whom is nominated by the resident, stating that the resident needs care of a kind which is not available to a resident of an independent living unit at the village;

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

SCHEDULE EIGHT

This Schedule comprises copies of the following:

- 1 Exemptions applicable to the Village granted under the Act.
- 2 Complaint Procedure applicable to the Village

EXEMPTIONS

Exemption dated 28 February 1989

Victoria Government Gazette

Retirement Villages Act 1986

SECTION 6

Declaration of Exemption

Under the powers found in section 6 of the *Retirement Villages Act 1986*, the Governor in Council, on the recommendation of the Attorney-General, declares:

all retirement villages situated on land owned by the Uniting Church in Australia Property Trust (Victoria), to be exempt villages to which the following provisions of the *Retirement Villages Act 1986* (the Act) do not apply:

1. Part 2 of the Act.

Part 3 of the Act, except for section 16 thereof;

2. Section 19 of the Act, in relation to residents moving between retirement villages, conducted by the Uniting Church in Australia Synod of Victoria, and in relation to any resident seeking admission into the villages where it is impractical to comply with the section because of the resident's urgent need for care, accommodation, or services, upon condition that the resident is provided with an opportunity to terminate all contracts relating to the village and receive a full

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refund of any ingoing contribution for a period of not less than 21 days after occupancy commences.

3. Section 25.

Upon condition that any monies which would have been required to be paid into a trust account or special purpose bank account are held on deposit with a common fund conducted by the Uniting Church in Australia Property Trust (Victoria) and the provisions of section 25 are otherwise observed as if the money was held in a special purpose bank account under section 25 (5).

4. Part 5 of the Act.

5. Section 33 and 34 of the Act.

In relation to a hostel or nursing home located in a village, upon condition that the information required to be presented at the annual meeting is delivered to residents of the hostel or nursing home at least once a year and an annual meeting be held, if a written request is received from more than 5 residents in any such hostel or nursing home, and;

Upon condition:

- (a) that the property upon which the retirement villages are situated, remains unencumbered;
- (b) the obligation to repay a refundable ingoing contribution falls upon the owner of the property;
- (c) the owner of the property does not sell or part with possession of the land except to residents of the village without the prior approval of the Commissioner for Corporate Affairs; and
- (d) a copy of this exemption is given to each prospective resident at the same time such residents are given the residence documents relating to the village.

Dated 28 February 1989

Responsible Minister:

ANDREW McCUTCHEON

Attorney-General

LAWRENCE A. FISHER
Clerk of the Executive Council

COMPLAINT PROCEDURE

Part 1 – Resident’s Complaints

Pursuant to the *Retirement Villages Act 1986* and the *Retirement Villages (Records and Notices) Regulations 2005*, the management of the Village ("**Management**") is required to establish and maintain a procedure for dealing with complaints made by residents against Management, or by residents against other residents.

29 Complaints against Management

If you have a complaint against Management, you may choose any one of the following:

- 29.1 use our internal complaint/dispute resolution scheme which is outlined in this document;
- 29.2 seek assistance from Consumer Affairs Victoria ('CAV'). Details of CAV are as follows:

121 Exhibition Street, Melbourne VIC 3001

Ph: 1300 558 181
- 29.3 seek assistance from the Dispute Settlement Centre of Victoria ('DSCV'). Details of DSCV are as follows:

Level 4, 456 Lonsdale Street, Melbourne, Victoria 3000

Ph: 1300 372 888

Email: dscv@justice.vic.gov.au
- 29.4 seek assistance from the Victorian Civil & Administrative Claims Tribunal ('VCAT'). Details of VCAT are as follows:

55 King Street, Melbourne, Victoria 3000

Ph: 1800 133 055 or 03 9628 9800

Email: vcat-rt@vcat.vic.gov.au
- 29.5 use another external service or dispute resolution authority.

30 Complaints against another resident

- 30.1 if you have a complaint against or a dispute with another resident, you may choose any one of the following:
 - 30.1.1 you may wish to speak with the other resident and attempt to directly resolve the dispute;
 - 30.1.2 use our internal complaint/dispute resolution scheme which is as outlined in this document;
 - 30.1.3 resolve the matter with the assistance of the residents' committee of the Village (if there is one);

- 30.1.4 seek assistance from CAV. Details of CAV are as follow:
 - 121 Exhibition Street, Melbourne VIC 3001
 - GPO Box 123, Melbourne VIC 3001
 - Ph: 1300 558 181

- 30.2 If you choose to use our internal complaint/dispute resolution scheme, you must note that Management cannot take any action to resolve the dispute if:
 - 30.2.1 all the relevant parties do not consent to Management's involvement;
or
 - 30.2.2 the dispute is already being dealt with by the residents' committee of the Village (if there is one).

31 How to make your complaint

You may make your complaint:

- 31.1 in person by contacting either Kathy Snell or Sara Morrison by telephone on 03 5561 5565 or by email admin@heatherliehomes.com.au
- 31.2 by contacting the Convenor of the Residents' Committee. The Convenor's contact details are available from the Heatherlie Office 03 5561 5565
- 31.3 in writing by completing a complaint/dispute notification form (a copy of which is attached to this document).

32 How will your complaint be handled?

- 32.1 Upon receipt of your complaint we will:
 - 32.1.1 acknowledge receipt of the complaint to you; and
 - 32.1.2 record in our complaints register the date of the complaint, your name and address, if the complaint is in relation to another resident, the other resident's name and address, and details as to the nature of the complaint or dispute.
- 32.2 If your complaint is against management, we will:
 - 32.2.1 provide you with a written summary of our understanding of your complaint and the outcome you seek within 14 days from the date of receipt of your complaint;
 - 32.2.2 investigate the complaint by interviewing any relevant staff and reviewing any documents you have provided to us; and
 - 32.2.3 within 14 days of receiving your complaint, advise you in person and in writing of the outcome of our investigation, and any action which we propose to take so as to address the subject of your complaint.
- 32.3 If your complaint is against another resident at the Village, we will:

- 32.3.1 provide you with a written summary of our understanding of your dispute with the resident and the outcome you seek within 14 days from the date of receipt of your complaint;
- 32.3.2 with your consent, advise the other resident of your complaint and request that the resident provide us with the resident's response to your complaint within 14 days;
- 32.3.3 if the other resident agrees to provide a response, and once that response has been received by us, we will, again with that resident's consent, notify you of the resident's response. With your consent, we may further investigate the dispute by interviewing staff or other residents;
- 32.3.4 we may facilitate a meeting between you and the other resident to attempt to resolve the dispute, if you both agree to attend the meeting;
- 32.3.5 we will advise you in person and in writing of the outcome of our investigation, including the outcome of any meeting between you and the other resident. If we do not believe that the dispute can be resolved through our assistance we will advise you of this and suggest that you seek external assistance or the assistance of the Village residents' committee.
- 32.3.6 Please note that if your dispute with another resident is already being dealt with by the residents' committee, Management cannot intervene by dealing with the dispute.

33 Can you be represented by another person?

You may be represented throughout the resolution process by another person.

Part 2 – Management's Obligations

Pursuant to the *Retirement Villages Act 1986* and the *Retirement Villages (Records and Notices) Regulations 2005*, Management is required to record and report on complaints and disputes.

- 33.1 If your complaint or dispute is resolved within 72 hours (excluding weekends and public holidays), Management is not obliged to keep detailed ongoing records. However Management must still keep a record of your complaint, the date the complaint was made, the names of the parties to the dispute, the nature of the problem and the outcome or action taken.
- 33.2 If your complaint or dispute has not been resolved within 72 hours (not including weekends and public holidays), Management must:
 - 33.2.1 create a file (physical or electronic) to record the complaint or dispute;
 - 33.2.2 record the date the file was created, your name, address and contact details (and those of your representative, if any), how your complaint was made, and details of the complaint, including any letters or other documents you have provided to us in relation to your complaint;
 - 33.2.3 keep in the file, a dated copy of our written advice to you summarising our understanding of the matters to be resolved and the steps we intend to take to resolve your complaint or dispute;

- 33.2.4 keep in the file, notes of every action we take or intend to take in relation to the complaint or dispute;
- 33.2.5 keep in the file, copies of all letters or other documents we receive or send in relation to the complaint or dispute;
- 33.2.6 keep in the file, copies of our written advice to you once the complaint or dispute has been resolved (and how it has been resolved), or our advice that the dispute cannot be resolved, (which must include our reasons for this decision and contact details for Consumer Affairs Victoria or other external advisers who may provide you with further assistance).

33.3 We are required to retain the file for 7 years.

33.4 You may inspect the file by prior arrangements with us unless there are special circumstances which would make this unreasonable.

34 Report

34.1 Management is required to report to the annual meeting of residents on the following matters:

34.1.1 the nature of any dispute or complaint and the action taken to resolve the complaint or dispute;

34.1.2 the number and types of complaints or disputes handled in the year;

34.1.3 action taken to resolve the complaints or disputes and their outcomes;

34.1.4 any changes made or proposed to address any issues identified as requiring a broader response.

34.2 We are required to maintain confidentiality of the parties concerned. For that reason, the report will be general in nature, will not identify the parties concerned nor will it provide any specifics about the complaint or the outcome achieved.

Heatherlie Homes COMPLAINT/DISPUTE NOTIFICATION FORM

Your Details

Name

Address:

.....

Telephone no:

Complaint about management at the Village

Nature of your complaint:

.....
.....
.....
.....

Dispute with another resident

Details of other resident:

Name:

Address:

Nature of the dispute:

.....
.....
.....

What is the outcome you seek?

.....
.....
.....

Your signature:

Date of this notification:

AGREEMENT

EXECUTED as an agreement this day of 20

SIGNED SEALED AND DELIVERED for and)
on behalf of **THE UNITING CHURCH IN**)
AUSTRALIA PROPERTY TRUST)
(VICTORIA) by the Heatherlie Homes)
Chairperson, the duly appointed agent of The)
Uniting Church in Australia Property Trust)
(Victoria), in the presence of:

Heatherlie Chairperson

.....
Witness

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

Resident 1

.....
Witness

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

Resident 2

.....
Witness

SIGNED by **THE RESIDENT** by his/her duly)
appointed attorney _____)
_____)
who certifies that he/she is authorised to)
execute this document under power of)
attorney dated _____)
and at the date of execution he/she has)
received no notice of revocation of the power)
of attorney in the presence of:)

Signature of attorney

.....
Witness

.....
Witness name

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