

**KAMO HOME VILLAGE & TUATARA COURT
OCCUPATION RIGHT AGREEMENT
DATED:**

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PART A

THIS AGREEMENT comprises parts A, B and C.

1. INTRODUCTION

- 1.1 We own a retirement village known as **Kamo Home Village & Tuatara Court** at **31 Ford Avenue, Kamo, Whangarei**. We provide a supportive living environment predominantly for people in their retirement and their spouses and partners.
- 1.2 You have applied to become a resident of the Village and the Residential Unit and we have accepted your application.
- 1.3 This Agreement sets out the terms and conditions that apply to your Occupation Right, including our obligations to you, and your obligations to us.
- 1.4 The Occupation Right granted to you by this Agreement is a licence to occupy your Residential Unit.

2. OUR AGREEMENTS

- 2.1 We and you agree as follows:
 - (a) We grant to you the Occupation Right in accordance with clauses 6 - 10.
 - (b) You agree to make the payments set out in clauses 11 - 22.
 - (c) We agree to abide by our consultation and notice obligations set out in clauses 23 and 24.
 - (d) You agree to abide by your general obligations set out in clauses 25 - 38.
 - (e) We agree to abide by our general obligations set out in clauses 39 - 49.
 - (f) We both agree to abide by the general obligations set out in clauses 50 - 60.
 - (g) On transfer to another Residential Unit, the provisions of clauses 61 - 63 will apply.
 - (h) On termination of this Agreement, the provisions of clauses 64 - 70 will apply.

- (i) We both agree to abide by the Code of Residents' Rights set out in Schedule 6.
- (j) We agree to abide by our obligations set out in any operative Code of Practice.

2.2 You confirm that you have received a copy of:

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

2.3 You confirm that you have received independent legal advice before signing this Agreement, as certified below.

Your signing of this Agreement:

	[Resident 1]	[Resident 2]
Signature of Resident:	_____	_____
Name of Resident:	_____	_____
Signature of Witness:	_____	_____
Name of Witness: (NB. Witness must be the certifying Lawyer)	_____	_____

Date of execution by Resident: _____

Our signing of this Agreement:

EXECUTED by **KAMO HOME & VILLAGE CHARITABLE TRUST** with the affixing of its **Common Seal** pursuant to a resolution by the Trustees in the presence of:

Signature of Authorised Person

Signature of Authorised Person

Designation

Designation

Full Name

Full Name

Date of execution by Operator : _____

Certificate by lawyer advising intending resident
Section 27(5), Retirement Villages Act 2003

Name of village: Kamo Home Village & Tuatara Court.

Registration number of village: 2003614.

I, *insert name of lawyer*] _____, certify that –

- (a) I explained to _____ the general effect of the attached agreement and its implications before he or she signed the agreement; and
- (b) I gave the explanation in a manner and in language that was appropriate to the age and understanding of _____.

Dated: _____

Signed: _____

Name: _____

Street address: [*street address of lawyer, including the name of the organisation within which the lawyer works*]:

Postal address: [*postal address of lawyer, including the name of the organisation within which the lawyer works*]:

Email address: _____

Telephone number: _____

Fax number (optional): _____

PART B

IMPORTANT INFORMATION

3. OCCUPANCY RIGHT AGREEMENT DETAILS

3.1 Parties

Operator: **Kamo Home & Village Charitable Trust** (registered under the Charitable Trust Act 1957 under number 854057), described in this Agreement as us, we or the Operator and including our successors and assigns.

Resident: **[Name]**, described in this Agreement as you or the Resident.

3.2 Residential Unit

Dwelling: **[Studio/Unit number]** (as identified on the plan attached to this agreement as Schedule Eight)

This dwelling **is/is not** located in Tuatara Court

Carpark(s):

- **[description]** being a specific carpark(s) allocated to you.

OR

- **[number]** carpark/s which you have been allocated by the Operator and which allocation may be changed in accordance with clause 8.2.

OR

- **[No carpark is included in your Occupation Right Agreement.]**

[The Residential Unit is not yet built or completed. It is expected to be completed on **[insert date].**]

3.3 Commencement and Termination of the Occupation Right

The
Commencement
Date is:

(a) If the Residential Unit is completed, the later of:

- []; or
- The expiry of fifteen (15) Working Days after the date on which you sign this Agreement, unless you have previously cancelled this Agreement in accordance with clause 4.

(b) If the Residential Unit is not yet built or completed, [] Working Days after we notify you that the

Residential Unit is complete.

The Termination Date is: The date your right to occupy the Residential Unit ends in accordance with clause 64 of this Agreement.

3.4 **Entry or Exit Payments**

The Entry Payment you will pay us for granting the Occupation Right set out in this Agreement is \$[] (clause 11).

On signing this Agreement you will forthwith pay us a Deposit of \$[], being ten percent (10%) of the Entry Payment. This Deposit will be held by the Deposit Holder until the expiry of the period set out in clause 4.1 unless you cancel this Agreement in accordance with clause 4.

On or before the Commencement Date you will pay us the balance of the Entry Payment, being \$[].

On the Exit Payment Date (set out in clause 67), we will pay you the Exit Payment (clause 67.1). The Exit Payment will be calculated as follows:

An amount equal to the Entry Payment minus the following deductions:

(a) Your Village Contribution, calculated as:

- Ten percent (10%) of the Entry Payment for the first year or part year thereof, accruing at the Commencement Date; plus
- Seven percent (7 %) of the Entry Payment for the second year following the Commencement Date; plus
- Five percent (5%) of the Entry Payment for each year thereafter,

Provided that:

- The Village Contribution for the second and subsequent years shall be adjusted proportionately on a per day basis in the case of any incomplete year; and
- The total Village Contribution shall not exceed twenty-seven percent (27%) of the Entry Payment.

Your Village Contribution is a contribution to our general costs of providing accommodation and Community Facilities for the benefit of the Village.

- (b) Any balance of your payments or other amounts you owe to us under this Agreement (clause 68).
- (c) Any amount payable by you under clauses 67.6 to 67.9 to reflect a decrease in value of the Residential Unit.

- (d) Our actual costs incurred for the Statutory Supervisor, legal and other fees and disbursements associated with your exit.

3.5 Further Payments

In addition to the Entry Payment and Village Contribution, you will also make the following payments during the term of this Occupation Right:

Your Village Service Charge is: **\$110.00 per week (\$477.00 per month)** (clause 15).
(This amount is subject to change in accordance with clause 15.3.)

Your Village Service Charge is payable on: The first day of each month in advance. However, if the Commencement Date is not the first day of a month, then on the Commencement Date you will pay us a broken period payment for the period of occupancy from the Commencement Date until the end of the month, plus the payment due on the first of the month following the Commencement Date.

Your Village Service Charge is calculated by: The Village Service Charge specified above is the Unit's share of the total forecast operating costs for the Village. The Village Services charge will always be related to the Village's operating costs. However, any change in your Village Service Charge will not exceed the percentage increase in the Consumer Price Index occurring since the date of commencement of your occupation right

Your Village Service Charge ceases to be payable on: The earlier of:

- (a) The Termination Date if:
 - This Agreement terminates under clauses 53 (Damage to Residential Unit or Village), 64.1 (Termination by Us), or 64.9 to 64.12 (Automatic Termination), or
 - We decide we do not want a new resident occupying the Residential Unit; or
- (b) The date we receive an irreversible full settlement of the total amount payable by a new resident for the Residential Unit; or
- (c) Six (6) months after the Termination Date if this Agreement terminates other than in accordance with (a) above.

Your Housekeeping Services Payment is: **\$240.00 per week (\$1040.00 per month)** (clause 13).
(This amount is subject to change in accordance with clauses 13.2 and 13.3)

Note that this payment is payable only by residents of Tuatara Court.

Your Housekeeping Services Payment is payable on: The first day of each month in advance. However, if the Commencement Date is not the first day of a month, then on the Commencement Date you will pay us a broken period payment for the period of occupancy from the Commencement Date until the end of the month, plus the payment due on the first of the month following the Commencement Date.

Your Housekeeping Services Payment ceases to be payable on: The date on which you cease to live in the Residential Unit.

Any additional payments or amounts payable by you to us: These may include - Optional Services Costs (clause 14), health service charges (clause 17), legal costs (clause 18), Default Interest (clause 21), compensation for reinstatement of the Residential Unit where alterations have been made at your request (clause 28.4), our costs if you use the emergency call service and health service (clause 41.1(f)), our costs and expenses in providing you with rest home care or community care providers (clause 45), our costs of maintaining the interior of the Residential Unit (clause 51.5), money paid or costs incurred as a result of your default (clause 59).

3.6 Default Interest Rate: Fourteen percent (14%) per annum calculated on a daily basis, unless a higher rate is specified.

3.7 Statutory Supervisor

Statutory Supervisor: **Covenant Trustee Services Limited** (being Company Number 2194946), including its successors.
 Level 34, Vero Centre
 48 Shortland Street
 Auckland
 PO Box 4243
 Shortland Street
 Auckland 1015

4. RIGHTS OF CANCELLATION

- 4.1 After you sign this Agreement you may cancel this Agreement, without having to give any reason. You can do this by notice given not later than 15 Working Days after you sign this Agreement.
- 4.2 Where this Agreement relates to a Residential Unit which is to be built or completed after the date you sign this Agreement, then, if the Residential Unit is not finished within 6 months after the proposed date for completion referred to in clause 3.2, you may cancel this Agreement. You can do this by giving written notice to us at any time after the expiry of that 6 month period.
- 4.3 Your notice of cancellation must be in writing and must clearly indicate your intention to cancel this Agreement.
- 4.4 The notice of cancellation must be given to
- (a) us; or
 - (b) any other person who dealt with you on our behalf when you signed this Agreement (unless we have notified you that such person has ceased to act on our behalf);
 - (c) any other person who we have notified you is authorised to receive communications on our behalf.
- 4.5 If you cancel this Agreement you are entitled to a refund of the Deposit (and any other payments made by you for the grant of the Occupation Right). This refund will be without deduction (other than tax) and will include any interest earned in the Deposit Holder's account. You are entitled to receive this refund within 10 Working Days after your request.
- 4.6 If you cancel this Agreement we are entitled to reasonable compensation for services provided to you under this Agreement, and for damage to any residential unit or facilities in the Village for which you are responsible.

PART C

DEFINITIONS

We have produced this Agreement as a plain English document, and using as little legal terminology as possible, consistent with properly recording the rights and obligations of both parties. To assist you to be able to read and understand the Agreement some terms used in the Agreement have been defined. These terms, and the full meanings they have in the Agreement are set out in clause 5. Wherever a defined term is used in this Agreement it is shown with a capitalised first letter, so that you will be aware that this is a term which, for legal purposes, has a fuller meaning than the term on its own may suggest.

5. DEFINITIONS

Throughout this Agreement, the following terms with capitalised first letters have the given full meanings:

- 5.1 **“Agreement”** means parts A, B and C of this document.
- 5.2 **“Carpark(s)”** means the carpark or carparks (if any) referred to in Clause 3.2 of Part B of this Agreement
- 5.3 **“Code of Practice”** means at all times the code of practice approved in accordance with s89(1) of the Retirement Villages Act such as may be in force from time to time. The Code of Practice approved as at the date of this Agreement, is attached to this Agreement as Schedule 7.
- 5.4 **“Code of Residents’ Rights”** means the code of residents’ rights which is applicable from time to time pursuant to the Retirement Villages Act. The Code of Residents’ Rights current at the date of this Agreement is attached as Schedule 6.
- 5.5 **“Community Facilities”** means the common areas and community facilities of the Village allocated by the Operator from time to time for the use of the residents of the Village.
- 5.6 **“Deed of Supervision”** means the deed that we have entered into appointing the Statutory Supervisor as required by the Retirement Villages Act.
- 5.7 **“Deposit Holder”** means either the Statutory Supervisor or a lawyer nominated by both the Resident and the Operator.
- 5.8 **“Disclosure Statement”** means the written document titled the disclosure statement containing information about this Village, in accordance with the Retirement Villages Act.

- 5.9 **“Fair Wear and Tear”** means deterioration attributable to normal use and the normal operation of natural forces, but does not include deterioration attributable to smoking, incontinence and the use of mobility aids.
- 5.10 **“Housekeeping Services”** means the housekeeping services provided to residents of Tuatara Court, set out in Schedule 2, subject to change in accordance with clause 43.2 this Agreement.
- 5.11 **“Operator’s Chattels”** means the chattels belonging to us set out in schedule 4.
- 5.12 **“Optional Services”** means the services we make available to you at your request, which services are set out in Schedule 3, but which are subject to change in accordance with clause 44.2 this Agreement.
- 5.13 **“Optional Services Costs”** means the costs of the Optional Services payable in accordance with clause 14.
- 5.14 **“Registrar”** means the Registrar of Retirement Villages appointed under the Retirement Villages Act.
- 5.15 **“Resident’s Chattels”** means any personal items installed in the Residential Unit by the Resident.
- 5.16 **“Residential Unit”** means the unit described in clause 3.2 of Part B of this Agreement.
- 5.17 **“Retirement Commissioner”** means the Retirement Commissioner appointed under the Retirement Income Act 1993.
- 5.18 **“Retirement Villages Act”** means the Retirement Villages Act 2003 as updated, amended or replaced from time to time.
- 5.19 **“Rules”** means the Operator’s rules for the Village, which are subject to change in accordance with clause 31.3 of this Agreement, and which, as at the date of this Agreement are set out in Schedule 5.
- 5.20 **“Tuatara Court”** means that part of the Village complex commonly referred to as Tuatara Court and identified as Tuatara Court on the plan annexed to this Agreement as Schedule 8. It is indicated in clause 3.2 whether or not your Residential Unit is in Tuatara Court.
- 5.21 **“Village”** means the complex of (currently) 32 units located within and forming part of the complex known as Kamo Home Village & Tuatara Court situated at 31 Ford Avenue, Kamo.
- 5.22 **“Village Service Charge”** means the resident’s proportion of the operating costs of the Village set out in Schedule 1, subject to change in accordance with this Agreement.
- 5.23 **“Working Day”** means any day of the week other than:

- (a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday and Labour Day;
- (b) A day in the period commencing with 25 December in any year and ending with 2 January in the following year; and
- (c) If 1 January falls on a Friday, the following Monday; and
- (d) If 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday.

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

OCCUPANCY RIGHTS

6. GRANT OF OCCUPATION RIGHT

- 6.1 We grant to you, and you accept, the Occupation Right for your Residential Unit, under this Agreement. We are granting this Occupation Right in exchange for payment by you of the Entry Payment and your agreement to comply with the terms of this Agreement.
- 6.2 The rights we are granting to you in this Agreement are personal contractual rights only. Nothing in this Agreement gives you any ownership right or interest in the Village or the Residential Unit. This Agreement does not give you any tenancy or leasehold rights to the Residential Unit.
- 6.3 You agree not to require registration of the Occupation Right and not to caveat or otherwise encumber our title to the Village.
- 6.4 You are entitled to take up occupation of the Residential Unit on the Commencement Date.
- 6.5 You do not have the right to sell or market your Residential Unit.

7. JOINT OWNERS

- 7.1 If the Occupation Right was initially granted to two of you, then you both will hold the benefits and have obligations under the Occupation Right jointly. Upon the death of one of you, the interest of that person will automatically transfer to the survivor of you, and the survivor will be entitled to a transfer of the Occupation Right into his or her sole name.
- 7.2 No transfer into the name of your personal representative (following death) will be allowed.
- 7.3 If one of you, holding the Occupation Right jointly with the other, ceases to reside permanently in the Residential Unit for any reason, then the joint interests of that Resident under the Occupation Right must be transferred to the remaining permanent Resident.

8. USE OF RESIDENTIAL UNIT AND CARPARK(S)

- 8.1 You are entitled to reasonable exclusive use and occupation of the Residential Unit, free from our unnecessary interruption.
- 8.2 If your Residential Unit includes a Carpark or Carparks, which is not a specific carpark identified in clause 3.2, but has been allocated to you by us, we have the right to relocate you to other allocated carpark(s) at any time or times.
- 8.3 We acknowledge that you may wish to surrender the Carpark(s) prior to the Termination Date. We are entitled to refuse to accept a surrender of the Carpark(s) without giving any reason and if we accept a surrender, the terms and conditions that will apply to us accepting the surrender of the Carpark(s)

will be at our sole discretion. If we agree to accept the surrender, we may in our discretion agree to refund to you a reasonable portion of your Entry Payment which we in our discretion consider relates to the Carpark(s).

- 8.4 If no Carpark is included with your Residential Unit (see clause 3.2) you will not park any vehicle in any part of the Village without our consent. If we give consent to use a carpark in the Village that consent can be revoked by us at any time.

9. USE OF OPERATOR'S CHATTELS

- 9.1 We will provide and install the Operator's Chattels into your Residential Unit.
- 9.2 You are entitled to reasonable exclusive use of the Operator's Chattels, free from our unnecessary interruption.

10. USE OF COMMUNITY FACILITIES

- 10.1 You are entitled to enjoy the Community Facilities. Your rights to enjoy the Community Facilities are not exclusive and must be exercised in common with all other residents and any other persons to whom we may, in our discretion, grant similar rights at any time.

YOUR PAYMENTS

11. YOUR ENTRY PAYMENT

- 11.1 On or before the Commencement Date you must pay us the Entry Payment.
- 11.2 You will not be entitled to exercise rights of occupancy of the Residential Unit or other benefits under this Agreement until you have paid the Entry Payment in full, even though this Agreement may have been completed and the Commencement Date may have arrived.

12. YOUR VILLAGE CONTRIBUTION

- 12.1 You agree to pay us the Village Contribution in the manner set out in Part B.

13. YOUR HOUSEKEEPING SERVICES PAYMENT

- 13.1 If the Residential Unit is located in Tuatara Court, you agree to pay us the Housekeeping Services Payment in the manner set out in Part B in consideration for our provision of the Housekeeping Services set out in Schedule 2 of this Agreement.
- 13.2 We are entitled to change the Housekeeping Services Payment at any time in accordance with changes in the operating costs of the Village. Such change to the Housekeeping Services Payment will take effect no earlier than one calendar month following our notice.
- 13.3 Any increase in the Housekeeping Services Payment shall be subject to any applicable requirements of the Code of Practice, and to prior consultation with you in accordance with clauses 23 and 24 of this Agreement.
- 13.4 The Housekeeping Services Payment will cease to be payable on the date on which you cease to live in the Residential Unit.

14. YOUR OPTIONAL SERVICES COSTS

- 14.1 In addition to any other payment under this Agreement, you will pay us the cost of any Optional Services provided at your request, being services not included in the Housekeeping Services (if the Residential Unit is in Tuatara Court) or the Village Service Charge.
- 14.2 We will invoice you for Optional Service Costs at the end of each month, and you must pay us no later than the 20th of the month following date of invoice.

15. YOUR VILLAGE SERVICE CHARGE

- 15.1 You agree to pay us in each year, or part year, a proportion of the cost of the Village operating costs, which proportion will be calculated in accordance with clause 3.5 as the Village Service Charge.
- 15.2 You agree to pay us the Village Service Charge in the manner set out in Part B.

- 15.3 We are entitled to change the Village Service Charge at any time in accordance with changes or likely changes in the operating costs of the Village or where we consider an adjustment is required to achieve fairness, **provided that** any increase in the Village Service Charge shall not be greater than the percentage change in the Consumer Price Index occurring since the date of commencement of your occupation right in respect of the Unit. Such change to the Village Service Charge will take effect no earlier than one calendar month following our notice of the change.
- 15.4 You acknowledge that we will be entitled to charge different levels of Village Service Charge to different residents.
- 15.5 Your Village Service Charge will not include any outgoings of the Village payable by us in respect of:
- (a) any part of the Village which is under construction;
 - (b) any construction works;
 - (c) any further development of the Village.
- 15.6 Your obligation to pay us the Village Service Charge will cease in the manner set out in clause 3.5 of Part B.

16. YOUR DIRECT DEBIT AUTHORITY

- 16.1 You agree to sign and deliver to us an authority permitting us to deduct each Housekeeping Services Payment and/or Village Service Charge Payment as they fall due by direct debit from your bank account.
- 16.2 The sum to be deducted by us will be the monthly amount of the Housekeeping Services Payment and/or the Village Service Charge specified in clause 3.5, or the changed amounts of which you have been given notice under clause 13.2 and/or clause 15.3.

17. YOUR HEALTH SERVICE CHARGES

- 17.1 You will pay on demand all charges for the provision of medical, pharmaceutical and allied health services incurred on your behalf.

18. YOUR LEGAL AND OTHER COSTS

- 18.1 You must pay all your own legal and other costs associated with your application for and entry into this Agreement.
- 18.2 You are required to pay also our reasonable costs incurred in the preparation, execution and termination of this Agreement and any costs incurred by us that are incidental to the enforcement or the attempted enforcement of our rights, remedies and powers under this Agreement.

19. TERMINATION PAYMENTS

19.1 There are certain payments that each of us agree to make on or around the Termination Date as set out in Part B.

20. YOUR OTHER PAYMENTS

20.1 In addition to the regular payments set out in clauses 13 and 15, you may also be required to make other payments to us as set out in Part B.

21. DEFAULT INTEREST

21.1 You will duly and promptly pay us each and every payment required to be made pursuant to this Agreement. If you fail to make any such payment for five (5) Working Days after the payment is due, you will pay interest at the Default Interest Rate on the payment, from the due date until the day we receive payment.

21.2 Our entitlement to charge default interest under this clause does not limit or replace any other rights available to us in respect of your default.

22. GST INCLUSIVE

22.1 All monetary amounts set out in this Agreement include GST (if any).

22.2 If the status of the Village and the services provided is altered in any way in terms of our liability for the payment of Goods and Services Tax, we reserve the right to review and adjust the amounts of any one or more of the payments provided for under this Agreement.

OUR CONSULTATION AND NOTICE OBLIGATIONS

23. WE WILL CONSULT WITH YOU

23.1 We will consult with you and take into account your views about any proposed changes in:

- (a) the services and benefits we provide; and
- (b) your payments,

that will or might have a material impact on your occupancy or your ability to pay for the services and benefits we provide.

24. WE WILL CONSULT YOU

24.1 We will consult you about any matter that will or might have a material impact on:

- (a) your Occupation Right, or your rights to quiet enjoyment; and
- (b) your payments in consideration of your Occupation Right or your right to services and/or facilities within the Village.

24.2 We will consult with you regarding:

- (a) any proposal by us to develop or redevelop any part of the land on which the Village is situated or to acquire any nearby land for development;
- (b) any notice we receive from the Registrar suspending the registration of the Village;
- (c) appointing a new manager;
- (d) any request by us to the Registrar for cancellation of the registration of the Village;
- (e) any decision by the Registrar to exempt us from the requirement to appoint a Statutory Supervisor;
- (f) the appointment of a new Statutory Supervisor;
- (g) any decision by the Registrar to exempt us from the requirement to comply with a provision of the Code of Practice;
- (h) any proposal by us to increase our borrowings or liabilities secured over any part of the Village;
- (i) any decision by an insurer to refuse to insure the Village or any part of it;

- (j) any actual or threatened legal proceedings against the Village or against us that affect your interests;
- (k) any actual or threatened action by a creditor, mortgagee or chargeholder in respect of the Village, against us, in respect of that person's security or any sum over \$1,000;
- (l) any action by a creditor to put us or the Village in receivership or liquidation; and
- (m) any decision to sell or dispose of our interest in the Village (in which case the purchasers and we will jointly consult with you), such consultation shall be at a time directed by the Statutory Supervisor.

YOUR GENERAL OBLIGATIONS

25. PERMITTED USE

- 25.1 You will use the Residential Unit only for your own personal use and occupation as a Residential Unit.
- 25.2 You may have friends, relatives or other persons to stay with you in the Residential Unit for periods not exceeding three weeks at any one time. However, we reserve the right to curtail any such arrangement where we consider it is interfering with the quiet enjoyment of other residents in the Village.
- 25.3 We may refuse to permit you to bring to the Residential Unit or the Village any item of furniture, musical instrument or electronic or electrical equipment. We may require you to remove such item, despite any previous approval. You must comply with such refusal or requirement.
- 25.4 You are not to keep any pet or animal in the Village without our prior written approval which shall be at our sole discretion. Any approval we give under this clause may be withdrawn by us at any time.
- 25.5 You are not to erect or place on or outside any Residential Unit any radio or television aerial or antennae, nor install audible burglar alarms, without our prior written consent. We may require you to remove such item, despite any previous approval. You must comply with such refusal or requirement.
- 25.6 You are not to bring into or keep in the Residential Unit any goods or substances of a highly combustible nature or do or permit to be done anything (including the unauthorised use of light or power fittings) which may render an increased premium payable for any insurance cover on any part of the Village or which may make void or voidable any such insurance.
- 25.7 You are not to smoke, nor allow any of your guests to smoke, in the Residential Unit or in any Community Facility unless the area has been designated by us as an area where smoking is permitted.

26. RESTRICTIONS ON TRANSFER

- 26.1 You are not entitled to transfer this Agreement or any legal or equitable interest you may have in the Residential Unit, borrow or give any mortgage or charge against your interest in this Agreement or your Exit Payment entitlement, sublet or allow any person to have possession or occupancy of the Residential Unit, except as set out in clause 26.2.
- 26.2 Notwithstanding clause 26.1, you may, with our prior written consent, create an interest in or charge over the Exit Payment due to you under clause 68. Any such interest or charge must protect, as a first priority payment, our entitlement to deduct any amounts owing by you under this ORA at termination. We reserve an absolute discretion to withhold consent to any such arrangement.

27. CARE OF RESIDENTIAL UNIT AND COMMUNITY FACILITIES

- 27.1 Unless we are obliged to provide such services under clause 41.1, you will at all times:
- (a) (subject to the provisions in clause 51 "Maintenance of Interior of Residential Unit") keep the interior of your Residential Unit and its surrounds, together with the Operator's Chattels, in a proper, tidy, clean, sanitary and (where appropriate) working order and condition; and
 - (b) use the Community Facilities in such a manner as to keep them in a proper, tidy, clean, sanitary and (where appropriate) working order and condition.
- 27.2 You are not to do anything or allow anything within your control to occur, which could cause any blockage of stormwater drains or sewage outlets servicing the Residential Unit or the Village.
- 27.3 You are not to deposit rubbish other than in approved receptacles, nor defile any part of the land or buildings on or in the Village.
- 27.4 You are not to leave or place in the pathways, corridors, driveways or parking area or in the grounds or Community Facilities of the Village, any receptacles or obstructions whatsoever.
- 27.5 We must take all practical steps to ensure the safety of our employees, contractors and subcontractors at work in the Village. You must also do the same, when our employees, contractors and subcontractors are undertaking work in, on or around your Residential Unit.

28. NO ALTERATIONS WITHOUT PRIOR WRITTEN CONSENT

- 28.1 You must not make any alterations or additions to the Residential Unit, or modify the Operator's Chattels, or fit television aerials, radio aerials or other appurtenances to the Residential Unit without our prior written consent. We can give or withhold this at our sole discretion.
- 28.2 Subject to our prior written approval which may not be unreasonably withheld, you have the right to alter your Residential Unit if you suffer from a physical disability as defined in Section 21(1)(h) of the Human Rights Act 1993, to the extent that the Residential Unit does not meet your needs.
- 28.3 We will arrange for those alterations to be undertaken at your cost, provided that we will first reach agreement with you as to what those alterations shall be.
- 28.4 Those alterations may materially and adversely affect our ability to obtain a new resident for your Residential Unit on termination of your Occupation Right in accordance with clause 66 of this Agreement. If that is the case, we may require your Residential Unit to be reinstated to its original condition at

your cost, or require you to make a compensation payment instead of reinstatement.

29. PROVISION OF SERVICES

- 29.1 You are not entitled to engage the services of any other person to provide services to you at the Village except with our prior written approval, which will not be unreasonably withheld where the service requested by you is one which we do not provide.

30. INSURANCE OF YOUR BELONGINGS (INCLUDING CAR)

- 30.1 You must maintain your own insurance policy to cover risks of loss or damage to your own possessions in the Residential Unit. You must also maintain cover for your motor vehicle(s) under a comprehensive motor vehicle insurance policy. Irrespective of cause, we will have no responsibility, under any circumstances, for loss or damage to any of your property or vehicles.

31. COMPLIANCE WITH RULES

- 31.1 You must, at all times, observe and comply with the Rules, and not do anything in contravention of the Rules.
- 31.2 You are to ensure that all guests or visitors you invite into the Village are aware of the Rules and comply with those Rules in all respects.
- 31.3 We are entitled from time to time to establish, review and amend the Rules at our sole discretion, provided that any establishment, review or amendment to the Rules does not affect or detract from your existing rights under this Agreement. We will consult with you before we make any changes to the Rules.
- 31.4 If we make changes to the Rules, we must notify you of the changes before you are obliged to observe them.
- 31.5 If there is any inconsistency between this Agreement and the Rules, the provisions of this Agreement will override the Rules.

32. INDEMNIFICATION OF OWNER

- 32.1 You will reimburse us for any loss or damage suffered by us as a result of your carelessness or negligence or that of your guests and invitees, except loss or damage by risks we have insured against. However, in any case where your acts or omissions (or those of your guests or invitees) have made any such insurance void, you will, upon demand, compensate and reimburse us in full for such loss or damage.
- 32.2 Where the loss or damage is covered by our insurance we reserve the right to require you to pay any excess applicable to the claim.

33. NO NUISANCE

- 33.1 You are not to do anything or allow anything to be done, within your control, which is or could be a nuisance or annoyance to other Residents or to us.

34. PARKING

- 34.1 You are to park in the Village carpark(s) only if you are permitted in accordance with clause 8.
- 34.2 You are not to allow any guest or visitor to park a vehicle anywhere in the Village other than in the designated areas set aside for guest or visitor parking.

35. ENDURING POWERS OF ATTORNEY

- 35.1 On or before the Commencement Date you must give us a copy of properly executed enduring powers of attorney given by you in respect of your property and in respect of your personal care and welfare. These powers of attorney must remain valid in the case of mental incapacity. You must also keep us informed of the current contact details of the attorney. If at any time during the period of this Agreement you revoke any such power of attorney you will simultaneously execute a new power of attorney of a like kind and provide us with a copy.

36. PRIVACY AUTHORISATION

- 36.1 In order to check your continued suitability to occupy the Residential Unit and for Village administration purposes, we will need to collect and hold relevant personal information about you and in particular relating to your physical or mental health.
- 36.2 You authorise:
- (a) us to collect the relevant personal information about you from any relevant agencies, in particular any health agencies who possess information relating to your physical and mental health; and
 - (b) any agency to disclose such relevant information, and in particular, any health agency to disclose information relating to your health to us.
- 36.3 During normal business hours, you have the right to access your personal information held by us and to require us to correct any errors in that personal information.

37. REPRESENTATIONS

- 37.1 If you have supplied us with reports and/or information in connection with your application for the Occupation Right, we have agreed to enter into this Agreement with you on the basis of such reports/information.
- 37.2 All statements made by you in such reports/information must be correct.

38. WILL AND NEXT OF KIN

- 38.1 You will provide for the final disposal of all property and possessions and the payment of funeral expenses by the execution of a valid last will and testament on or before the Commencement Date.
- 38.2 You will keep us informed of the name, address and telephone number of your legal personal representative or next of kin.

OUR GENERAL OBLIGATIONS

39. MANAGEMENT OF THE VILLAGE

- 39.1 We must use reasonable skill and care in ensuring that the Village's affairs are conducted properly and efficiently, and in performing our powers, functions and duties.
- 39.2 We will employ a Manager to undertake the day-to-day management of the Village.

40. CODE OF PRACTICE

- 40.1 We will meet all requirements of any currently applicable Code of Practice, particularly in respect of the following matters:

- (a) Staffing of the Village;
- (b) The safety and personal security of residents;
- (c) Fire protection and emergency management;
- (d) The transfer of residents within the Village (see clauses 61 to 63);
- (e) Meetings of residents with us (see clause 48);
- (f) A complaints facility (see clause 57);
- (g) Accounts;
- (h) Maintenance and upgrading (see clause 41.1);
- (i) Termination of this Agreement (see clause 64);
- (j) Communication;

and we acknowledge that those requirements shall be binding upon us in the same way as if they were set out in this section, "Our General Obligations".

41. PROVISION OF UTILITIES AND MAINTENANCE OF VILLAGE

- 41.1 We will:
- (a) supply the Residential Unit with standard connections for water, telephone, television, electricity and/or gas.
 - (b) maintain and keep in good and respectable tidy operational order and condition the exterior of your Residential Unit and its surrounds, the Community Facilities, pathways and grounds surrounding the buildings including the gardens and trees and shrubs.

- (c) (subject to your obligations under clause 27 "Care of Residential Unit and Community Facilities") maintain and keep maintained in good clean tidy repair order and condition all buildings and carpark areas in the Village.
- (d) make and adhere to (as far as reasonably possible and as financial circumstances permit) a long term plan for maintenance and refurbishment of the Village and its Facilities.
- (e) install and maintain at our expense an emergency alarm system to the Residential Unit if it is located in Tuatara Court so that you have immediate access to help 24 hours a day (subject to any charge referred to in clause 41.1(f) following).
- (f) arrange for a suitably trained person to be available 24 hours a day to respond to any calls by you and will ensure that a health service is available 24 hours a day. A separate charge will be levied if you use this service.
- (g) provide a security system to the Village together with lighting to illuminate the movement of residents and guests around the common areas, and will maintain this system and lighting at all times.

41.2 We will not be responsible for any failure in the provision or maintenance of utility services, such as electricity, gas, telephones, tolls and water for any reason at all.

41.3 Except to the extent that we are covered by our insurance policy, we will not be liable to you or any other person for water damage caused by either the overflow of water supplied or rainwater unless we have received prior written notice of any defect or want of repair and have failed to remedy the same within a reasonable period and that failure has contributed to the damage.

42. INSURANCE OF VILLAGE

42.1 We will, in respect of the Village as a whole, including the Residential Unit, arrange and maintain a comprehensive insurance policy for its full replacement value to the satisfaction of the Statutory Supervisor covering the Village for usual risks including damage or destruction by fire and earthquake, and covering any other insurable risk which we may consider desirable, in our interests or in the interests of residents.

42.2 We shall be entitled to arrange insurance to cover the loss of income arising as a result of any usual insurable risks to cover a loss of income for a period of up to 18 months.

43. PROVISION OF HOUSEKEEPING SERVICES

43.1 If the Residential Unit is in Tuatara Court, we will provide you with the Housekeeping Services. However, we are not obliged to provide you with the Housekeeping Services while you are absent from the Village.

43.2 We have the right to change the Housekeeping Services available from time to time subject to any requirements of the Code of Practice, and subject to prior consultation with you in accordance with clauses 23 and 24.

44. PROVISION OF OPTIONAL SERVICES

44.1 We will take all reasonable steps to provide you with the Optional Services that we may agree with you from time to time. However, we are not obliged to provide you with the Optional Services while you are absent from the Village.

44.2 We have the right to change the Optional Services available from time to time subject to any requirements of the Code of Practice, and subject to prior consultation with you in accordance with clauses 23 and 24.

45. PROVISION OF RESTHOME CARE

45.1 If we consider it necessary or desirable and if we have rest home facilities with a bed available for you, we will ensure you receive appropriate temporary rest home care by shifting you into our rest home facilities. Alternatively, we may provide access to community care providers who may provide that care to you in your Residential Unit.

45.2 You will be responsible for the costs and expenses incurred or to be incurred in connection with such arrangements. We will invoice you for such costs and expenses at the end of each month and you must pay us no later than the 20th of the month following date of invoice.

46. PAYMENT OF VILLAGE OPERATING COSTS

46.1 We will ensure that all operating costs in respect of the Village are paid within a reasonable period after they become due and payable.

47. PROVISION OF FINANCIAL STATEMENTS

47.1 We must give you on request and free of charge, a copy of our audited financial statements most recently filed under the Financial Reporting Act 1993. This clause applies until you have been paid your Exit Payment in accordance with clause 67 of this Agreement.

47.2 We must prepare at the start of each financial year for the Village, a statement forecasting for that period:

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

We must give you a copy of that statement within three months of the start of the financial year to which the statement applies.

48. MEETINGS WITH RESIDENTS

We are required to call the following meetings of residents of the Village:

- 48.1 An annual general meeting to consider the financial statements for the most recently completed financial year of the Village, and any other matters required by the Code of Practice. Such meeting will be held within six months after the end of the financial year to which the financial statements apply.
- 48.2 A meeting for the purpose of giving to the Statutory Supervisor, the Residents' opinions or directions relating to the exercise of any of the Statutory Supervisor's powers, such meeting to be held if requested by the Statutory Supervisor or by at least 10% of the Residents of the Village.
- 48.3 We must provide you with written notice of all such meetings at least 10 (ten) working days before the meeting is held.
- 48.4 The meetings must be chaired by a person appointed by the Statutory Supervisor or in the absence of any such appointment a person, appointed by the majority of the Residents of the Village who are at the meeting.
- 48.5 We are required to give to you at the meeting, either orally or in writing, such information relating to the affairs of the Village as has been requested by a Resident of the Village with reasonable notice. We will not be obliged to give you information in respect of which we have legal grounds to withhold that information.

49. STATUTORY SUPERVISOR

- 49.1 If the Statutory Supervisor retires or his appointment is otherwise terminated, we will (subject to any approval required by law) appoint another person or corporation to be the Statutory Supervisor of the Village.
- 49.2 Subject to the operation of law, the position of the Statutory Supervisor will not be vacated until:
 - (a) our appointment of a new Statutory Supervisor; and
 - (b) that new Statutory Supervisor's acceptance of its appointment; and
 - (c) the execution by that new Statutory Supervisor of a Deed of Supervision whereby it accedes to the duties and powers of the Statutory Supervisor under that Deed.

GENERAL OBLIGATIONS OF BOTH OF US

50. CHANGES TO VILLAGE FACILITIES

- 50.1 We are entitled periodically to provide additional buildings, areas or amenities as part of the Community Facilities, or to remove buildings, areas or amenities from the Community Facilities permanently or temporarily.
- 50.2 Our ongoing costs and expenses of providing and maintaining the Community Facilities fall within the Village Service Charge, and are met by residents.

51. MAINTENANCE OF INTERIOR OF RESIDENTIAL UNIT

- 51.1 You will replace at your cost all mirrors, lightshades, light bulbs, power elements and electrical fittings in the Residential Unit as and when they wear out or are broken or become unserviceable. The replacement items must be of at least the same quality and power as those installed at the Commencement Date.
- 51.2 You will give us prompt notice of any defect in or want of repair of the Residential Unit or the Operator's Chattels of which you are aware.
- 51.3 We will make all necessary arrangements for any repairs, maintenance or replacement:
- (a) that you notify us of in accordance with clause 51.2; or
 - (b) that we think are necessary or desirable after inspecting the Residential Unit whether or not you have notified us of them in accordance with clause 51.2,
- to be carried out as soon as reasonably practicable.
- 51.4 We will consult you about any repairs, maintenance or replacement required.
- 51.5 We will invoice you for the costs of such repairs, maintenance or replacement at the end of each month and you must pay us no later than the 20th of the month following date of invoice. (Where the Residential Unit is new, we will ensure that the benefit of any warranties is taken into account.)
- 51.6 We will not be liable for any loss or inconvenience suffered by you arising from any defect or want of repair to the Residential Unit or the Operator's Chattels unless you have advised us in writing of any such defect or want of repair and we have failed within a reasonable time to take reasonable steps to repair and make good the defect or want of repair.

52. OPERATOR'S RIGHT TO ENTER RESIDENTIAL UNIT

- 52.1 You agree to permit us at all reasonable times to enter the Residential Unit for the purpose of inspecting the Residential Unit, giving care and assistance

to you and carrying out any necessary or (in our opinion) desirable repairs or alterations. In doing so we will cause as little disturbance as possible to you.

52.2 Wherever practicable we will give you 24 hours prior written notice of our intention to enter the Residential Unit in accordance with clause 52.1.

52.3 In cases of emergencies, the requirement of prior written notice may be waived.

53. DAMAGE TO RESIDENTIAL UNIT OR VILLAGE

53.1 Subject to clauses 53.3 and 53.4 below, if the Residential Unit is damaged by fire, earthquake, storm, enemy action, inevitable accident or other risk against which we are insured, then we will repair and reinstate the Residential Unit. However, we are not bound to expend any more money than the actual amount of the insurance money we receive.

Subject to the above, we will ensure that the Residential Unit is reinstated to a design we consider appropriate and to a standard and with a floor area at least equal to that of the Residential Unit prior to it being destroyed or damaged.

53.2 Subject to the availability of a Residential Unit, we will provide alternative accommodation for you at no greater cost than what you are then currently paying, except for any Optional Services Costs (clause 14), our costs and expenses in providing you with rest home care (clause 45) and money paid or costs incurred as a result of your default (clause 32).

53.3 If the Residential Unit is damaged and any insurance money we receive is not adequate to meet the cost of repair, or if we form the reasonable opinion that such repair is impracticable or the consent of any necessary authority to such repair is refused, then this Agreement may be terminated by the giving of written notice by either party. (See clause 64.12).

53.4 If a substantial part of the Village is damaged, even if the Residential Unit is not damaged, and any insurance money we receive is not adequate to meet the cost of repairing such part of the Village, or if we form the reasonable opinion that such repair is impracticable or the consent of any necessary authority to such repair is refused, then this Agreement may be terminated by the giving of written notice by either party. (See clause 64.12).

53.5 Before we give a notice of termination under clause 53.3 and clause 53.4 we must have first consulted with you to decide whether it is practicable to repair or replace the unit.

53.6 In the event that the insurance money we receive is not sufficient to make full payment of the Exit Payment then except to the extent that the Code of Practice provides otherwise, you agree to accept an amount reduced commensurately.

54. FURTHER DEVELOPMENT OF THE VILLAGE

Subject to our consultation obligations under clause 23 and 24 of this Agreement:

- 54.1 We are entitled to improve, extend, add to, reduce or alter the Village or in any manner whatsoever alter or deal with the Village. In undertaking such further development, we will use our best endeavours to cause as little inconvenience to you as is practical in the circumstances.
- 54.2 You are not entitled to make any objection or claim compensation in respect of any further development we undertake. You will, if we require, sign all consents and other documents as may be required to give effect to such further development.
- 54.3 You will make no objection to building works associated with the construction of the Village or any further development or to the dust, noise or other discomfort or nuisance which may arise from such works and will not institute or commence any action or proceeding for an injunction, damages or other relief arising out of or consequent upon any such works.
- 54.4 You agree that we are entitled to sell any part of the Village which has not been developed by the construction of Residential Units and which we deem to be surplus to our needs.

55. STATUTORY SUPERVISOR

- 55.1 In terms of the Deed of Supervision, the Statutory Supervisor will be entitled to be indemnified by us and by you and all the other residents for the time being in the Village in respect of all expenses and liabilities reasonably incurred by the Statutory Supervisor, and against all claims the Statutory Supervisor may suffer in respect of any matter relating to his appointment and duties under the Deed of Supervision (other than a claim arising out of gross negligence, bad faith or wilful misconduct by the Statutory Supervisor).
- 55.2 In accordance with the Contracts (Privity) Act 1982, the provisions of this clause are intended to be enforceable by the Statutory Supervisor as a person beneficially entitled.

56. DISPOSE OF/SUBCONTRACT OUR RIGHTS

- 56.1 We are entitled to market, sell, assign or dispose of our interest under this Agreement.
- 56.2 With effect from the date of sale, assignment, or disposal, all our rights and obligations under this Agreement will pass to the replacement operator, and we will have no further rights and no further obligations to you under this Agreement. You agree to continue to observe and perform all your obligations under the Agreement for the benefit of the replacement operator.
- 56.3 You agree to sign a deed of novation of this Agreement in favour of the new operator of the Village and such deed will be in the form provided by us. You

irrevocably authorise the Statutory Supervisor to execute such deed on your behalf.

- 56.4 We are entitled at any time without restriction to subcontract our operation rights to another suitably qualified operator. No such subcontracting will change the basic relationship between us and you, and we will continue to be obliged to perform and observe the terms of this Agreement. If we do subcontract our rights for any period under this Agreement, then the subcontracted operator will be our representative for all purposes under this Agreement, and you will comply with all instructions, notices, directions and decisions of the subcontracted operator as if we had issued them directly.

57. DISPUTE RESOLUTION (EXCEPT A DISPUTE REGARDING DISPOSAL OF RESIDENTIAL UNIT)

- 57.1 Notwithstanding any other provision in this Agreement, any complaint or dispute (except a dispute regarding the disposal of your Residential Unit) shall be dealt with in accordance with this clause 57.

Your complaint

- 57.2 We must operate a complaints facility and a complaints procedure in accordance with the Retirement Villages Act for dealing with complaints by residents, and we must provide you with a written copy of that procedure.
- 57.3 If you have a complaint you must first refer the complaint to the complaints facility. You do this by making your complaint to the person we employ as manager of the Village.
- 57.4 20 Working Days after you referred the complaint to the complaints facility, you may require the matter to be resolved by a disputes panel by giving us and/or any other party a dispute notice.

Our complaint

- 57.5 If we have a complaint concerning you we must first notify you of that complaint. We must then make reasonable efforts to resolve our complaint with you.
- 57.6 20 Working Days after we notified you of the complaint, we may require the matter to be resolved by a disputes panel by giving you and any other party a dispute notice.

Disputes panel

- 57.7 After receipt of a dispute notice by you or us, we must appoint a disputes panel (from the list of people who the Retirement Commissioner has approved for appointment as a member of a disputes panel).
- 57.8 The hearing and disposal of any dispute referred to a disputes panel will be conducted in accordance with the Retirement Villages Act and the Regulations made pursuant to that Act.

58. DISPUTE RESOLUTION FOR DISPUTE REGARDING DISPOSAL OF RESIDENTIAL UNIT

- 58.1 Notwithstanding any other provision in this Agreement, a dispute regarding the disposal of your Residential Unit shall be dealt with in accordance with this clause 58.
- 58.2 You may give us a dispute notice regarding the resolution of a dispute concerning any alleged breach by us of this Agreement (in particular, clause 64 – Termination Events) or the Code of Practice in disposing of the Residential Unit.
- 58.3 In resolving such dispute, the provisions of clause 57 apply except that you cannot give a disputes notice until 9 months after the Residential Unit became available to us for disposal.

59. YOUR DEFAULT

- 59.1 If you default at any time in the observance or performance of your obligations under this Agreement we may, without prejudice to any of our rights, powers or remedies, at your cost, pay money and do things in our opinion reasonably necessary for the performance of your obligations:
- (a) we will consult you before paying such money or doing such things; and
 - (b) you will immediately pay us all money we paid and the costs of us doing such things. Until we receive such payment, the money we paid and costs we incurred shall be treated as an advance by us and you will pay interest on that advance at the Default Interest Rate.
- 59.2 Alternatively, upon such default, we may terminate this Agreement in accordance with clauses 64.1(b) and 64.2.

60. GENERAL PROVISIONS

No waiver

- 60.1 Any failure by us to insist upon your strict performance, observance or compliance with any of your obligations under this Agreement, or our waiver of your breach of any terms of this Agreement shall not be construed to be a waiver or relinquishment by us of our right to insist upon your strict compliance with all or any one or more of the terms of this Agreement.

Notices

- 60.2 All notices may be given by delivering such notice either personally or by leaving it at, or sending it to, the person's last known or usual place of residence or business.
- 60.3 If a notice addressed to a person at the person's last known or usual place of residence or business is posted, it is deemed, in the absence of evidence to

the contrary, to have been received at the time when it would in the ordinary course of post be delivered.

Our consent

- 60.4 If, under this Agreement, the doing or execution of any act, matter or thing by you requires our consent or approval, such consent or approval may be given conditionally or unconditionally or withheld by us in our sole discretion.

Property Law Act

- 60.5 The covenants implied in leases by the Property Law Act 2007 or any other statute are hereby expressly negated and in the event of there being any conflict between the provisions of this Agreement and your interest in the Residential Unit then the provisions of this Agreement shall be paramount.

Majority resolutions

- 60.6 Except where by law the consent of a specified proportion of Residents is required, the decision of a majority of the Residents in the Village on a matter, will bind all Residents.

Courtesy, respect

- 60.7 We, and the people who work or provide services at the Village, must treat you with courtesy, and must respect your rights as a Resident and not exploit you.
- 60.8 In return, you will respect our rights and treat us with courtesy, and likewise respect the rights of those who work or provide services at the Village, and treat them with courtesy.

Non-merger

- 61.9 Our and your obligations set out in this Occupation Right Agreement will continue until the later of when each obligation is met or when we pay you the Exit Payment.

TRANSFER

61. TERMS AND CONDITIONS OF TRANSFER

61.1 The terms and conditions that will apply to your transfer to another residential unit within the Village are as follows in clauses 62 and 63.

62. WE WILL ENDEAVOUR TO EFFECT TRANSFER

62.1 If you wish to transfer to another residential unit within the Village, you must make that request to us in writing. Where possible, we will endeavour to accommodate your request but any such move will depend upon (inter alia):

- (a) a suitable residential unit being available;
- (b) suitable care being available (as may be required);
- (c) you being assessed as suitable for the available care; and
- (d) our not being disadvantaged in any way by the move.

62.2 You have the right to be provided with information regarding all available options, the right to be independently assessed and the right to be consulted along with your family or representative.

62.3 We are not obliged to give priority to your request to move, over an application by an intending resident (as defined in the Retirement Villages Act).

62.4 If the transfer results in a different level of Care Services or is to a Residential Unit that attracts a different level of Village Service Charge, then those different charges will apply to you.

62.5 We will assist you with your physical transfer and the transfer of your personal belongings, and we reserve the right to recover from you any cost incurred in so doing.

63. TRANSFER AMOUNTS TO TERMINATION

63.1 If you transfer to another residential unit within the Village, this Agreement will terminate and you will enter into a new agreement with us in respect of the other residential unit.

TERMINATION

64. TERMINATION EVENT

Termination by Us

64.1 We may terminate this Agreement if:

- (a) Your physical or mental health is such that, based on a medical assessment by an independent medical practitioner but appointed by us, at our cost, you or another Resident cannot safely live in the Village. You agree to submit to an independent medical assessment for this purpose at our request. The assessment by the medical practitioner must take into account, the care, support and facilities offered in the Village (including the opportunity to transfer to a higher level of care in the Village) and such support services (if any) that we may agree could be brought in from outside the Village. In such event we will consult you, your family or appointed representative where appropriate. You may obtain a second opinion from another medical practitioner at your own expense, and present it to us. In the event that there are two of you, and this applies to only one of you, we will not terminate the Agreement for this reason; or
- (b) You have defaulted in a material or significant way, in observing or performing any of your obligations under this Agreement and you have failed to rectify the default within a reasonable time (but no less than one month as per clause 64.2) after receiving written notice from us that we intend to terminate the Agreement unless such default or defaults are remedied; or
- (c) You have either intentionally or recklessly caused or permitted, or you are highly likely to cause or permit:
 - (i) serious damage to the Residential Unit or Facilities;
 - (ii) damage which is not of itself of a serious nature but which is made so by its continuous nature; or
 - (iii) serious injury, harm or distress to us or to another resident or any of our employees or visitors or any other Resident's visitors.
- (d) We have made reasonable enquiries and determined that you have permanently abandoned the Residential Unit. We must notify you of our intention to terminate this Agreement unless you re-occupy the Unit, and we must first give you one month in which to re-occupy in accordance with clause 64.2.

64.2 Should we wish to terminate this Agreement on any of the grounds mentioned in subclauses (a), (b) and (d) above, then we shall give you not less than one month's notice in writing that we intend to terminate the Agreement. Should we wish to terminate this Agreement on the ground

mentioned in subclause (c) above, then we shall give you as much notice in writing as is reasonable in the circumstances that we intend to terminate the Agreement.

- 64.3 The Notice of Termination we give you under clause 64.2 must comply with the requirements of the Code of Practice.
- 64.4 The Termination Date will be the first Working Day after the applicable notice period or the date on which the Residential Unit is vacant, whichever is the later.
- 64.5 If we terminate this Agreement under clause 64.1, then we must pay you your Exit Payment within five working days of the Termination Date.

Termination by You

- 64.6 You can terminate this Agreement, at your option, at any time.
- 64.7 Should you wish to terminate this Agreement then you must give us one (1) calendar month's notice in writing that you intend to terminate the Agreement. If there are two of you in joint occupation then the notice must be signed by both of you.
- 64.8 The Termination Date will be the first Working Day after that notice period or the date on which the Residential Unit is vacant, whichever is the later.

Automatic termination

- 64.9 This Agreement will automatically terminate on the day that you die, or, where two of you have jointly signed this Agreement, the surviving Resident dies (as the case may be). This day will be the Termination Date.
- 64.10 This Agreement will automatically terminate on the day that the Residential Unit or a substantial part of the Village is destroyed by fire, earthquake, tempest, enemy action or other inevitable accident. This day will be the Termination Date.
- 64.11 In the event that you (or both of you, if you are joint Residents) transfer to another Residential Unit within the Village, and take up a replacement agreement, pursuant to clause 63.1, this Agreement will automatically terminate on the day prior to the commencement date of that replacement agreement. That day will be the Termination Date.
- 64.12 This Agreement will automatically terminate as set out in the terms of any written agreement reached between you and us for the termination of this Agreement (including clauses 53.3 and 53.4). The day stipulated in that agreement will be the Termination Date.

65. DEPARTURE FROM RESIDENTIAL UNIT

- 65.1 You (and any guest living with you pursuant to clause 25.2) must leave the Residential Unit:

- (a) on or before the Termination Date; and
- (b) in similar repair, order and condition as it was at the Commencement Date, except for any damage by fire, earthquake, tempest, enemy action or other inevitable accident, and except for Fair Wear and Tear.

65.2 In particular, you must remove all the Resident's Chattels, personal belongings, effects and vehicles from the Residential Unit and the Village on or before the Termination Date (except on termination under clause 64.9 (death of resident), in which case removal shall be within one (1) week following the Termination Date). You must make good any damage caused to the Residential Unit or Village in removing these items.

65.3 If you do not remove these items by the required date then we may remove them and store them at your expense and cost. If you have not taken possession of these items within a further one (1) month we may sell the items and, after deducting our expenses of removal, storage and sale, pay the proceeds to you.

66. FIND NEW RESIDENT

66.1 Subject to clause 66.5 below, after the Termination Date we will take all reasonable steps to enter into a new Occupation Right Agreement for the Residential Unit in a timely manner and for the best price reasonably obtainable. This will be with a new resident who we consider suitable as a resident of the Village, and with an Entry Payment and Village Contribution that is consistent with the proportions generally adopted by us at that time for marketing of Residential Units in the Village.

66.2 We will not give preference to finding residents for a Residential Unit in the Village which has not been previously occupied by a resident under an Occupation Right Agreement. We shall take proper steps to market the Residential Unit and respond to all enquiries about the Residential Unit in a timely and helpful way.

66.3 We will consult with you about the marketing of your Residential Unit including when the Residential Unit goes on the market, the general nature of our marketing plan for the Residential Unit and any charges relating to the marketing and the sale of the Residential Unit that you are liable to pay. We are required to keep you informed on a monthly basis as to the progress of marketing.

66.4 You have the right to introduce a new resident for your Residential Unit, at any time. We are not obliged to accept any prospective resident who does not meet our normal entry criteria or whose offer does not meet market value or conditions, as per clause 66.1 above.

66.5 We do not have to obtain a new resident if:

- (a) this Agreement terminates under clause 53 (Damage to Residential Unit or Village); or

- (b) this Agreement terminates under clause 64.10 (Destruction of Residential Unit or a substantial part of the Village by fire, earthquake, tempest, enemy action or other inevitable accident); or
- (c) we decide we do not want a new resident occupying the Residential Unit, in which case we must pay your Exit Payment in accordance with clause 67.4 of this Agreement.

67. OUR EXIT PAYMENT TO YOU

- 67.1 On or before the Exit Payment Date, we will pay you the Exit Payment in accordance with the following provisions of clause 67.

Exit Payment Date

- 67.2 The Exit Payment Date is any date within five (5) Working Days after the later of the dates we:

- (a) receive an irreversible full settlement of the total amount payable by any new resident for the Residential Unit; or
- (b) hold an agreement or other security satisfactory to us for the Residential Unit properly signed by the new resident.

- 67.3 However, if this Agreement terminates under clauses 53 or 64.10 (damage to or destruction of Residential Unit/Village) and we need to obtain payment from our insurers in respect of an insured risk in order to be able to meet our obligations to pay you and any other resident in a similar situation, the Exit Payment Date is five (5) Working Days after the date we receive full payment from our insurers for the loss or damage.

- 67.4 If we decide we do not want a new resident occupying the Residential Unit, the Exit Payment Date is the date three (3) months after the Termination Date except to the extent that the Code of Practice provides otherwise.

- 67.5 If our payment of the Exit Payment must be made to your personal representative, then we will be entitled to be satisfied that your personal representative holds proper probate of your will, or letters of administration of your estate before making a payment. If there is any delay in meeting our requirements in this regard then we will lodge the money due to your estate on interest bearing deposit, with interest to accrue to the benefit of your estate until our requirements can be met.

Decrease or Increase in Residential Unit's value

- 67.6 If the amount we are able to obtain from a proposed new resident for the Residential Unit is less than the Entry Payment, we will not enter into a new Occupation Right Agreement without your prior written approval. If you approve our entry into the new Occupation Right Agreement, then your Exit Payment will be accordingly reduced as a result.

- 67.7 Your Exit Payment is a calculation based on your Entry Payment and is not increased if the amount we are able to obtain from a proposed new resident is more than your Entry Payment.

Non-sale Cases

- 67.8 If we decide under clause 66.5(c) we do not want a new resident occupying the Residential Unit we will appoint, at our cost, an independent registered valuer to assess the market value of the entry payment that could have been obtained at the Termination Date for a new agreement in respect of the Residential Unit.
- 67.9 If such valuation relating to your Residential Unit is less than the amount of your Entry Payment, your Exit Payment will be accordingly reduced as a result.

68. YOUR PAYMENTS TO US ON TERMINATION

- 68.1 The amounts to be deducted from any payment made by us to you on termination, are as follows:
- (a) your Village Contribution calculated in accordance with clause 3.4 of this Agreement;
 - (b) any Village Service Charge (pursuant to clause 15) not previously paid.
 - (c) any other money due or that will be due from you under this Agreement. This may include (but is not limited to) your Entry Payment (clause 11), your Housekeeping Payment (clause 13), Optional Services Costs (clause 14), health service charges (clause 17), legal costs (clause 18), Default Interest (clause 21), compensation for reinstatement of the Residential Unit where alterations have been made at your request (clause 28.4), our costs if you use the emergency call service and health service (clause 41.1(f)), our costs and expenses in providing you with rest home care or community care providers (clause 45), our costs of maintaining the interior of the Residential Unit (clause 51.5), money paid or costs incurred as a result of your default (clause 59).

69. DISPUTE PENDING ON TERMINATION

- 69.1 If resolution of a dispute between you and us is pending or arises on the Termination Date, all payments due to be made by you to us or us to you (or a lesser amount if we agree) will be paid to the Statutory Supervisor, to be held in an interest bearing account until resolution of the dispute and then paid out in accordance with this Agreement unless ordered otherwise by the Disputes Panel.

70. LETTING FOLLOWING TERMINATION

- 70.1 After you have vacated the Residential Unit, we may enter into a rental agreement for the Residential Unit with a third party as a temporary resident prior to entering into a new Occupation Right Agreement with a permanent

resident. You shall not be liable to pay the Village Service Charge from the date of commencement of that tenancy. We shall be entitled to the rent received.

SCHEDULE ONE - VILLAGE SERVICE CHARGE

You will pay a charge as a contribution towards the recovery of all costs, charges, expenses, fees and other operating costs incurred by us in maintaining, supervising and operating the Village from year to year (the Village Service Charge) including (without limitation):

- (a) all taxes (except income tax or capital taxes in respect of our income or profits) in respect of the Village;
- (b) all rates, levies, charges, assessments and fees payable to any government, territorial or local authority;
- (c) the cost of compliance with any statute, regulation, bylaw or other lawful obligation in respect of the Village;
- (d) the charges for water, gas, electricity, telephone and tolls, and other utilities or services relating to the Community Facilities and buildings at the Village;
- (e) insurance premiums for insurances of the types referred to in clause 43 relating to all buildings, facilities (including the Community Facilities) (but excluding your personal belongings and vehicle(s)) and any associated valuation fees; or
- (f) salaries, wages, fees and other remuneration for persons engaged in the administration, management and operation of the Village;
- (g) a reasonable management fee in respect of the management services we provide, reviewable annually to reflect then current market terms and conditions;
- (h) the costs of providing security, cleaning, gardening and other services for the general use and benefit of the residents;
- (i) the day-to-day costs of maintaining and repairing all buildings, Community Facilities and the Village generally, but excluding any maintenance, repair and replacement costs payable by you pursuant to the provisions of your Agreement;
- (j) a reasonable allowance for depreciation of the chattels in the Community Facilities; and
- (k) appropriate fees and expenses of the Statutory Supervisor and other accounting, audit and legal costs incurred in the administration of the Village.

SCHEDULE TWO - HOUSEKEEPING SERVICES

(CLAUSES 13 & 43)

If your Residential Unit is in Tuatara Court, you will pay a charge towards the recovery of our costs, expenses and other operating costs incurred by us in providing you with the following housekeeping services:

- (a) Provision of midday and evening meals;
- (b) Laundry services;
- (c) Cleaning services; and
- (d) A proportion of the utility charges for Tuatara Court.

SCHEDULE THREE - OPTIONAL SERVICES:

(CLAUSES 14 & 44)

The Optional Services are available to any resident at their request and are to be paid for by the resident on a fee-for-service basis.

At the date of this Agreement, Optional Services include:

Meals

- Mid day meal and dessert
- Light evening meal – soup or sandwiches
- Mid day meal/dessert and light evening meal

Housekeeping

- Services provided include assistance with showering, housework, laundry and shopping (minimum time charge out ½ hour)

Administration

- Photocopying (charged per copy)
- Fax
- Outgoing email
- Incoming email (text only)
- Incoming email (including photos)
- Laminating – A4
- Laminating – A3
- Scanning photographs
- Scanning photographs – A4

Transport within City limits

Resident escorts to appointments can be arranged at an extra cost.

The following services are also available to residents on a fee for service basis on request:

Nursing Care Services

- Emergency calls
- Wound dressings
- Suture removal
- Blood pressure monitoring
- Administration of some medications

SCHEDULE FOUR - OPERATOR'S CHATTELS

A.

TUATARA COURT INVENTORY LIST & PLAN

Studio

Room	Item	Comments (Condition etc)
Kitchenette	<input type="checkbox"/> Fridge Freezer Make:..... Serial No: <input type="checkbox"/> Microwave Make: Serial No: <input type="checkbox"/> Cabinetry <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Floor Covering <input type="checkbox"/> New <input type="checkbox"/> Old	
Bathroom	<input type="checkbox"/> Vanity Unit <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Towel Rail <input type="checkbox"/> Heated <input type="checkbox"/> Unheated <input type="checkbox"/> Shower <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Toilet <input type="checkbox"/> Floor Covering	
Studio	<input type="checkbox"/> Floor Covering <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Curtains <input type="checkbox"/> Blinds	
Deck	<input type="checkbox"/> Light Shades Number:	
Miscellaneous Items	<input type="checkbox"/> Telephone <input type="checkbox"/> Mirrors <input type="checkbox"/> Keys Supplied <input type="checkbox"/> Number	

B.
VILLAGE UNIT INVENTORY LIST & PLAN

Unit

Room	Item	Comments (Condition etc)
Kitchen	<input type="checkbox"/> Security Screen Door <input type="checkbox"/> Fridge Freezer Make..... <input type="checkbox"/> Stove Make..... <input type="checkbox"/> Cabinetry <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Curtains <input type="checkbox"/> Blinds <input type="checkbox"/> Floor Covering <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Light Shades <input type="checkbox"/> Number <input type="checkbox"/> Power Points <input type="checkbox"/> Number	
Laundry	<input type="checkbox"/> Washing Machine Make..... <input type="checkbox"/> Dryer Make..... <input type="checkbox"/> Floor Covering <input type="checkbox"/> Laundry Tub <input type="checkbox"/> Light Shades <input type="checkbox"/> Number <input type="checkbox"/> Power Points <input type="checkbox"/> Number	
Bathroom	<input type="checkbox"/> Vanity Unit <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Towel Rail <input type="checkbox"/> Heated <input type="checkbox"/> Unheated <input type="checkbox"/> Shower <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Toilet <input type="checkbox"/> Floor Covering <input type="checkbox"/> Curtains <input type="checkbox"/> Blinds <input type="checkbox"/> Light Shades <input type="checkbox"/> Number <input type="checkbox"/> Power Points <input type="checkbox"/> Number	
Lounge	<input type="checkbox"/> Floor Covering <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Curtains <input type="checkbox"/> Blinds <input type="checkbox"/> Light Shades <input type="checkbox"/> Number <input type="checkbox"/> Power Points <input type="checkbox"/> Number	
Conservatory/ Deck	<input type="checkbox"/> Floor Covering <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Curtains <input type="checkbox"/> Blinds <input type="checkbox"/> Light Shades <input type="checkbox"/> Number <input type="checkbox"/> Power Points <input type="checkbox"/> Number	

VILLAGE UNIT INVENTORY LIST & PLAN

Unit

Room	Item	Comments (Condition etc)
Bedroom 1	<input type="checkbox"/> Floor Covering <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Curtains <input type="checkbox"/> Blinds <input type="checkbox"/> Light Shades <input type="checkbox"/> Number <input type="checkbox"/> Power Points <input type="checkbox"/> Number
Bedroom 2	<input type="checkbox"/> Floor Covering <input type="checkbox"/> New <input type="checkbox"/> Old <input type="checkbox"/> Curtains <input type="checkbox"/> Blinds <input type="checkbox"/> Light Shades <input type="checkbox"/> Number <input type="checkbox"/> Power Points <input type="checkbox"/> Number
Miscellaneous Items	<input type="checkbox"/> Fly Screens <input type="checkbox"/> Heaters <input type="checkbox"/> Telephone <input type="checkbox"/> Mirrors <input type="checkbox"/> Keys Supplied <input type="checkbox"/> Number

SCHEDULE FIVE - RULES:

(CLAUSE 32)

The Rules of the Kamo Home & Village are attached

SCHEDULE SIX - CODE OF RESIDENTS' RIGHTS

KAMO HOME VILLAGE & TUATARA COURT CODE OF RESIDENTS' RIGHTS

Basic rights of residents

This is a summary of the basic rights given to you by the Retirement Villages Act 2003.

Services and other benefits

- 1 You have the right to services and other benefits promised to you in your occupation right agreement.

Information

- 2 You have the right to information relating to any matters affecting, or likely to affect, the terms or conditions of your residency.

Consultation

- 3 You have the right to be consulted by the operator about any proposed changes in the services and benefits provided or the charges that you pay that will or might have a material impact on your:
- (a) occupancy; or
 - (b) ability to pay for the services and benefits provided.

Right to complain

- 4 You have the right to complain to the operator and to receive a response within a reasonable time.

Disputes

- 5 You have the right to a speedy and efficient process for resolving disputes between you and the operator or between you and other residents of the village.

Use of support person or representative

- 6 You have the right, in your dealings with the operator or other residents of the village, to involve a support person or a person to represent you. The cost of involving a support person or person to represent you must be met by you.

Right to be treated with courtesy and have rights respected

- 7 You have the right to be treated with courtesy and have your rights respected by the operator, the people who work at the village, and the people who provide services at the village.

Right not to be exploited

- 8 You have the right not to be exploited by the operator, the people who work at the village, and the people who provide services at the village.

Your obligations to others

Your rights exist alongside the rights of other residents and the rights of the operator, the people who work at the village, and the people who provide services at the village. In the same way that these people are expected to respect your rights, it is expected that you in return will respect their rights and treat them with courtesy.

Operator's contact person

If you want more information about your rights or wish to make a complaint against the operator or another resident, the operator's contact person is:

Lil Vazey
Village Manager
31 Ford Avenue
Kamo
Phone: (09) 435 0443
Fax: (09) 435 0447
Mobile: 0274 902 167
Email: lilv@kamohome.co.nz

Other contact persons

Other contact persons, if you want to make a complaint about a breach of your rights, are:

- (a) the statutory supervisor ;
- (b) the Registrar of Retirement villages.

Information

The Retirement Commissioner publishes information on the code of residents' rights and disputes procedures available under the Retirement Villages Act 2003 that may assist to resolve your complaint.

SCHEDULE SEVEN - CODE OF PRACTICE

The attached Code of Practice came into force on 2 October 2009, in accordance with the provisions of Section 90 of the Retirement Villages Act 2003.

SCHEDULE EIGHT - PLAN OF THE VILLAGE

(Attached)