Sevenoaks Care Suites

OCCUPATION RIGHT AGREEMENT

KĀPITI RETIREMENT TRUST

AND

[RESIDENT NAME]

[CARE SUITE NUMBER]

Sevenoaks-Midlands Gardens Retirement Village

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Definitions

Additional Services means the additional services that are made available to you under the Admission Agreement.

Admission Agreement means the agreement for the provision of long-term residential care between you and us.

Agreement means this Occupation Right Agreement including the Schedules.

Authorised Person means you or your Power of Attorney for Property.

Deferred Management Fee means the Deferred Management Fee described in clause 1.7, which you pay in consideration for the supply of accommodation and other goods or services under this Agreement not covered by the Admission Agreement.

Care Fees means the fees you pay for your Care Services in accordance with your Admission Agreement.

Care Services means the long-term residential care services we make available to you on the terms of your Admission Agreement.

Care Suite Village Outgoings means the costs and outgoings of the Village including (but not limited to) taxes; rates; compliance costs; insurance costs; staff remuneration; management fees; costs relating to providing and maintaining relevant community facilities.

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

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

Damage Event means an event which results in the damage or destruction of the Care Suite such that it is uninhabitable, whether by fire, natural disaster, earthquake, site affected disaster or any other risk.

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

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

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

Exit Payment means an amount equal to the Entry Payment that you receive following termination of this Agreement as set out in clause 10.3.

Exit Payment Date means the date we must pay you the Exit Payment and which is set out in clause 10.4.

Fair Wear and Tear means the normal change that takes place with the ageing of the Care Suite or the Trust's Chattels through normal use by you or your visitors. This includes where such change occurs due to the normal use of mobility aids such as a wheelchair,

walker or walking stick. For the avoidance of doubt, fair wear and tear does not include any damage caused by smoking or vaping.

Health New Zealand Contract means the age-related residential care agreement between Health New Zealand and the Trust that governs the Care Services provided to you.

Interest Rate means the Trust's bank's (currently Kiwibank) posted business overdraft rate.

Manager means the entity appointed by the Trust to manage the Village.

Needs Assessment means an assessment carried out by the local Needs Assessment Service Coordination agency (**NASC**) to determine eligibility for rest home or hospital level care.

Trust's Chattels means any chattels or goods installed in your Care Suite by the Trust as detailed in Schedule 1.

Rebate means any amount that is required under the Health New Zealand Contract to be paid to you as a rebate for accommodation charges (as set out in clauses 4.5 to 4.7).

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

Rules means our rules for the Sevenoaks Care Suites set out in Schedule 2 and the Resident and the Family/Whānau Responsibilities set out in your Admission Agreement, which we may change from time to time.

Statutory Supervisor means Trustees Executors Limited or any other company appointed as statutory supervisor for the Village operated by the Trust.

The Lodge means the care facility in which the Trust provides care and contains the Sevenoaks Care Suites.

The Village means the Sevenoaks-Midlands Gardens Retirement Village and includes the Sevenoaks Care Suites.

Termination Date means the date this Agreement terminates or ends as set out in clause 8.13 or clause 11.9.

Vacation Date means the date you have stopped living in your Care Suite and have removed all your possessions.

Working Day means any day of the week other than:

(a) A Saturday or Sunday;

(b) A public holiday (excluding anniversary days);

(c) A day in the period commencing on 25 December in any year and ending on 2 January in the following year, inclusive.

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

PARTIES

1 **[Insert Resident Name]** (**you**)

2 **Kāpiti Retirement Trust** (**we** or **us** or **the Trust**)

Date of this Agreement:

INTRODUCTION

A. Kāpiti Retirement Trust owns and operates the Sevenoaks - Midlands Gardens Retirement Village which also includes the Sevenoaks Care Suites.

B. You have applied to be a resident in a Sevenoaks care suite, located in The Lodge at the Village. This Agreement sets out the terms and conditions that apply to the licence we grant to you, to occupy your Sevenoaks Care Suite.

C. You have undergone a Needs Assessment and have been assessed as requiring long term residential care at a level which we can provide in the Care Suite. Based on that assessment, we have agreed to accept your application upon the terms set out in this Agreement.

D. You will enter into an Admission Agreement for your care.

You and we acknowledge and agree the following:

1 ESSENTIAL INFORMATION

1.1	**Village**	**Sevenoaks-Midlands Gardens Retirement Village**
1.2	**Care Home**	**The Lodge**
1.3	**Your Care Suite**	**[insert Care Suite number]**
1.4	**Occupation Date** *This is the date all obligations in this Agreement come into effect and from which you can live in your Care Suite*.	**[insert date]** or such other date agreed between you and us
1.5	**Entry Payment** *This is the amount you pay for the right to live in your Care Suite.* *For more, see clause 2.1.*	**$[insert]**

1.6	**Deferred Management Fee** *This is the amount we deduct in one lump sum on the Exit Payment Date.* *For more, see clauses 10.2 to 10.5.*	**Maximum amount of $[insert]** being a maximum of 25% of the Entry Payment with an amount equal to: • 10% of the Entry Payment calculated on the first day of occupation of your care suite. *PLUS* • Up to 15% of the Entry Payment accruing at a rate of 0.625% of the Entry Payment per month or part month of occupation for the first 24 months of occupancy.
1.7	**Rebate** *This is the amount payable by us (subject to change) which is deferred and credited to you in one lump sum on the Exit Payment Date. For more, see, clauses 4.5 and 4.6.*	**$ per week**
1.8	**Care Suite Village Fee** *This is the amount which is payable by you and deferred and deducted in one lump sum on the Exit Payment Date. For more, see clause 4.4.*	**$ per week** The care suite village fee contributes to the village operating and is reviewed annually with effect 1 July.
1.9	**Initial Care Fees** *For more, see clauses 4.1 to 4.3.*	**$ per day** The Care Fee covers the cost of the services we provide you under your Admission Agreement and will be reviewed in accordance with the review procedures under the Health New Zealand Contract.
1.10	**Initial Care Level** *This is the initial level of care that you will be provided with. For changes in care levels, see clauses 3.14 to 3.16.*	**[Rest home/Hospital] level of care.**
1.11	**Special Provisions**	See Schedule 3

2 LIVING IN YOUR CARE SUITE

2.1 On or before the Occupation Date you must pay us your Entry Payment. You will not be entitled to occupy your Care Suite until you have paid the Entry Payment.

2.2 The Statutory Supervisor is the stakeholder to hold any deposit or other payments you make towards your Entry Payment in accordance with the Deed of Supervision.

2.3 If you are the sole or last surviving resident under an existing occupation right agreement with the Trust, you and we agree that the Occupation Date is also the termination date of your existing occupation right agreement.

Nature of Your Right

2.3 We grant to you, and you accept a licence to occupy the Care Suite from the Occupation Date on the terms of this Agreement. You are entitled to reasonable exclusive use and occupation of your Care Suite.

2.4 The rights granted to you under this Agreement are personal contractual rights only and cannot be registered. This Agreement does not give you any ownership right or tenancy in the Sevenoaks-Midlands Gardens Retirement Village or your Care Suite.

2.5 You are not entitled to transfer your rights under this Agreement or any interest in this Agreement, or to sublicence or allow any other person to occupy your Care Suite. You do not have the right to borrow against, or grant any security interest over, your interest in your Care Suite and/or this Agreement, including your right to receive the Exit Payment.

Admission Agreement

2.6 You must sign an Admission Agreement with us, prior to occupying the Care Suite. The Admission Agreement is required by our Health New Zealand Contract and does not replace this Agreement. If there is any inconsistency between the terms of this Agreement and the Admission Agreement, then this Agreement shall prevail.

Visitors

2.7 Your Care Suite is only for your own personal use and occupation. You may have visitors during reasonable hours, provided such visitors comply with all applicable policies and directions of staff. You cannot have visitors overnight in your Care Suite, without our prior approval.

2.8 At our absolute discretion we may require any visitor to leave if we consider other residents' enjoyment of the Lodge is negatively affected by their presence.

Parking

2.9 Your Care Suite does not have a designated car park. Your visitors may only park a vehicle in the car parks set aside for visitor parking and parking is restricted for visitors to the duration of their visit to you.

3 LIVING AT THE VILLAGE

Your Rights

3.1 We will ensure that we, all people who work at the Village and The Lodge and all service providers, treat you with courtesy, respect your rights and do not exploit you.

3.2 You are entitled to all the rights under the Code of Residents' Rights.

3.3 The Code of Practice applies to this Agreement. We will comply with our responsibilities as set out in the Code.

3.4 We will consult with you about any proposed changes in your payments, or the services and benefits we provide, that will or might have a material impact on your occupancy or your ability to pay for the services and benefits we provide.

Conduct in the Village

3.5 You agree to comply with the Rules as set out in Schedule 2. You agree to ensure that your visitors are made aware of, and comply with, the Rules and you are responsible for how your visitors conduct themselves while they are within the Village.

3.6 We may change the Rules for the Sevenoaks Care Suites, provided we consult with residents first. Any changes will not affect your existing rights under this Agreement and will not take effect until we give you notice of the changes.

3.7 If there are any inconsistencies between the Rules and this Agreement, this Agreement overrides the Rules.

Your Relationships with Others

3.8 You agree not to cause or allow to be caused by circumstances within your control, a nuisance, annoyance or distress to any person in the Village or the Lodge and surrounding environment.

3.9 You agree to comply with your obligations to others under the Code of Residents' Rights. You will respect the rights of, and treat with courtesy, us and all others at the Village and the Lodge.

Your Use of Community Facilities

3.10 You are entitled to enjoy the Lodge community facilities with other residents and people we authorise.

a) As your Care Suite is located within the Village, you can also enjoy the extensive Trust gardens and grounds.

b) To maximise your safety, the Sevenoaks Care Suites have controlled access, security camera coverage and additionally, security patrols which occur outside office hours.

c) You agree that your use of the community facilities, gardens and grounds is done with care and in consideration for others.

Care Services

3.11 We will provide you with the Care Services at the initial level of care set out in clause 1.11 on the terms of the Admission Agreement.

3.12 You agree that you will not arrange or agree to receive any health or care services into your Care Suite provided by anyone other than the Trust unless you first get our approval. This is so we can monitor the quality of services provided to you. We will not unreasonably withhold consent where we do not provide the services requested by you.

3.13 Where you choose to access health or care services which are beyond the scope of the care services provided under the terms of the Admission Agreement, the cost of these will be additional and met in full by you.

Change of Care Level

3.14 If we consider your health needs have changed, we will assist you to have a Needs Assessment by the NASC to determine if you require a different level of residential care. We will provide you with information and consult with you about this.

3.15 If a different level of care is determined by the NASC which cannot be provided in your Care Suite, we will endeavour to offer you that level of care in The Lodge. You

will be given priority over non-residents of the Village to move into the required level of care providing there is a vacancy, or when the next bed vacancy occurs.

3.16 If you transfer to another room in the Lodge for your required level of care which is not under a care suite occupation right agreement, for example for secure dementia care:

(a) At the time of the transfer, we will provide you with a copy of the terms on which we will provide you with the required level of care. This will be our standard Admission Agreement at the time.

(b) Any care fees and accommodation charges will be set out in your new Admission Agreement.

(c) You will be deemed to have terminated this Agreement with effect from the transfer date.

(d) We will confirm any change of your room in writing.

(e) You will be responsible for the costs of this transfer, including the costs of third parties involved in the transfer.

Kāpiti Coast Airport

3.17 You acknowledge:

(a) The Airport's existence and operation is permitted by both the Kāpiti Coast District Council's District Plan and by existing user rights.

(b) Height restrictions on buildings and structures and other planning requirements are designed to protect the continued use of the Airport, based on its existing usage.

(c) Increased usage of the Airport is a possibility.

You waive any right of objection which may exist to the continued operation of the Kāpiti Coast Airport or development undertaken on the Airport land within the rules and regulations that may exist at the time.

4 COSTS PAYABLE DURING YOUR STAY

Care Fees

4.1 Your Admission Agreement sets out the Care Fees that are payable under that agreement and the mechanism for increasing them. The Admission Agreement sets out details of:

(a) Additional Services and supplies that are available under the Admission Agreement and their associated fees; and

(b) any subsidy that you may be eligible for from the Ministry of Health or Work and Income, subject to meeting the means assessment criteria.

4.2 You will assign part of your NZ national superannuation to us as required by Work and Income to contribute towards the cost of your care (if applicable).

4.3 The Care Fees are reviewed annually by the Government which sets the "Maximum Contribution" payable for residential care in each Territorial Local Authority. We will advise you of any changes after they are announced by the Government.

Care Suite Village Fee

4.4 The Care Suite Village Fee is your contribution to the cost of the Care Suite Village Outgoings calculated to recover certain basic costs of operating the village and is the amount set out in clause 1.9. Your Care Suite Village Fee applies for the term of this Agreement, is reviewed annually in consideration of any changes in costs with effect 1 July and will be calculated daily from the Occupation Date until the Vacation Date. You and we agree to defer your payment of the Care Suite Village Fee until the Exit Payment Date and we will deduct it in one lump sum from the Exit Payment. For the avoidance of doubt, interest will not accrue on the Care Suite Village Fee.

Rebate

4.5 We will pay you the Rebate, being any amount that is required by Health New Zealand to be paid to you as a rebate for accommodation charges for the period that you receive Care Services in your Care Suite.

4.6 The Rebate is currently calculated as 18% of the Maximum Contribution (as defined in clause 4.3). The Rebate will be calculated on a daily basis over the period that you receive Care Services in your Care Suite. You and we agree to defer our payment of the Rebate until the Exit Payment Date and we will credit it to you in one lump sum. For the avoidance of doubt, interest will not accrue on the Rebate.

4.7 For the avoidance of doubt, our obligation to pay you the Rebate under clauses 4.6 and 4.7 will cease immediately in the event the Rebate is no longer required to be paid to you under the Health New Zealand Contract.

Invoicing and Payments

4.8 We will invoice you each month for:

(a) Your Care Fees;

(b) Any fees for Additional Services; and

(c) Any other amounts due to us.

4.9 You will sign and give us an authority to deduct any invoiced amounts by direct debit from your bank account.

4.10 Any amount we invoice you is to be paid:

(a) By direct debit; or

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

Utility Costs

4.11 You will pay for:

(a) If you request it, the cost of having a telephone in your Care Suite; and

(b) Any other utility charges that are appropriate to be individually charged to your Care Suite, such as an internet connection, subscription television (Sky) or other entertainment services as agreed with us.

Legal Costs

4.12 You must pay your own legal and other costs relating to this Agreement, including the entry into and termination of this Agreement

Damage

4.13 If we suffer any loss or damage as a result of your, or your visitors', acts of carelessness or negligence, you must:

(a) reimburse us for any insurance policy excess, where such loss or damage is covered by our insurance; or

(b) compensate and reimburse us in full, where such loss or damage is not covered by our insurance.

GST

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

Default Interest

4.15 If you fail to make any payment within 15 working days of the due date, you may be required to pay interest on the amount due, at the Interest Rate applicable at the time, from the due date until the date of payment. This right does not limit or replace any other rights we have in respect of your default.

5 CARING FOR AND MAINTAINING YOUR CARE SUITE

Our Right to Enter your Care Suite

5.1 You will permit us, at all reasonable times, to enter your Care Suite to:

(a) clean and inspect your Care Suite;

(b) provide you with care services appropriate to meet your needs, including the Care Services;

(c) carry out any repairs or alterations we consider necessary; or

(d) assess your mental and physical health for the purpose of assessing your fitness to continue to occupy your Care Suite.

In doing all of the above, we will try to cause as little disturbance as possible to you. Wherever practicable, we will give you reasonable notice before we enter your Care Suite, except when staff enter to provide your cares or to converse with you on matters relating to you.

5.2 Where we need you to vacate your Care Suite to carry out any repairs or alterations, you must do so. In such a situation you will be consulted with prior to any such repairs or alterations occurring and we will arrange and pay for any temporary accommodation that may be required.

Your Responsibilities

5.3 You will co-operate with us to always keep your Care Suite and the Trust's Chattels in a proper, tidy and clean condition.

Our Responsibilities

5.4 We will provide the Care Suite with the Trust's Chattels for your use.

5.5 We will take responsibility for arranging any repair, maintenance or replacement to your Care Suite and to the Trust's Chattels that we consider necessary. We will consult with you about any works required. We will be responsible for the costs of any such works, except for the costs you are responsible for under clause 4.13.

Refurbishing, Modifying or Upgrading your Care Suite

5.6 You are not responsible for any costs of refurbishing or upgrading your Care Suite following termination of this Agreement. However, we can charge you for any damage to the Care Suite as set out in clauses 4.13, 9.2 and 9.3.

5.7 You must not make any alterations or additions to your Care Suite, or modify the Trust's Chattels without our written consent.

5.8 If you have a disability, you have the right to alter your Care Suite if it does not meet your needs. In this situation, you must give us notice identifying what alterations you consider you need. We will consult and agree with you on what alterations are to be made and we will arrange the work. Any costs are payable by you on invoice.

5.9 If any alterations have been made at your request, we may require the return of your Care Suite to its original condition on termination of this Agreement. We will arrange for the work and any such costs are payable by you on invoice. If we do not require you to reinstate your Care Suite to its original condition, then you will not be entitled to any compensation for any of your requested alterations.

6 HOW WE WILL RUN THE VILLAGE

Management of the Village

6.1 We will use reasonable care and skill in:

(a) ensuring that the affairs of the Village are conducted properly and efficiently; and

(b) in the exercise and performance of our powers, functions and duties.

6.2 We are entitled to appoint a Manager to undertake the day-to-day management of the Village. As required by Schedule 3 of the Act, we will consult with you if we decide to appoint a new Manager. We will not consult with you if we, or the Manager, decides to appoint a new employee in a management role.

Community Facilities

6.3 We are entitled to provide additional buildings, areas or amenities as part of the Village community facilities, or to remove buildings, areas or amenities from the community facilities of The Lodge, permanently or temporarily.

Maintenance of Village and Care Facilities

6.4 We will maintain and keep in good condition and order the Village including the Care Suites and the community facilities of The Lodge.

6.5 We will make and keep to a long-term plan for maintaining the Village (including the Sevenoaks Care Suites) and refurbishing it. This may include improvements to the Village (including the Sevenoaks Care Suites).

6.6 We will supply your Care Suite with standard connections for data and television but (subject to our obligations under the Admission Agreement) we are not responsible for any temporary failure in the provision or maintenance of utility services by third party providers, such as electricity, gas, telecommunications and water.

Insurance

6.7 We will have comprehensive insurance policies covering the Village and the Care facility for its full replacement value (including your Care Suite and Trust's chattels).

This will cover usual risks including damage or destruction by fire, accident and natural disaster and covering any other insurable risk which we may consider desirable.

6.8 We will ensure that the insurance we have arranged is to the satisfaction of the Statutory Supervisor.

6.9 We are not responsible for insuring your personal belongings nor for any loss of or damage to your property (except as a result of our breach of this Agreement or if we are liable under this Agreement or any law). We strongly recommend that you maintain your own insurance to cover risk of loss or damage to your personal belongings.

6.10 Where damage occurs which can be attributed to you or your visitors' careless or intentional behaviour, in claiming insurance we may seek to recover from you any excess charged by the Trust's insurer or the full costs should the Trust's insurer decline the claim.

Development of the Village or Care Facility

6.11 We may decide to improve, extend, add to, reduce, alter or redevelop the Village. If we do, we will try our best to cause as little inconvenience to you as is practical in the circumstances.

6.12 You may not make any unreasonable objection or claim compensation in respect of any development or building works we undertake. However, this does not prevent you making a complaint under our Complaints Policy if you so wish. You will, if we require, sign all consents and other documents as may be required to give effect to any such development.

6.13 We are entitled to sell any part of the Village which we determine to be surplus to our needs.

Sale of the Village or Care Services

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

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

7 TRANSFERRING TO ANOTHER CARE SUITE FOR PREFERENCE

7.1 There is no provision in this agreement to transfer to another care suite for preference.

8 HOW THIS AGREEMENT ENDS

Termination by You

8.1 You may terminate this Agreement by giving at least one calendar month's written notice to us. Your notice should set out the date on which you intend for the Agreement to terminate. Our consent is required if you wish to withdraw your termination notice.

Termination on Death

8.2 This Agreement automatically terminates on the date of your death.

Termination by Change of Care

8.3 This Agreement will automatically terminate on the day you transfer to another room if clause 3.15 applies.

Termination by Agreement

8.4 You and we can agree in writing, signed by both of us, to terminate this Agreement.

Termination by Us

Health

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

(a) The care, support and facilities offered in the Village;

(b) Support services that could be brought in from outside the Village to support your aging in place.

8.6 You may obtain a second opinion at your cost and present this to us for our consideration.

Serious Damage, Injury, Harm or Distress

8.7 We may terminate this Agreement if you have intentionally or recklessly caused or permitted, or we consider that you are reasonably likely to cause or permit:

(a) serious damage to your Care Suite or to the community facilities;

(b) damage to your Care Suite or to the community facilities which is not of itself of a serious nature, but which is made so by its continuous nature; or

(c) serious injury, harm or distress to us or to another resident of, visitor to or worker at the Trust or the Village.

8.8 We will give you as much initial written notice as is reasonable in the circumstances, that we intend to terminate this Agreement unless the default is remedied. When determining the period of notice required to remedy the default, we will consider the nature and extent of the damage, injury, harm or distress concerned.

8.9 If you have failed to remedy the grounds giving rise to our initial written notice, we may terminate by giving you as much written notice as is reasonable under the circumstances.

Permanent Abandonment or Breach of Agreement

8.10 We may terminate this Agreement if:

(a) you have permanently abandoned your Care Suite; or

(b) you have materially breached this Agreement.

8.11 We will give you at least one calendar months' notice in writing that we intend to terminate this Agreement unless the breach or circumstances are remedied prior to the expiry of that notice.

8.12 If you have failed to remedy the breach or circumstances, we may terminate by giving you at least one calendar month's final notice.

Termination Date

8.13 The Termination Date is the applicable date from the following:

(a) the expiry of the notice period (being not less than one month) in a notice of termination given by you to us;

(b) the date of your death;

(c) the day you transfer to another room if clause 3.16(c) applies;

(d) the date that you and we agree in writing; or

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

8.14 Any termination of this Agreement shall be deemed to be a termination of the Admission Agreement.

9 VACATING YOUR CARE SUITE

9.1 You must leave your Care Suite and remove all personal belongings from the Lodge on or before the Termination Date or if you have died, within one week of the date of death. If for any reason you remain in the Care Suite after the Termination Date all your usual obligations relating to living in and using the Care Suite will apply.

9.2 You must leave your Care Suite in similar repair, order and condition as it was at the date of occupation, except for fair wear and tear or any damage caused by a Damage Event. You must make good any damage caused to your Care Suite or The Lodge or surrounding Village in removing your personal belongings.

9.3 When you have left your Care Suite and removed your personal belongings, we will enter the Care Suite to assess whether you or your visitors have caused any damage to the interior of the Care Suite or to the Trust's Chattels which is more than fair wear and tear. If there is any such damage, we will consult with you about the nature of any works required and the cost to carry out repairs. We will then carry out the works and the costs will be payable by you by way of a deduction from your Exit Payment.

9.4 If your personal belongings are not removed by the required date, we may remove them at your cost. If you have not collected them within a further month, we may either dispose of the items or otherwise sell them and, after deducting our expenses of removal and storage, pay any surplus proceeds to you.

9.5 After you have vacated the Care Suite and in the interests of facilitating a sale of a new Occupation Right Agreement, we may allow a new resident who is entering into an Occupation Right Agreement to occupy the Care Suite prior to you receiving your Exit Payment.

9.6 We shall make all reasonable efforts to find a new resident for the Care Suite and shall not give preference to finding residents for care suites in the Village that have not previously been occupied by a resident under an Occupation Right Agreement. We shall comply with our responsibilities under the Code relating to the sale or disposal of a vacant care suite, including consulting with you about the marketing of the Care Suite and keeping you informed.

9.7 If a new Occupation Right Agreement for the Care Suite has not been entered into within 9 months of the Termination Date, we will pay you interest on the Exit Payment calculated at the interest rate set in section 12 of the Interest on Money Claims Act 2016 for the period from the date that is 9 months after the Termination Date until the Exit Payment Date. Interest will be paid in one lump sum on the Exit Payment Date. From this 9 month anniversary, the Resident may give a dispute notice.

10 PAYMENTS FOLLOWING TERMINATION

Exit Payment

10.1 Your Exit Payment is the amount you receive after you have exited the care suite and we have received full settlement of the entry payment from a new resident for your Care Suite.

Deferred Management Fee

10.2 Payment of the Deferred Management Fee (DMF) to a maximum of 25% is payable on the resale of an Occupation Right Agreement for your care suite.

This is calculated as:

10% of the entry payment calculated on the first day of occupation of your care suite.

PLUS

Up to 15% of the entry payment accruing at a rate equal to 0.625% of the Entry Payment per month or part month of occupancy for the first 2 years of occupation.

Our Payment of the Exit Payment

10.3 On the Exit Payment Date, we will pay you the Exit Payment being your Entry Payment plus the Rebate and minus the following amounts:

(a) your Deferred Management Fee;

(b) your Deferred Care Suite Village Fee;

(c) a sales and administration fee of $750 inclusive of GST;

(d) a cleaning fee for additional deep cleaning of your Care Suite and/or window coverings if required;

(e) any unpaid fees under this Agreement or the Admission Agreement, including Care Fees or Additional Services fees;

(f) any amounts we are entitled to invoice you for during the term of this Agreement which are either unpaid or yet to be invoiced;

(g) any amount due to the Trust; and

(h) any other money due or that will be due from you under this Agreement or the Admission Agreement.

Exit Payment Date

10.4 The Exit Payment Date is the applicable date from the following:

(a) within five Working Days after we hold a new occupation right agreement and receive full settlement of the entry payment from a new resident for your Care Suite, or

(b) within 10 Working Days after we receive our insurance proceeds, if this Agreement ends due to a Damage Event;

(c) within five Working Days after the date of expiry of the applicable notice period if we give you a final notice of termination.

When We Can Defer Payment

10.5 After your death, we will defer making any payment until your personal representative provides evidence of probate of your will, or letters of administration of your estate and appropriately signed termination documents as may be reasonably required by us or the Statutory Supervisor.

11 DAMAGE OR DESTRUCTION

11.1 If your Care Suite is damaged or destroyed by a Damage Event this clause 11 applies. This may override other provisions in this Agreement relating to termination and Exit Payments.

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

11.3 Following a Damage Event, we will consult with you to decide whether it is practicable to repair or replace your Care Suite. We will try all reasonable means to consult with you as soon as reasonably practicable after the Damage Event. After we have consulted with you, we will notify you of our decision.

Repair or Replacement

11.4 If we have decided it is practicable to repair and replace your Care Suite, we will do so as soon as reasonably practicable. We will ensure that it is replaced to a design we consider appropriate and to a standard at least equal to that of your Care Suite prior to the Damage Event, subject to us receiving the necessary building consents to do so. However, we are not bound to expend any more money than the actual amount of the insurance money we receive.

Suspension of Payments

11.5 If your Care Suite becomes uninhabitable following a Damage Event your requirement to pay any fees under this Agreement and calculation of the Deferred Management Fee will be suspended. This will be from the date of the Damage Event to the date your repaired or replaced Care Suite is ready for your occupation.

Temporary Accommodation

11.6 Following the Damage Event, we will use our reasonable endeavours to provide alternative temporary accommodation for you while your Care Suite is being repaired or replaced or until this Agreement is terminated. Such accommodation may be outside of The Lodge and will be provided as soon as reasonably practicable after the Damage Event occurs.

11.7 If we provide you with temporary accommodation, you will pay the actual cost of personal services and outgoings (including any residential care fees) relating to that temporary accommodation.

Termination following a Damage Event

11.8 Following a Damage Event and after consultation with you, we may (at our discretion) decide it is not practicable to repair or replace your Care Suite.

11.9 If we decide not to repair or replace your Care Suite, this Agreement will terminate on the date we give you notice of our decision, unless clause 11.10 to 11.11 apply. If this Agreement terminates under this clause:

(a) we will pay you the Exit Payment without deducting any Deferred Management Fee, but we will be entitled to deduct any other amounts due to us under clause 10.3; and

(b) the Exit Payment Date is 10 Working Days after the date we or the Statutory Supervisor receives full payment from our insurers for the loss or damage.

Transfer to another Care Suite following a Damage Event

11.10 If this Agreement is terminated following a Damage Event, we may offer you an option to transfer to an alternative Sevenoaks Care Suite if there is one available.

11.11 If you accept such an option, we will assist in moving you and your belongings. Your Occupation Right Agreement will transfer to the alternative Care Suite.

12 HOW TO SOLVE PROBLEMS

12.1 We have established and will maintain a complaints facility to deal with any informal and formal complaints raised by you, other residents or us in relation to the Village or occupation of your Care Suite. This complaints facility will comply with the Act and the Code.

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

12.3 If you have a complaint concerning any health services or disability services (including the Care Services), the Code of Health and Disability Service Consumers' Rights applies and you need to use our care facility complaints facility. Disputes relating to Care Services cannot be referred to a disputes panel under the Act.

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

13 BREACH OF THIS AGREEMENT

13.1 If you are in breach of this Agreement, we may (at your cost) pay money and do things in our opinion reasonably necessary for the performance of your obligations. We will consult you before paying such money or doing such things. This is without prejudice to any of our rights.

13.2 You will promptly pay us all our costs (including legal costs) incurred in enforcing our rights under this Agreement. Until we receive such payment, any such costs will be treated as an advance and interest is payable by you at the Interest Rate.

13.3 If we have the right to do something under this Agreement, but we don't do so, we can still enforce our rights later unless we've told you in writing that we won't.

14 GENERAL

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

Notices and consents

14.2 If you require our consent or approval for anything under this Agreement, it may be given conditionally or unconditionally or withheld by us at our discretion. We will consider our respective interests, including the viable operation of the Village and the interests of other residents in exercising our consent, approval or discretion. Our consent or approval must be obtained before the act, matter or any action is taken.

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

Meetings of residents

14.4 We will call meetings of residents of the Village including the Sevenoaks Care Suites in the circumstances and for the purposes set out below:

Circumstances	**Purpose**
An annual general meeting within 6 months after the end of an accounting period for which financial statements must be prepared for the operator or the retirement village.	Considering the financial statements, a report from the Statutory Supervisor (if any), a report on maintenance and any other matters.
There is a Statutory Supervisor of the village and the meeting has been requested by the Statutory Supervisor or by at least 10% of the residents of the Village including the Sevenoaks Care Suites.	Giving the Statutory Supervisor the residents' opinions or directions relating to the exercise of the Statutory Supervisor's powers.

Circumstances	Purpose
There is not a Statutory Supervisor of the village and the meeting has been requested by at least 10% of the residents of the Village including the Sevenoaks Care Suites.	Giving the operator the residents' opinions or directions.
Where the Act, Regulations or the Code require us to obtain the consent of residents of the Village including the Sevenoaks Care Suites.	To obtain the consent of residents of the Village.
Where other enactments, the resident's Agreement or other such documents require us to obtain the residents' collective consent.	To obtain the residents' collective consent.

14.5 We will provide written notice of the meeting to you and each resident of the village including the Sevenoaks Care Suites at least 10 Working Days before the meeting. The notice will specify the time, place and agenda of the meeting, and all papers to be considered at the meeting will be attached.

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

(a) appointed by the Statutory Supervisor; or

(b) appointed in accordance with the conditions (if any) of an exemption (if any) that we may have from appointing a statutory supervisor; or

(c) appointed by the majority of the residents of the Village including the Sevenoaks Care Suites who are at the meeting if an appointment has not been made under paragraphs (a) or (b) above.

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

Procedure if there ceases to be a statutory supervisor

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

Government Restrictions

14.9 Notwithstanding any other provision of this Agreement, it may be necessary to implement changes to our business operations to comply with Government public health (including action under the Health Act 1956 eg pandemic response etc such as COVID-19), civil defence or other restrictions. We will implement any changes we consider are required or will enhance and preserve the health, safety and wellbeing of all residents and staff at The Lodge or Village. Restrictions may apply to the removal or restriction of access to common areas and facilities, the services that may be offered, the maintenance that we may carry out, the access of visitors to The Lodge or Village and other operations. You agree to comply with any policies we make in this regard. Any restrictions that are imposed will not result in a reduction in any amount payable under this Occupation Right Agreement, including without limitation, the Care Fees, Deferred Management Fee, or the Care Suite Village

Fees. You may discuss with the clinical management, the extent to which these business operational changes apply throughout any periods of restrictions.

15 IMPORTANT DOCUMENTS

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

Your Application

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

Enduring Powers of Attorney and Wills

15.3 At least 24 hours before the Occupation Date you must give us a copy of your properly executed Enduring Powers of Attorney in respect of both your property and your personal care and welfare. These Powers of Attorney must remain valid in the case of mental incapacity.

15.4 At least 24 hours before the Occupation Date you must confirm with us that you have a valid last will and testament. You will keep us informed of the name, address and telephone number of your attorneys, legal personal representatives and next of kin.

Personal Information and privacy

15.5 In order to check your continued suitability to occupy your Care Suite and for Village administration purposes, we will need to collect and hold relevant personal information about you, which may include information about your physical or mental health.

15.6 You authorise:

(a) Us to collect relevant information about you from relevant agencies, including health agencies who hold information about your physical and mental health;

(b) Any agency to disclose information to us, including any health agency to disclose information relating to your health; and

(c) Us to release relevant information to any independent medical practitioner who is required to make an assessment under this Agreement or any health or governmental agency.

15.7 We have in place a Privacy Policy, which aims to communicate in the clearest way possible how we treat and respect your Personal Information. Our Privacy Policy is available on request.

Village documents

15.8 You confirm that you have received a copy of:

(a) the Admission Agreement;

(b) the Disclosure Statement;

(c) the Code of Residents' Rights; and

(d) the Code of Practice.

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

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

Policies and Procedures

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

(a) Staffing of the Village

(b) Safety and personal security of residents

(c) Fire protection and emergency management (including access for people with disabilities)

(d) Transfer of residents within the Village

(e) Meetings of residents with us and resident involvement

(f) Dealing with complaints by Village residents

(g) Accounts

(h) Maintenance and upgrading

(i) Termination of this Agreement

(j) Communication with residents (for communicating with residents who speak English as a second language or who have a limited ability to communicate); and

(k) Privacy Policy.

Financial statements

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

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

(a) the operating expenditure relating to the Village including the Sevenoaks Care Suites

(b) all income and expenditure relating to the Village including the Sevenoaks Care Suites (including amounts repayable to residents, former residents, and their estates)

(c) the amounts of the operating expenditure that must be met by the residents of the Village including the Sevenoaks Care Suites

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

Counterparts

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

SIGNING OF THIS AGREEMENT

Date of signature by the Operator:

SIGNED for and on behalf of

KĀPITI RETIREMENT TRUST _____ _____

Trust Trust

SIGNED by the said

[RESIDENT'S NAME] _____

Resident's Signature

Or

Full name _____

and position _____

of the **Authorised Person**

SIGNED by the said

Authorised Person _____

Authorised Person's Signature

Date of Signature _____

In the presence of: _____

Signature of Lawyer as Witness

_____ _____

Full Name Address

YOUR RIGHT TO CANCEL OR AVOID THIS AGREEMENT

(a) You may cancel this Agreement under section 28(1) of the Retirement Villages Act, without having to give any reason. You can do this by notice given not later than 15 Working Days after you sign this Agreement.

(b) Your notice of cancellation must be in writing and must clearly indicate your intention to cancel this Agreement.

(c) Your notice may be given on your behalf by a person authorised in writing by you.

(d) The notice of cancellation must be given to us or to any person we have told you is authorised to receive communications on our behalf.

(e) If you cancel your Agreement under this clause, you are entitled to a refund of any payment made by you for this Agreement within 10 Working Days of your request. This refund will include any interest earned in the Statutory Supervisor's account (but less any tax) and be without deduction except where we are entitled to reasonable compensation for any services we have provided to you while you were living in the Village, and for any damage to your Care Suite or to any facilities in the Village, for which you are responsible.

LAWYER'S CERTIFICATE

Certificate by Lawyer Advising the Intended Resident

Name of Village: SEVENOAKS – MIDLANDS GARDENS RETIREMENT VILLAGE

Registration Number of Village - 1966478:

I_____

certify that:

(a) I explained to [Insert resident's name] the general effect of the attached Occupation Right Agreement and its implications before the Resident signed the Occupation Right Agreement; and

(b) I gave the explanation in a manner and in language that was appropriate to the age and understanding of [Insert resident's name]

Dated: _____

Signed by Lawyer: _____

Name of Lawyer: _____

Street Address: _____

Postal Address: _____

E-mail address: _____

Telephone number: _____

Fax Number: _____

Schedule 1: Trust's Chattels

[insert details]

Schedule 2: Sevenoaks Care Suite Rules

No blockages, rubbish, obstructions

(a) You are not to do anything or allow anything within your control to occur, which could cause any blockage of stormwater drains or sewage outlets servicing your Sevenoaks Care Suite, the Totara wing or The Lodge.

(b) You are not to deposit rubbish other than in approved receptacles or defile any part of the land or buildings on or in your Sevenoaks Care Suite, the Totara wing, The Lodge or within the Sevenoaks-Midlands Gardens Retirement Village.

(c) You may not leave or place in any area of the grounds or in the communal facilities of The Lodge or Village, any items (including mobility scooters) without the written agreement of a member of the Trust's management team.

Restriction on Domestic Pets

(d) Keeping pets in the Sevenoaks Care Suites is not permitted.

Restrictions on Noise Making Devices

(e) You are not to erect, install or place in or outside any Care Suite, any audible burglar alarm.

(f) You must not use the horn or other noise device fitted to a mobility scooter or aid within any facility operated by Kāpiti Retirement Trust outside the hours of 8 am – 7pm daily.

(g) You agree to use wireless headphones or hearing aids (provided at your cost), if your hearing is such that the volume of the television or other device in your Sevenoaks Care Suite will or does disturb other residents.

General

(h) You will only use approved electrical equipment in your Sevenoaks Care Suite. Kāpiti Retirement Trust reserves the right to require you to remove any such equipment that is causing other Sevenoaks Care Suites or common areas of The Lodge in such a manner as to interfere with the use and enjoyment of other residents.

(i) While within Trust property, you agree not to access websites or download any material deemed to be of an objectionable nature as defined by the Films, Videos, and Publications Classification Act 1993.

(j) Subject to our written consent, you may change the internal décor of your Sevenoaks Care Suite, but we reserve our right to require you to reinstate it to a neutral décor upon termination of your Occupation Right Agreement (at your cost).

(k) Only animals approved by Kāpiti Retirement Trust and accompanied by an approved visitor, can come into your Care Suite to visit. Kāpiti Retirement Trust reserves the right to have any such visiting animal removed if its behaviour is deemed to be unacceptable.

(l) The use of any power tools, hot glue guns, or sharp cutting tools is prohibited in your Care Suite.

Schedule 3: Special Provisions