



Blu Dawn Pty Ltd

AND

RESIDENT

RESPIRE AGREEMENT

Care Facility: Serene Residential Care Services

Respite Agreement

We offer residential care to care recipients in accordance with the Aged Care Act. This Agreement sets out:

- the particulars of the care and services we will provide to you at the facility you want to enter;
- the fees and charges you may be required to pay; and
- the terms and conditions regulating the relationship between you and us.

Your Personal Details		
Name (You/Resident)	RESIDENT	
Date of Birth		
Address		
Billing Address		
Emergency Contact	Full Name(s)	
	Address(es)	
	Phone Number(s)	
Power of Attorney (Financial) (if any)	Full Name(s)	
	Address(es)	
	Phone Number(s)	
Power of Attorney (Medical) (if any)	Full Name	
	Address(es)	
	Phone Number(s)	
Guardian (if any)	Full Name(s)	
	Address(es)	
	Phone Number(s)	
Administrator (if any)	Full Name(s)	
	Address(es)	
	Phone Number(s)	

Care Facility and Care Provider		
Name of Facility	Serene Residential Care Services	
Address	1 Myzantha St. Lockleys South Australia 5032	
Approved Provider (We/Us/Provider)	Name	Blu Dawn Pty Ltd
	Address	

RESPITE AGREEMENT

	ABN	59145769704
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SAMPLE

Occupancy		
Room and Bed on Entry	Room Bed We may require you to move to another room or bed, which may be in another room, in circumstances permitted by this Agreement and the Aged Care Act.	
Limited Tenure Period	Agreed Entry Date	[occupancy_tenure_entry]
	Agreed Discharge Date	[occupancy_tenure_discharge]
Respite Approval Expiry Date (if applicable)	[occupancy_approvalexpiry]	
Total Number of Respite Days Available to Resident on Date of Entry	[occupancy_respitedaysavailable]	

Fees, charges and costs		
Care Fees		
Care Fees	In addition to your accommodation costs, you must pay the Care Fees, subject to any annual or lifetime cap under the Aged Care Act. If your Care Fees cannot be calculated at the date of this Agreement, you must pay the maximum amount permitted until such time as an assessment can be made, at which time an appropriate adjustment must be made.	
	Daily Amount	The starting daily amount will be:
Booking Fee	This must not exceed the lesser of 1 week's fees for the respite care and 25% of the Care Fees for the proposed period of respite care.	
Other fees and charges		
Additional Services	You can elect to receive Additional Services which are in addition to the standard care provided as an incident of the Care Fees, as outlined in Annexure A (Care and Services). If Additional Services are agreed, we will provide them at the agreed cost and this Agreement will be taken to incorporate the costs agreed from time to time.	
Other Charges	You must also meet the costs of any items that do not form part of the care and services we provide (as stated in Annexure A, Care and Services) as outlined in Annexure B (Care Fees and Other Charges).	
General		
Fee Increases	The amounts you are required to pay us may change, as set out in Annexure B (Care Fees and Other Charges).	
Security for Payments	We can require you to provide security for the payments, having regard to your financial circumstances. We may also seek security for other payments under this Agreement. You have agreed that such security is to include the requirements specified below.	
	<input type="checkbox"/> Guarantor	See Annexure E (Guarantee and Indemnity).
	<input type="checkbox"/> Charge	See Annexure F (Acknowledgement of Payment Obligation and Charge).
	<input type="checkbox"/> Other	

Fees, charges and costs	
Maximum Permissible Interest Rate	per annum or any other maximum rate prescribed under the Aged Care Act. You may be required to pay interest on payments, as outlined in Annexure B (Care Fees and Other Charges). The MPIR will be used to calculate the interest payable on late payments.

Amounts You are to Pay on Entry		
Booking Fee		
Care Fees	Initial Payment	
Additional Services Fees	Initial Payment	
Other Charges	Initial Payment	
Frequency of Payments		

Person Guaranteeing Your Payments		
Guarantor	Full name	
	Address	
	Driver's Licence Number	
Guarantor	Full name	
	Address	
	Driver's Licence Number	

Property Charged to Secure Your Payment Obligations	
Registered Proprietor	
Property Address	
Title Particulars	

Communications	
Facility Manager	
Our Complaints Officer	
Our Privacy Officer	

Documentation Provided to You and Forming Part of Your Agreement

The following documents have been provided to you, which together constitute the entire agreement between you and us concerning your entry to the Facility:

- Particulars
- Annexure A – Care and Services
- Annexure B – Care Fees and Other Charges
- Annexure C – Rights and Responsibilities – General Conditions of Occupation
- Annexure D – Rules of Occupancy
- ~~Annexure E – Guarantee and Indemnity~~
- ~~Annexure F – Acknowledgement of Payment Obligation and Charge~~
- Annexure G – Charter of Care Recipients’ Rights and Responsibilities
- Annexure H – Additional Provisions
- Annexure I – Definitions

Resident Specific Additional Provisions

Additional Provisions (if applicable)	<p>If yes, see Annexure H (Additional Provisions).</p> <p>If there is an inconsistency between an additional provision and another provision of this Agreement, the additional provision prevails.</p>
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Right to Withdraw

You can elect to end this Agreement within 14 days of signing this Agreement, if you or your authorised representative notify us in writing that you want to withdraw from this Agreement in which case the Agreement will have no effect.

If you elect to withdraw, you must still pay any fees and charges relating to your period of occupancy. We will then refund any other amounts you have paid to us under this Agreement.

Date of Agreement

Please acknowledge your willingness to enter the Facility in accordance with this Agreement (the Annexures also form part of this Agreement).

Signed by the **Resident** in the presence of:

Signed by an authorised officer of the **Provider** in the presence of:

Signature:

Signature:.....

Print full name:

Capacity:

Independent witness sign:
(Witness to be independent of the Provider)

Print full name:

Date:

Date:

Your Guarantor (if applicable) must also acknowledge their willingness to guarantee your payment obligations to us under this Agreement in accordance with Annexure E (Guarantee and Indemnity).

Signed by the **Guarantor** in the presence of:

Signed by the **Guarantor** in the presence of:

Signature:

Signature:.....

Print full name:

Print full name:

Independent witness sign:

Independent witness sign:.....

Date:

Date:

ANNEXURE A

Care and Services

A1 Provision of residential care

- A1.1 We will provide you with residential care and services at the Facility based on your assessed care needs and our capacity from the Agreed Entry Date for the remainder of your lifetime or until this Agreement is terminated in accordance with this Agreement.
- A1.2 We have the capacity to provide you with the care and services you are assessed as requiring as at the date of this Agreement.
- A1.3 Should your care needs exceed our capacity to provide care and services, we will notify you in accordance with this Agreement.

A2 Quality of Care Principles

The services provided to you will include the services specified in the Quality of Care Principles that you are assessed as requiring.

A3 Additional Services

- A3.1 We may choose to offer Additional Services at the Facility.
- A3.2 If Additional Services are offered, you can elect to receive all or some of them, at an agreed cost, based on the charges notified to you.
- A3.3 Unless otherwise notified, the cost of Additional Services will be assessed daily and payable monthly.
- A3.4 Unless we agree otherwise, you must give us at least 7 days' written notice if you want to change the Additional Services you receive or cease receiving Additional Services.

A4 Review of Care and Services

If after entering the Facility your needs or condition changes to the extent that you require care and services beyond those first contemplated and provided for under this Agreement, we will:

- A4.1 assess our capacity to provide you with additional or different care and services;
- A4.2 notify you of the impact a change in the care and services you receive will have on the amounts you must pay us under this Agreement; and
- A4.3 consult with you and your authorised representatives about our ability to continue to care for you, which will include an assessment of possible options and alternatives.

ANNEXURE B

Care Fees and Other Charges

B1 Payment of Care Fees

- B1.1 The initial Care Fees you must pay are set out in the Particulars.
- B1.2 The Care Fees are calculated in accordance with section 52C-3 of the Aged Care Act.
- B1.3 The Care Fees are payable by you for your period of occupancy (including any periods of leave as assessed under the Aged Care Act), subject to any cap under the Aged Care Act.
- B1.4 The Care Fees must be paid by you calendar monthly in advance, with the first payment to be made on the date of entry. We may require you to make payments at different times, so long as we give you at least 28 days' notice of the change, or any shorter notice permitted under the Aged Care Act.

B2 Method for Determining Care Fees

Care Fees will be worked out and charged from time to time in accordance with the Aged Care Act, which as at the date of entry is based on the following (to the extent to which each item is relevant to you based on the Aged Care Act):

- B2.1 we work out the Standard Resident Contribution for you for the day in question;
- B2.2 to which is added the Compensation Payment Reduction (if applicable) for that day;
- B2.3 to which is added the Means Tested Care Fee (if applicable) for the day. This amount is chargeable from the date of entry with the actual amount payable to be determined by the Department, at which time, an appropriate adjustment will be made;
- B2.4 from which is subtracted the Hardship Supplement (if applicable) for the day;
- B2.5 to which is added the other agreed daily amounts set out in the Particulars and permitted under the Aged Care Act;
- B2.6 to which is added the Extra Service Fee for the day (if applicable).

B3 Changes to Care Fees

- B3.1 We may reassess and vary the Care Fees you are charged:
 - B3.1.1 by reapplying the method of calculation outlined in the preceding clause; and/or
 - B3.1.2 based on applicable legislation or policies set by a government department or agency from time to time, including the Department.
- B3.2 Any change to your Care Fees will take effect on the sooner of:
 - B3.2.1 the first available date permitted under the Aged Care Act; and

B3.2.2 28 days' after we give you notice of the change.

B3.3 A review of the Care Fees may be made at any time permitted under the Aged Care Act and/or notified by the Department and any delay in making a review does not prevent the review from taking place and being effective from the earliest possible date.

B4 Additional Services

If Additional Services are agreed, we will provide them at the agreed cost and this Agreement will be taken to incorporate the costs agreed from time to time.

B5 Maximum charge applies if insufficient information to determine Fees and Charges

If at the date of this Agreement we have insufficient information to calculate or assess any payment, contribution, fee or charge payable by you under this Agreement, including by reason of information being withheld by you or a government agency, you must pay the maximum amount permitted by the Aged Care Act until such time as an assessment can be made, at which time an appropriate adjustment must be made if a change is accepted by us or prescribed by the Aged Care Act.

B6 Booking Fee

B6.1 You must pay the Booking Fee set out in the Particulars on the date of this Agreement.

B6.2 Your Booking Fee must be applied in reduction of your Care Fees.

B6.3 Subject to clause B6.4, the booking fee must be refunded if:

B6.3.1 you enter hospital or die before entering the Facility;

B6.3.2 you enter hospital or die after entering the Facility but before the Agreed Discharge Date;

B6.3.3 we require you to leave the Facility before the Agreed Discharge Date;

B6.3.4 you cancel the booking by notice in writing to us more than 7 days prior to the Agreed Entry Date, in which case the Booking Fee must be refunded within 14 days of us receiving the notice.

B6.4 If you leave the Facility before the Agreed Discharge Date and your outstanding Care Fees are less than the Booking Fee, we will deduct the outstanding Care Fees from the Booking Fee.

B6.5 If you leave the Facility before the Agreed Discharge Date and your outstanding Care Fees are more than the Booking Fee, we will apply the Booking Fee to the Care Fees and recover the balance from you.

B6.6 We will retain the whole Booking Fee if you choose to leave the Facility before the Agreed Discharge Date or if you cancel the booking less than 7 days from the Agreed Entry Date.

B7 Other Charges

- B7.1 The provision and costs of those services which are required to be provided by us are based on your actual care service requirements. You are responsible for obtaining or providing and paying the cost of any items that do not form part of the care and services we provide (as stated in Annexure A – Care and Services).
- B7.2 Where permitted by the Aged Care Act, we may also charge for care and services set out in the Quality of Care Principles.

B8 Interest on late payments

- B8.1 Any money due by you to us under this Agreement which is not paid by the due date will attract interest at the rate prescribed under the Aged Care Act for that type of payment or if no rate is prescribed, at the rate of the then current MPIR plus 4% (unless we expressly waive the payment of interest in writing), compounding on the sooner of:
- B8.1.1 the first permitted date under the Aged Care Act;
 - B8.1.2 the date the relevant payment is reviewed or again charged; and
 - B8.1.3 each calendar month.
- B8.2 Interest is calculated and applied to the period commencing on the first day permitted by the Aged Care Act or otherwise 14 days after the date the money becomes payable, and ending on the date the amount is paid in full or if prescribed by the Aged Care Act, when you cease to be provided with care, whichever is the earlier.

B9 Method of Payment

- B9.1 Unless otherwise agreed, you must pay your Care Fees (and any other amounts you agree) by direct debit. For that purpose you must provide us with a direct debit authority.
- B9.2 Deductions will be made monthly or, if a payment date falls due, on a weekend or a public holiday, the next working day.
- B9.3 You must not cancel or suspend the direct debit authority unless alternate payment arrangements acceptable to us are made.
- B9.4 If in any month you believe you may have insufficient funds in your nominated account to pay us, you must notify us immediately to avoid bank charges and make alternate payment arrangements. We will pass on any fees charged by our bank.
- B9.5 Once this Agreement has ended your direct debit authority must not be cancelled until all outstanding costs and charges have been paid.

B10 Costs on default

If you breach this Agreement, you must pay or reimburse us on demand all costs, charges and expenses we reasonably incur as a result of the breach.

B11 Financial statements

If requested by you or prescribed under the Aged Care Act, we must provide you with such financial statements concerning us and/or the Facility as the Aged Care Act requires us to provide.

SAMPLE

ANNEXURE C**Rights and Responsibilities – General Conditions of Occupation****C1 Licence to occupy facility**

- C1.1 You have a right to occupy your room and use directed communal areas forming part of the Facility (on a non-exclusive basis) from the Agreed Entry Date for the limited tenure period specified in the Particulars or until this Agreement is otherwise terminated in accordance with this Agreement. You acknowledge that our staff and any person authorised by us may enter and remain in your room in case of emergency or for the purpose of carrying out our functions or duties or undertaking an inspection or required repairs and maintenance. We will retain a key for your room.
- C1.2 The occupancy rights conferred under this Agreement are contractual only and you:
- C1.2.1 are not conferred any tenancy or other estate or interest in or over the Facility; and
 - C1.2.2 must not register this Agreement or lodge any caveat in respect of the Facility or any part of it (and if you do so, you irrevocably authorise us to remove or withdraw the relevant dealing)

C2 Relocation (change of room or bed)

- C2.1 You may request to move to another room or bed in the Facility at any time and we may agree to the move at our discretion.
- C2.2 If you wish to move to another room or bed in the Facility and we agree to this, your Accommodation Payment or Accommodation Contribution amount will be varied (if necessary) to reflect the Accommodation Payment amount payable in respect of the new room or bed.
- C2.3 You acknowledge that we have informed you and consulted with you about the possibility of you having to change rooms or beds within the Facility.
- C2.4 You agree to move to another room or bed in the Facility if:
- C2.4.1 the move is necessary to carry out repairs or improvements to the room (you will be able to return to the room once the repairs or improvements are completed);
 - C2.4.2 your room becomes an extra services room and you elect not to pay the Extra Service Fee; or
 - C2.4.3 the move is necessary on genuine medical grounds as assessed by the aged care assessment team or at least 2 medical practitioners who are competent to assess your aged care needs (one appointed by you and one appointed by us).

C3 Taking leave

- C3.1 You agree not to be away from the Facility for a continuous period exceeding 7 days except in cases of emergency or as otherwise provided by the Aged Care Act.

- C3.2 If:
- C3.2.1 you take leave otherwise than in accordance with the Aged Care Act so that no residential care subsidy or a lower residential care subsidy is payable to us; and
 - C3.2.2 you wish to retain a place in the Facility,
we may charge you for each day that your place is reserved, the fees totalling:
 - C3.2.3 your daily Care Fees as determined under this Agreement; and
 - C3.2.4 the daily residential care subsidy and any other subsidies that would have been payable to us under the Aged Care Act if you were not on leave,
- plus or minus any other amounts prescribed under the Aged Care Act.

C4 Complying with Rules of Occupancy

- C4.1 You must comply with the Rules of Occupancy (see Annexure D).
- C4.2 We may alter the Rules of Occupancy after consulting with you and other residents of the Facility and giving you at least 28 days' notice of the change.

C5 Response to emergency events

- C5.1 If there is an emergency event or series of events which give rise to an emergency, such as an outbreak of contagious disease, fire, flood, war, strike or riot or act or event of a similar nature or we reasonably believes that an emergency event may occur, which may affect the Facility or the residents or staff of the Facility, we may evacuate or evacuate and relocate you from the Facility for the period during which the emergency event affects, or in our reasonable belief may affect, the Facility.
- C5.2 You acknowledge that we may make all decisions and perform all actions which we believe are reasonably necessary to maintain your safety and that of other residents at the Facility before, during and after an emergency event.
- C5.3 Our decision to evacuate or evacuate and relocate you is subject to:
 - C5.3.1 our assessment of the severity and duration of the emergency event and the likelihood of the emergency event affecting you or the Facility;
 - C5.3.2 the availability of alternative accommodation during the emergency event; and
 - C5.3.3 directives and warnings from local, state or Commonwealth authorities and emergency services.
- C5.4 If you are required to vacate or evacuate, we must use our best endeavours to provide you with a safe and secure environment and otherwise comply with our obligations under the Aged Care Act.

- C5.5 To full extent permitted by law you release and discharge us from:
- C5.5.1 all liability, damages, injury, claims or costs incurred by or accruing to you as a result us exercising our powers pursuant to this clause; and
 - C5.5.2 any damage or loss caused to your property as a result of us evacuating or relocating you from the Facility.
- C5.6 If we relocate or evacuate you, your obligations under this Agreement continue and there is no abatement of any payment to be made by you.

C6 Charter of Residents' Rights and Responsibilities

You have the rights and responsibilities as provided at law including under the Charter of Residents' Rights and Responsibilities set out in the Aged Care Act and detailed in Annexure G.

C7 Notice of default

- C7.1 If you fail to comply with this Agreement, we may:
- C7.1.1 give you a default notice setting out the breach; and
 - C7.1.2 require that the breach be remedied or that the breach not happen again.
- C7.2 If we require you to remedy the breach, the default notice will specify a time within which the breach must be remedied.

C8 When this Agreement will terminate

This Agreement will terminate on the Agreed Discharge Date and otherwise in any of the following circumstances:

- C8.1 upon your death or hospitalisation prior to the Agreed Discharge Date specified in the Particulars;
- C8.2 upon the expiration of 7 days after the date upon which you (or your authorised representative) give written notice to us of your intention to terminate this Agreement, provided you vacate the Facility within that period;
- C8.3 if the Facility or part of the Facility is closing whether on a permanent or temporary basis;
- C8.4 if you do not commence continuous occupation in the Facility on the agreed date of entry, and we give you at least 7 days' notice in writing of our expectation of you commencing occupation and you fail to do so within that period, and we notify you that this Agreement is terminated;
- C8.5 if you have not paid any cost, fee or charge due under this Agreement to us within 42 days after the date upon which it became payable for a reason within your control;
- C8.6 if you have intentionally caused:
 - C8.6.1 serious damage to the Facility; or

C8.6.2 serious injury to any of our staff or volunteers or to another resident within the Facility,

and we notify you that this Agreement is terminated for that reason;

C8.7 if you are away from the Facility for a continuous period of at least 7 days for a reason other than a reason permitted by the Aged Care Act or an emergency and we notify you that this Agreement is terminated for that reason;

C8.8 if:

C8.8.1 we no longer provide accommodation and care suitable for you having regard to your long-term assessed needs as assessed by an aged care assessment team or at least 2 medical or health practitioners (one appointed by you and one appointed by us); and

C8.8.2 we do not agree to provide care of the kind that you need,

and for the purpose of allowing any required assessment:

C8.8.3 you accept that you will be examined, placed under observation or otherwise assessed by the aged care assessment team or the medical practitioners appointed for this purpose; and

C8.8.4 you agree to be bound by the outcome of the assessment, including the decision of the medical or other health practitioners and/or the aged care assessment team;

C8.9 upon the expiration the maximum number of days per year during which we may receive the Respite Supplement, which at the date of this agreement is 63 days; or

C8.10 any other right of termination by us arises under common law and we elect to exercise that right of termination.

C9 Requirement to leave the facility

We can require you to leave the Facility if:

C9.1 if this Agreement ends or we are entitled to end this Agreement; or

C9.2 an emergency event arises.

C10 Your rights upon being asked to leave the Facility

C10.1 If we require you to leave the Facility, then we must give you written notice of:

C10.1.1 our decision;

C10.1.2 the reasons for the decision;

C10.1.3 when you are to leave; and

C10.1.4 your rights, including your right of access to:

- the complaints resolution mechanisms;

- independent complaints processes; and
- one or more representatives of an advocacy service.

C10.2 Such notice must be given to you at least 14 days before you are required to leave the Facility unless we determine that you need to vacate earlier in response to an emergency event, in which case, we will give you as much notice as practicable.

C11 Provision of alternative accommodation

C11.1 Subject to any need to respond to an emergency event, if you need alternative accommodation because you are required to leave the Facility or we cannot provide the level of care you require, we may (at your request) refer you or your authorised representative to the Commonwealth aged care assessment team or any other appropriate body to assist with determining which care facilities would be most suitable for you.

C11.2 If requested by you or your authorised representative, we will provide reasonable assistance to move you to suitable alternative accommodation.

C11.3 Your long-term assessed needs must be assessed by an aged care assessment team or at least 2 medical or other health practitioners who are competent to assess those needs (one appointed by you and one appointed by us) and for the purpose of allowing any required assessment:

C11.3.1 you accept that you will be examined, placed under observation or otherwise assessed by the aged care assessment team or the medical practitioners appointed for this purpose; and

C11.3.2 you agree to be bound by the outcome of the assessment, including the decision of medical or other health practitioners and/or the aged care assessment team.

C12 Steps to assist you to obtain alternative accommodation

C12.1 Subject to any need to respond to an emergency event, if you need alternative accommodation because you required to leave the Facility or we cannot provide the level of care you require, we must refer you or your authorised representatives to the Commonwealth aged care assessment team or any other appropriate body (such as the Guardianship and Administration Board/Tribunal) in order for you to be assessed as to which care facilities would be most suitable for you, having regard to your needs (**appropriate facility**).

C12.2 If requested by you or your authorised representatives, we must provide assistance to contact the appropriate facility to make arrangements for you to move to the appropriate facility.

C13 Consequences of termination

C13.1 Upon the termination of this Agreement, you:

C13.1.1 must immediately deliver up to us all keys to your room and all other property belonging to us within your possession or control;

C13.1.2 must immediately remove all of your chattels and other personal effects from the Facility, unless we agree to a storage arrangement in a

nominated area of the Facility. If your chattels and personal effects are not removed from the Facility within 7 days from the date of termination, we will be entitled to arrange for the storage and/or disposal of the chattels and personal effects at your cost; and

- C13.1.3 are liable for the costs of cleaning and, if necessary, reinstating your room to its original state, fair wear and tear excepted.
- C13.2 If we terminate this Agreement in accordance with clause C8, then in addition to any other entitlement we have under this Agreement and the Aged Care Act, you:
- C13.2.1 must pay us the Administration Fee specified in the Particulars; and
- C13.2.2 you authorise us to deduct the Administration Fee from any Refundable Deposit to which you are then entitled.
- C13.3 Termination of this Agreement for any reason does not affect one party's right of action against another party in respect of any breaches of any of the conditions of this Agreement before the termination of this Agreement.
- C13.4 The provisions of this Agreement dealing with payments, security for payment, indemnities, confidentiality and privacy and consequences of termination survive the end of this Agreement and may be enforced at any time.

C14 Dealing with your representatives

We may consult with your nominated representatives. On request, you must provide sufficient evidence of the authority of your representatives to deal with or manage your affairs (or they must do so on your behalf).

~~C15 Caveatable Interest~~

~~For the purposes of securing your payment obligations under this Agreement, you charge your interest in the Charged Property and acknowledge our right to lodge a caveat over the title to the Charged Property to protect our interest under this Agreement, as set out in Annexure F (Acknowledgement of Payment Obligation and Charge).~~

C16 Privacy and sharing of personal and health information

- C16.1 Your personal and health information will be used by us for the purposes of providing or procuring care services, as well as to enable internal administration, training, assessments and reviews and any other use permitted by law. We may need to disclose personal and/or health information to third parties who are concerned with the provision or procurement of services, including sub-contractors. Disclosures may also be made to other third parties, including health professionals, advisors and regulatory authorities. Where disclosure takes place, we will seek to ensure your information is handled appropriately.
- C16.2 Failure to provide us with requested personal and/or health information may affect the fees and charges you are required to pay under this Agreement and the care and services we provide.
- C16.3 You must contact us if you would like to see any of the personal and/or health information collected by us or if you have further questions about the handling of your personal and/or health information.

- C16.4 Personal and health information is managed in accordance with our privacy policy and we may provide you with other policies concerning our handling of personal and health information which should be read in conjunction with this Agreement.
- C16.5 You must contact us if you would like to see any of your personal and/or health information collected by us or if you have further questions about the handling of your personal and/or health information. You may also make a complaint about our handling of your personal and health information to the Office of the Australian Information Commissioner.

C17 Concerns and complaints

- C17.1 If you have a concern or complaint concerning our services, including our handling of personal and health information, you should promptly contact our Complaints Officer or any other member of staff. Your complaint will be handled fairly and promptly in accordance with our complaints procedure which at the date of this Agreement is as follows:
- C17.1.1 we will review and investigate all complaints whether made verbally or in writing (where necessary, this may include discussing the complaint with the complainant and anyone else involved);
- C17.1.2 we will review our policies, practices and procedures in light of the complaint where appropriate; and
- C17.1.3 we will respond to all complaints a reasonable timeframe having regard to the nature of the complaint.
- C17.2 If you are not satisfied with our response, you may refer your complaint to any State advocacy service or the Aged Care Complaints Scheme or any other relevant government body which deals with complaints. The Aged Care Complaints Scheme can be contacted on 1800 550 552.
- C17.3 Further detail about our complaints procedure is set out in our Complaints Policy a copy of which is available on request.

C18 Provision of information

- C18.1 You warrant that all information provided to us concerning your assets or income is accurate and not misleading (including by omission).
- C18.2 You must provide us with any materials we reasonably require to verify any of the information provided to us by you or on your behalf.

C19 Variation of this Agreement

- C19.1 This Agreement can be varied by mutual consent, following adequate consultation between us and you except if the variation is necessary to implement the *A New Tax System (Goods and Services Tax) Act 1999* and we have given you reasonable notice in writing about the variation. However this Agreement cannot be varied in a way that is inconsistent with prescribed laws.
- C19.2 In the event of a change under this Agreement, including to the services, contributions, payments, fees and/or the Rules of Occupancy, this Agreement will be deemed to have been varied accordingly.

C19.3 This Agreement will be deemed to have been varied to accord with any amendment to the Aged Care Act from time to time, for example, the rights and obligations of residents and approved providers.

C20 Assignment

C20.1 We may assign or novate all or part of our interest, rights and obligations under this Agreement to a third party of our choice, by way of giving written notice of the change to you.

C20.2 If notice is given under this clause, references in this agreement to 'us' or 'we' will be taken to be references to the notified assignee, as if named in this Agreement, with the change to take effect from the date specified in the notice.

C21 General

C21.1 Unless otherwise stated, each amount payable by you in respect of a taxable supply is expressed as a goods and services tax-exclusive amount. Any goods and services tax or similar tax payable on or in connection with a taxable supply to you under this Agreement is payable by you, in addition to the base amount, with tax to be paid at the same time and in the same manner as the relevant payment (as notified).

C21.2 No time or indulgence granted by us nor any failure on our part to take action in respect of any breach of your obligations set out in this Agreement constitutes a waiver of any of the provisions of this Agreement with respect to any subsequent or continuing breach.

C21.3 If any one or more of the provisions of this Agreement are held to be illegal, void or voidable, whether at your option or otherwise, such provisions must be severed from the remaining provisions, which remain binding and enforceable against you.

C21.4 This Agreement is governed by the laws of the State or Territory in which the Facility is located.

C21.5 This Agreement is the entire agreement of the parties about the subject matter of this Agreement and supersedes any prior representations, negotiations, arrangements, understandings or agreements

ANNEXURE D

Rules of Occupancy

You must comply with the following Rules of Occupancy which may change under this Agreement.

- D1 You must not use your room for any purpose other than as a dwelling and you must not part with your interest in or possession of the room to any other person.
- D2 You must notify the Facility Manager of the name, address and telephone number of your doctor prior to admission to the Facility. On admission, you must bring a brief medical history and details of your current medication.
- D3 If your own doctor is unable to attend you after admission, you may wish to be referred to a doctor within the vicinity of the Facility. In this case, you must bring a referral from your own doctor, which should include a brief medical history and details of your current medication.
- D4 You must provide us with details of your pensioner medical card and any private health insurance.
- D5 You must provide us with the details of the next-of-kin or duly appointed attorney, administrator and/or guardian on admission. You must notify us of any change of next-of-kin.
- D6 You must advise of the whereabouts of your will and also the contact details of the executors of your will.
- D7 You must pay your Care Fees and any other charges under this Agreement at the times and in the manner specified in this Agreement or as directed by the Provider.
- D8 You must not commit any improper or disorderly conduct.
- D9 You must not bring or keep in your room or on the Facility grounds any animal without our written consent. We may give written consent to keep an animal in your room or on the Facility grounds but we may revoke such consent after consultation with you or your representative(s). We reserve the right to make the final decision in regard to the keeping of an animal by you.
- D10 You must not enter any room allotted to the exclusive use of another resident without the invitation or permission of that resident.
- D11 You must not make or permit to be made any alterations or additions to your room without our prior written consent.
- D12 We reserve the right for our officers, agents or servants to enter your room at all reasonable times for the purpose of cleaning, changing bed linen and inspecting the condition of the room and its furniture and other contents.
- D13 You must not do or permit to be done any act or thing which may in any way invalidate or violate the conditions of any insurance policy relating to the Facility or cause the premiums payable in respect thereof to be increased.
- D14 You must not indulge in excessive drinking of alcohol or excessive use of drugs in or around your room or any part of the Facility or permit excessive drinking of alcohol or excessive use of drugs to be carried in or around your room or any part of the Facility.

- D15 You must not mark, paint or drive nails or screws into or in any way deface the walls, ceilings, partitions, floors, wood, stone or ironwork of your room or any of our furniture, fittings and fixtures.
- D16 You must not do anything that may result in the Facility or any fixtures or fittings in the Facility being damaged in any way.
- D17 You must not install any additions to your room, for example power points for lighting, heating or other electrical devices, without our prior written consent.
- D18 You must not give gifts to members of staff at the Facility.
- D19 You are responsible for taking care of your valuables.
- D20 You must label your clothes with your name.
- D21 Relatives and friends may visit you at reasonable times. You may not have another person stay in your room overnight unless you have obtained our prior consent.
- D22 You must not be away from the Facility for a continuous period exceeding 7 days for a reason other than a reason permitted by the Act.
- D23 You must not smoke in any area of the Facility other than specific smoking areas.

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ANNEXURE E

Guarantee and Indemnity

E1 Guarantor's obligations

In consideration of the Provider entering into this Agreement with the Resident, the Guarantor:

- E1.1 guarantees that the Resident will perform all the Resident's obligations under this Agreement;
- E1.2 must pay the Provider on demand any money owing or payable to the Provider by the Resident; and
- F1.3 indemnifies the Provider against all loss resulting from the Provider having entered this Agreement, whether from the Resident's breach of any provision of this Agreement, or from this Agreement being or becoming unenforceable against the Resident.

E2 Liability not affected

The Guarantor's liability is not affected by:

- E2.1 the Provider granting the Resident or any Guarantor any time or other indulgence;
- E2.2 the Provider agreeing not to sue the Resident or any Guarantor;
- E2.3 any assignment or variation of this Agreement; or
- E2.4 any provision of this Agreement being (or being found to be) unenforceable.

E3 Covenants

The Guarantor agrees:

- E3.1 not to seek to recover any money from the Resident by way of reimbursement for payments made by the Guarantor to the Provider until the Provider has been paid in full;
- E3.2 not to prove, claim or exercise voting rights if a trustee in bankruptcy is appointed in respect of the Resident for any amount which the Provider has demanded from the Guarantor until the Provider has been paid in full; and
- E3.3 to pay the Provider any money which the Provider is required to refund to the Resident's trustee in bankruptcy as preferential payments received from the Resident.

E4 Reinstatement of guarantee

If any payment or other transaction in connection with this Agreement including this Annexure is void, voidable, unenforceable or defective or claimed to be so and that claim is upheld:

E4.1 the liability of the Guarantor is to be what it would have been if the payment or other transaction had not been made; and

E4.2 immediately the Provider requests it, the Guarantor must do everything necessary to put the Provider back into the position it would have been in had the payment or other transaction not been made.

E5 Assignment

The Provider may assign its rights under this Annexure to any person to whom it transfers the Facility or assigns its interest in this Agreement.

E6 Joint and several liability

If there is more than one Guarantor, the guarantee and indemnity in this Annexure binds them jointly and each of them individually.

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ANNEXURE F

Acknowledgement of Payment Obligation and Charge

You acknowledge that:

- F1 you must pay us the fees and charges outstanding from time to time for the provision of care, services and accommodation by the due date for payment, together with any applicable interest (**debt**);
- F2 the indebtedness to us can only be satisfied by a payment to us or our authorised nominee (as notified, if any);
- F3 in consideration of the provision of care, services and accommodation, you charge all of your interest in the Charged Property (including all improvements on the Charged Property) with the repayment of the debt;
- F4 if required by us, you must promptly do all things necessary or desirable to give full or further effect to the charge in favour of us and/or to confer such further or better securities over the Charged Property for the repayment of the debt, in a form required by us;
- F5 we may lodge a caveat over the title to all or part of the Charged Property to protect our interest; and
- F6 we are entitled to receive from the proceeds of any sale of the Charged Property, all moneys required to satisfy the debt.

ANNEXURE G

Charter of Care Recipients' Rights and Responsibilities

A Each care recipient of a residential care service has the right

- to full and effective use of his or her personal, civil, legal and consumer rights;
- to quality care appropriate to his or her needs;
- to full information about his or her own state of health and about available treatments;
- to be treated with dignity and respect, and to live without exploitation, abuse or neglect;
- to live without discrimination or victimisation, and without being obliged to feel grateful to those providing his or her care and accommodation;
- to personal privacy;
- to live in a safe, secure and homelike environment, and to move freely both within and outside the residential care service without undue restriction;
- to be treated and accepted as an individual, and to have his or her individual preferences taken into account and treated with respect;
- to continue his or her cultural and religious practices, and to keep the language of his or her choice, without discrimination;
- to select and maintain social and personal relationships with anyone else without fear, criticism or restriction;
- to freedom of speech;
- to maintain his or her personal independence;
- to accept personal responsibility for his or her own actions and choices, even though these may involve an element of risk, because the care recipient has the right to accept the risk and not to have the risk used as a ground for preventing or restricting his or her actions and choices;
- to maintain control over, and to continue making decisions about, the personal aspects or his or her daily life, financial affairs and possessions;
- to be involved in the activities, associations and friendships of his or her choice, both within and outside the residential care service;
- to have access to services and activities available generally in the community;
- to be consulted on, and to choose to have input into, decisions about the living arrangements of the residential care service;

- to have access to information about his or her rights, care, accommodation and any other information that relates to the care recipient personally;
- to complain and to take action to resolve disputes;
- to have access to advocates and other avenues of redress; and
- to be free from reprisal, or a well-founded fear of reprisal, in any form for taking action to enforce his or her rights.

B Each care recipient of a residential care service has the responsibility:

- to respect the rights and needs of other people within the residential care service, and to respect the needs of the residential care service community as a whole;
- to respect the rights of staff and the proprietor to work in an environment free from harassment;
- to care for his or her own health and well-being, as far as he or she is capable; and
- to inform his or her medical practitioner, as far as he or she is able, about his or her relevant medical history and current state of health.

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ANNEXURE H

Additional Provisions

Additional Provision Clause 1:
Comments & Complaints

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ANNEXURE I

Definitions

In this Agreement:

11. **Additional Services** means any optional services you elect to receive in addition to the standard care provided as an incident of the Care Fees;
12. **Aged Care Act** means the *Aged Care Act 1997* (Cth) and its associated Principles;
13. **Agreed Discharge Date** means the date specified in the Particulars;
14. **Agreed Entry Date** means the date specified in the Particulars;
15. **Agreement** means this agreement, including the Particulars and Annexures;
16. **Annexure** means an annexure to this Agreement;
17. **Care Fees** means the fees payable by you towards the costs of your care calculated in accordance with section 52C-3 of the Aged Care Act;
18. ~~**Charged Property** means any real estate in which you have an interest, including the property specified in the Particulars (if any);~~
19. **Compensation Payment Reduction** has the meaning given by section 44-20 of the Aged Care Act;
110. **Department** means the Commonwealth Department of Social Services or any successor or substitute Commonwealth government department or instrumentality under the Aged Care Act;
111. **Extra Service Fee** means the fee (if any) that the Provider may charge in accordance with Division 35 of the Aged Care Act;
112. **Facility** means the facility from which care and services are to be provided;
113. **Guarantor** means the person(s) specified in the Particulars and, if there are more than one, each guarantor is jointly and severally liable and responsible for the obligations of the Guarantor under this Agreement;
114. **Hardship Supplement** means a supplement that we may receive in respect of you if you are approved for financial hardship assistance in accordance with Division 44 of the Aged Care Act;
115. **Means Tested Amount** has the meaning given by section 44-22 of the Aged Care Act;
116. **Means Tested Care Fee** has the meaning given by section 52C-3(3) of the Aged Care Act;
117. **MPIR** means the maximum permissible interest rate prescribed by the Aged Care Act;
118. **Particulars** means the particulars at the start of this Agreement;
119. **Provider** means the approved provider for the Facility;

- I20 **Quality of Care Principles** means the *Quality of Care Principles 1998* (Cth);
- I21 **Resident** means the resident(s) specified in the Particulars and, if there are more than one, them jointly and severally during their period of combined occupation and upon one ceasing to occupy the Facility, the survivor, if they continue to reside in the Facility;
- I22 **Rules of Occupancy** means the rules set out in Annexure D, if any, and/or any additional or replacement rules notified by the Provider in relation to the occupation of the Facility;
- I23 **Standard Resident Contribution** has the meaning given by section 52C-4 of the Aged Care Act; and
- I24 unless inconsistent with the context, other terms defined in the Aged Care Act and used in this Agreement in the manner contemplated by the Aged Care Act, have the meaning given to them in the Aged Care Act.

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