

KULIN RETIREMENT HOMES INC
OCCUPANCY AGREEMENT
Resident Funded Units

THIS AGREEMENT is made the _____ day of _____ 20_____

BETWEEN:

KULIN RETIREMENT HOMES INC of Kulin, Western Australia
hereinafter referred to as “**the KULIN RETIREMENT HOMES**”

AND _____

hereinafter referred to as the **RESIDENT**

Of _____

Western Australia

RESIDENT:

(a) Resident shall mean and include the Resident and his/her executors or administrators.

(b) When the Resident consists of more than one person, the obligations and agreements on their part contained or referred to in this agreement shall bind them and any two or greater number of them jointly and each of them severally.

RECITALS:

The Resident is desirous of occupying and residing in Unit Number _____, Kulin Retirement Homes, Price/Gordon Streets, Kulin, Western Australia. ‘The unit’ for the duration of the lifetime of the resident and the Kulin Retirement Homes have agreed to accept the Resident to be accommodated in the Unit on the following terms and conditions.

THE PARTIES AGREE as follows:

1. GRANT OF LICENCE TO OCCUPY

1.1 Kulin Retirement Homes hereby grants to the Resident and the Resident hereby takes an exclusive licence to use and occupy the Unit for the duration of the life of the Resident commencing on and from the date specified in the Schedule (“the Commencement Date”) paying therefore the fee referred to in clause 2 of this Agreement at the times and in the manner referred to in clause 2 of this Agreement, and otherwise upon and subject to the terms and conditions of this Agreement, the provisions of the Retirement Village Act, 1992, (“the Act”) and the provisions of the Code of Fair Practice for Retirement Villages.

1.2 The licence to use and occupy the Unit granted to the Resident pursuant to this Agreement shall include the use and enjoyment of all soft furnishings affixed, installed or situated in the Unit at the “Commencement Date” and

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further together with the use of a carport/garage and storage area as attached to the unit allocated to the Resident.

2. PAYMENT OF CONTRACT PURCHASE PRICE

2.1 Payment

The Resident shall pay to Kulin Retirement Homes an ingoing fee of **\$176,880** (“the Contract Purchase Price”) which shall be paid by the Resident to the Kulin Retirement Homes in the following manner:

- (a) **\$10,000.00** shall be paid by the Resident on the date that the Resident signs this Agreement; and
- (b) Balance of the Fee **\$166,880** shall be paid by the Resident forthwith on the date that the Resident takes occupation of the Unit; or within one (1) calendar month of payment of deposit. Refer to 2.1 (a)
- (c) Should the unit be under construction, 50% (\$70,000) is payable at the lockup building stage and the remaining 50% (\$70,000) is payable on the date the Resident takes occupancy of the unit.

3. REFUND OF CONTRACT PURCHASE PRICE

3.1 Refund Calculation

- (a) If the Resident terminates this agreement or vacates the unit on a permanent basis or both, refunds will be calculated in the following manner;
 - Up to one (1) year of occupancy: 95 percentage of Contract Purchase Price at time of termination and/or vacancy.
 - Between one-two (1-2) years of occupancy: 95 percentage - 90percentage of Contract Purchase Price at time of termination and/or vacancy, calculated monthly.
 - Between two-three (2-3) years of occupancy: 90 percentage - 85 percentage of Contract Purchase Price at time of termination and/or vacancy, calculated monthly.
 - Between three-four(3-4) years of occupancy: 85 percentage - 80 percentage of Contract Purchase Price at time of termination and/or vacancy, calculated monthly.
 - Between four-five (4-5) years of occupancy: 80 percentage - 75 percentage of Contract Purchase Price at time of termination and/or vacancy, calculated monthly.
 - More than 5 years of occupancy: 75 percentage of Contract Purchase Price at time of termination and/or vacancy.

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- (b) Calculated Monthly means the percentage of the refund is to be calculated by using the percentage in the range relevant to the number of years and months at the time of termination. For this calculation .42 percentage = 1 month of occupancy. (refer to Annexure B “Refund Calculation Table”)
- (c) The refund of the Contract Purchase Price shall be paid by the Kulin Retirement Homes no later than three (3) calendar months from termination date.

4. MAINTENANCE FEE

- 4.1 In addition to the payment of the Contract Purchase Price, the Resident shall throughout the term of this Agreement pay to Kulin Retirement Homes a maintenance fee of **\$357.70** per calendar month (“the Maintenance Fee”) in advance on the 1st day of each calendar month with the first payment due and payable on the date that the Resident pays the balance of the Fee pursuant to clause 2 (b) of this agreement and thereafter on the 1st day of each month.
- 4.2 Kulin Retirement Homes shall be entitled to increase the Maintenance Fee annually. The increase shall not be unreasonable. Kulin Retirement homes shall take into account CPI and any increase in charges incurred by Kulin Retirement Homes for the previous financial year.
- 4.3 The Maintenance Fee shall be used by Kulin Retirement Homes to cover costs of repairs and maintenance of roofs gutters, down pipes, drains, all necessary painting and plumbing and the cost of any other repairs and maintenance to the Unit, water, Council, sewerage and rubbish rates, administration costs, costs incurred in the upkeep and maintenance of external front grounds and gardens, external electricity charges and insurance and maintenance costs of the building comprising the Unit.
- 4.4 The Maintenance Fee shall belong to Kulin Retirement Homes and shall be non-refundable to the Resident and may be applied in payment of any or all of the costs referred to in clause 4.2 at the discretion of Kulin Retirement Homes.
- 4.5 The Maintenance Fee will be reviewed annually on 1 July.

5. MAINTAIN UNIT

- 5.1 During the term of this Agreement the Resident shall maintain, replace and repair and keep the unit and all additions thereto installed by the Resident, all permanent fixtures and fittings, and all chattels and effects owned by the

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Kulin Retirement Homes, in good and substantial order and condition (reasonable wear and tear excepted).

- 5.2 The Resident shall replace lost, damaged or destroyed chattels and effects with chattels and effects of the same sort or at the option of Kulin Retirement Homes to pay for all such lost damaged or destroyed chattels and effects on the basis of their full value.
- 5.3 Smoking is NOT permitted within any unit at Kulin Retirement Homes. Any damage found to have occurred from smoking will be charged to the Resident.

6. NO ALTERATION WITHOUT CONSENT

- 6.1 The Resident shall not make or cause to be made any structural alterations, capital improvements or otherwise to the unit or any alterations to the water closets, lavatories, water apparatus, wash basins, bathrooms, gas fittings, electrical fittings and apparatus and other services contained in or about the unit without obtaining the prior written consent of Kulin Retirement Homes.
- 6.2 Permanent fixtures to the building or grounds are to remain permanently, and the property of Kulin Retirement Homes when the Resident leaves.

7. YIELDING UP

- 7.1 On expiration or sooner determination of this agreement the Resident shall peacefully surrender and deliver up the unit to Kulin Retirement Homes in good and substantial repair, order and condition (fair wear and tear excepted).
- 7.2 In the event of failure to comply with 7.1, monies may be deducted from the refund of the Contract Purchase Price at the discretion of the Kulin Retirement homes to be used to repair any damage to the unit.

8. NO ASSIGNMENT

- 8.1 The Resident shall not assign, sublet, mortgage, charge or otherwise part with the possession of or dispose of the Unit or any part thereof or the benefit of this Agreement.

9. TERMINATION OF THIS AGREEMENT

9.1 Termination by the Resident

- (a) This Agreement may be terminated by the Resident giving to the Kulin Retirement Homes one (1) months written notice of the Resident's intention to terminate this Agreement, and this Agreement shall be terminated upon the expiration of one (1) months notice.

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- (b) The Resident and his/her executors or administrators shall have the power to terminate the contract.

9.2 Termination by Kulin Retirement Homes

9.2.1 Subject to the provisions of this sub-clause 9 2 (a), Kulin Retirement Homes shall not be entitled to terminate this Agreement, unless Kulin Retirement Homes apply to the Retirement Villages Disputes Tribunal pursuant to section 27 of the Act to terminate this Agreement on any of the following grounds;

- (a) that the Resident's physical or mental health is such as to make the Unit unsuitable for occupation by the Resident;
- (b) that the Resident has breached this Agreement or the rules of residency and has failed to rectify that breach within seven (7) days of written notice from Kulin Retirement Homes;
- (c) that the Resident has intentionally or recklessly caused or permitted, or is likely intentionally or recklessly to cause or permit serious damage to the Unit or injury to Kulin Retirement Homes, an employee of Kulin Retirement Homes, or other Resident;
- (d) that Kulin Retirement Homes would in the special circumstances of the case, suffer undue hardship if this Agreement were not terminated;
- (e) the Resident abandons the unit and ceases to pay rent.

10. INSURANCE

- 10.1 Kulin Retirement Homes will provide Public Liability cover, Building insurance and insurance for property of Kulin Retirement Homes.
- 10.2 It shall be the responsibility of the Resident to provide their own insurance for personal effects and contents of the unit.

11. INDEMNITY

- 11.1 The Resident shall indemnify Kulin Retirement Homes and keep it indemnified at all times against all claims, costs and expenses whatsoever suffered or incurred by Kulin Retirement Homes in relation to any injury to or death of any person or damage to any property caused by or arising out of or contributed to by any act, omission or thing done or omitted to be done by the Resident or any of the Residents visitor's, invitees or licensees.

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12. COMPLY WITH REASONABLE REQUIREMENTS

- 12.1 The Resident shall duly and punctually comply with all reasonable requirements, directions, rules and regulations made by Kulin Retirement Homes in relation to the use, occupation and enjoyment of the unit.
- 12.2 The Resident/s or their Representative shall be responsible for arranging the connection and disconnection of their power, telephone and any other utilities.
- 12.3 Kulin Retirement Homes will notify each Resident in writing as to any changes to requirements, directions, rules and regulations.
- 12.4 Guests are not allowed on a permanent or semi permanent basis. Short stay guests are welcome. For periods greater than twenty eight (28) nights in one calendar year, approval from the Kulin Retirement Homes Committee is required.

13. SCHEDULE

- 13.1 The Provisions contained in the Annexure annexed to this agreement and marked with the letter "A" shall be included in and form part of this Agreement.
- 13.2 The Provisions contained in the Annexure annexed to this agreement and marked with the letter "B Refund Calculation Table" shall be included in and form part of this Agreement.

14. COPY OF AGREEMENT FOR RESIDENT

The Resident shall be provided with a copy of this Agreement signed by Kulin Retirement Homes.

Executed by the parties as a Deed.

IMPORTANT NOTICE

Refunds in relation to this agreement are as set out under 3(a)

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Occupation of Witness

Lock up Payment date: The _____ day of _____ 20_____

Signature of Authorised Person

Name of Authorised Person

Initials # 1 _____ #2 _____

Final Payment/Occupancy Date:

The _____ day of _____ 20_____

Signature of Authorised Person

Name of Authorised Person