

## Terms and Conditions

### Equipment Supply & Monitoring for Village Residents

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The following terms and conditions, together with our quote dated 00/00/2023, form the Contract between INS LifeGuard and **Village Name**, Village Full Address, effective Effective Date.

Note that the sections relating to *Title and Risk*, and the *PPS Act* apply only at the discretion of INS LifeGuard wherever payment upfront is not made.

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#### 1. Equipment:

- 1.1 Equipment supplied by INS LifeGuard –  
One of INS LifeGuard's representatives will establish the Services and install any Equipment required as soon as practicable, following completion of this document. If installation is not required, the Equipment will be delivered to you in working order, pre-programmed. Programming can be changed at any time after installation or delivery with a small additional fee payable for each change.
  - 1.2 Equipment NOT supplied by INS LifeGuard –  
We can also provide monitoring service for a variety of other provider's equipment. For any equipment that is not supplied by us, INS LifeGuard is only responsible for monitoring of this equipment.
  - 1.3 The service Establishment Fee, service Subscription Fee and any other charges must be paid within the pre-arranged timeframes.
  - 1.4 INS LifeGuard does not accept any responsibility or liability in relation to any faults from equipment not supplied by INS LifeGuard, even though INS LifeGuard services are being provided with the equipment. INS LifeGuard suggests you carefully examine any warranty and service provisions provided by any third party supplier of any equipment.
  - 1.5 Village Management or residents must not remove, conceal or alter any markings on Equipment supplied by INS LifeGuard.
  - 1.6 Village Management or residents must not damage or interfere with the Equipment or permit the Equipment to be damaged or interfered with in any way which may limit INS LifeGuard's ability to provide services.
  - 1.7 The Equipment and Services are for emergency use. Only INS LifeGuard or a representative on behalf of INS LifeGuard should remove, repair or maintain the Equipment. No other person should remove, repair, maintain, interfere with, or make connections to the Equipment without the prior written consent of INS LifeGuard.
  - 1.8 Regardless of ownership and legal Title to the Equipment itself, these terms shall not, and shall not be deemed to, convey from Seller to Customer title of any kind to the proprietary software which we've designed and which operates the Equipment allowing the provision of our Services. The INS Group retains all rights to the software that allows the Equipment to function as expected and to communicate with the monitoring system in our Emergency Response Centre, as well as any mobile applications that interact with our alarm system. INS retains the right to amend/alter and update this software at any time and without warning. This includes the LifeGuard Intuito® software on the SmartHome IP Dialler and SmartHome Mate, as well as the LifeGuard SmartMobile app and LifeGuard SmartCarer app.
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## 2. Services:

- 2.1 Without limiting the other provisions in this Clause 2, INS LifeGuard will provide the Services to Village Management and residents in accordance with this Agreement and Australian Standards, where applicable.
- 2.2 INS LifeGuard will provide residents with 24-hour emergency and medical monitoring by nurses and other healthcare professionals. Each call is individually assessed and an appropriate response is coordinated. This includes arranging of emergency services or other support depending on the calculated need and requirement of the resident. If the nurse or other healthcare professional is unable to make voice contact with the resident, then based upon the information available, INS LifeGuard will ask emergency services to respond. We can also contact the resident's nominated family, carers and friends if the resident has elected this option on the consent form which is included in the Client Information Form. Appropriate village staff can also be notified, if the resident elects this option on the consent form.
- 2.3 INS LifeGuard agree that Village Management can license to residents use of INS LifeGuard devices and services as noted in clause 7.9 and such license shall include the following conditions:
  - a. Village Management agree and warrant that any resident who is licensed to use INS LifeGuard devices and services and who completes a client consent form (being the client information form nominating the resident's emergency contact) consents and authorises their information being given to their nominated emergency contact.
  - b. The residents' consent to use and share the residents' personal information, including current location, to nominated emergency contacts is binding and will continue until such a time where the resident withdraws that consent either in writing to Village Management (who shall immediately advise INS LifeGuard of such withdrawal of consent), in writing to INS LifeGuard, or directly via the SmartHome IPD or LifeGuard SmartMobile app.
  - c. The residents' consent to provide their nominated emergency contact with their information is binding and shall continue even if the resident loses legal capacity unless their consent is revoked before their loss of capacity and this is either conveyed in writing to Village Management (who shall immediately advise INS LifeGuard of such withdrawal of consent), in writing to INS LifeGuard, or directly via the SmartHome IPD or LifeGuard SmartMobile app.
- 2.4 INS LifeGuard's staff will report as appropriate to other caregivers, relatives, contacts, and any relevant village staff as may be required if the resident has supplied consent for us to do so on the consent form supplied by INS. INS LifeGuard's response will incorporate any requirements as detailed in the village and other services procedure manual for village protocols, provided Village Management advises INS in writing of those requirements.
- 2.5 INS LifeGuard's obligations shall under no circumstances extend beyond the obligation to receive and relay alarms as set out above and INS shall not be liable, directly or indirectly, for the failure of any third party (e.g. emergency services, nominated emergency contacts or village management) to respond appropriately when notified of the alarm by INS.
- 2.6 INS LifeGuard will provide monitoring of various emergency transmitters as installed and programmed to the monitoring unit in each self-care unit. Emergency transmitters can include personal transmitters, fixed call points, smoke detectors, etc. Each transmitter must be of a specific type that is able to communicate with the monitoring unit.
- 2.7 INS LifeGuard may provide a telephone based medical info line and chat line, accessible to residents 24 hours a day, seven days a week, at no additional cost. INS LifeGuard proposes to provide these additional and exclusive services during the period of the contract, however INS LifeGuard reserves the right to suspend these services at any time.
- 2.8 INS LifeGuard is staffed by qualified nurses 24 hours a day, seven days a week, all year round. During unforeseen events resulting in a significant increase in calls into the call centre, or other unplanned events, INS LifeGuard may use additional trained healthcare professional staff.
- 2.9 Medication prompting can be provided for those residents who need help remembering to take medication on time. This is an extra service and needs to be arranged on an individual resident basis. Additional charges apply.

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- 2.10 Welfare checks can be provided for residents returning home from hospital or who may be ill. Where INS LifeGuard are advised by either the resident or Village Management, INS LifeGuard can call and check on the resident and respond as required at no additional cost. This is a limited service and is provided at the sole discretion of INS LifeGuard. Additional costs apply for ongoing planned welfare checks.
  - 2.11 Immediate or scheduled reporting of events can be provided to village staff if the resident has supplied consent for us to do so on the supplied consent form.
  - 2.12 INS LifeGuard will, upon request by the Village, take and manage village after-hours maintenance calls at no additional cost. These services are to be detailed in the village and other services procedure manual in writing.
  - 2.13 INS will not supply, to yourself or any third party, copies of any client file notes, voice recordings or other records made and/or held by INS unless we are compelled to do so pursuant to applicable law, statute, regulation or court order.
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### 3. Fees and Charges:

- 3.1 Village Management are responsible for paying for the service.
  - 3.2 Subscription Fees and other charges payable under this Agreement must be paid within fourteen (14) days of being invoiced, unless other arrangements have been made with and agreed to by INS LifeGuard in writing.
  - 3.3 In the event the end user no longer requires the service, we must be notified promptly in writing to avoid invoicing of the next billing cycle. We are not able to backdate or refund monitoring fees.
  - 3.4 SIM charges are incurred monthly and will apply for any usage during that month. No refunds or credits for partial months will be refunded upon cancellation.
  - 3.5 INS may charge you for the cost of reinstalling or re-establishing Services if the Services are terminated or disconnected for any reason.
  - 3.6 As per clause 7.6 below, INS may charge one full day of labour charges if we're given less than 24 hours' notice to cancel or reschedule works that were previously scheduled and approved by village management or the person/company engaging INS.
  - 3.7 If any money due to INS LifeGuard under this Agreement is not received by the due date, INS LifeGuard may charge interest from the date on which payment is due until the date on which payment is received. Interest is to be calculated on a daily basis at an interest rate of 10% p.a. with a minimum \$10 administrative charge applied.
  - 3.8 Village Management will be liable for all collection costs (including our total legal fees) incurred by INS LifeGuard to enforce collection of overdue fees or other money due to INS LifeGuard under this Agreement.
  - 3.9 The Monitoring Fees payable are to provide the Services agreed to by Village Management only. Monitoring fees are reviewed annually in January and increased as necessary on 1st July in line with CPI and wage increases.
  - 3.10 Any costs charged by emergency services or any other party are the responsibility of the resident and/or village management, and are not covered by INS.
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### 4. Title and Risk

- 4.1 *Risk*

Risk passes to the Purchaser when the Goods are delivered to the Premises.
- 4.2 *Title in the Goods and dealing with Goods*
  - a. The Supplier's rights under this clause secure the Supplier's right to receive the Price of all the Goods sold under this agreement.
  - b. All payments received from the Purchaser may be applied by the Supplier in the manner the Supplier, in its absolute discretion, determines.
  - c. Until full payment in cleared funds is received by the Supplier for all Goods supplied by it to the Purchaser:

- i. Legal title and property in all Goods supplied under this agreement remains vested in the Supplier and does not pass to the Purchaser;
  - ii. The Purchaser must store the Goods separately and in such a manner and maintain any labelling and packaging of the Supplier, so that the Goods are clearly and readily identifiable as the property of the Supplier;
  - iii. Subject to clause 4.2(c)(iv), the Purchaser must not sell the Goods except in the ordinary course of the Purchaser's business;
  - iv. Despite clause 4.2(c)(iii), the Purchaser must not sell the Goods to any Related Body Corporate or any Related Entity (as that term is defined in section 9 of the Corporations Act), without the prior written consent of the Supplier;
  - v. The Purchaser holds and agrees to hold the proceeds of any sale, lease or other dealing with the Goods on trust for the Supplier in a separate bank account with a bank which does not (and will not in the future) provide finance to the Purchaser;
  - vi. In addition to any rights the Supplier may have under Chapter 4 of the PPS Act, the Supplier may, at any time, demand the return of the Goods and shall be entitled without notice to the Purchaser and without liability to the Purchaser, to enter any premises where it suspects the Goods may be located in order to search for and remove the Goods without committing a trespass, even though they may be attached or annexed to other goods or land not the property of the Supplier, and for this purpose the Purchaser irrevocably licenses the Supplier to enter such premises, undertakes that it will procure any necessary authority to enter from any relevant person and also indemnifies the Supplier from and against all Loss suffered or incurred by the Supplier as a result of exercising its rights under this clause 4.2(c)(vi). If there is any inconsistency between the Supplier's rights under this clause 4.2(c)(vi) and its rights under Chapter 4 of the PPS Act, this clause 4.2(c)(vi) prevails;
  - vii. The Purchaser acknowledges and warrants that the Supplier has a security interest (for the purposes of the PPS Act) in the Goods and any proceeds described in clause 4.2(c)(iv) and the Purchaser must do all things reasonably required by the Supplier to ensure that such security interest is enforceable, perfected and otherwise effective and has the priority required by the Supplier which, unless the Supplier agrees in writing otherwise, is first priority; and
  - viii. The security interest arising under this clause 4.2(c)(vii) attaches to the Goods when the Purchaser obtains possession of the Goods and the parties confirm that they have not agreed that such security interest attaches at any later time.
- d. The Purchaser warrants that it does not intend to use the Goods predominantly for personal, domestic or household purposes.

#### 4.3 Insurance

- a. The Purchaser must, at its own cost, insure and keep insured the Goods against such risks as a prudent owner of the Goods would insure at their full cost price, with a reputable insurance company.
- b. Further, the Purchaser must:
  - i. Note the Supplier as a third party beneficiary and a person to whom the benefit of such insurance policies extend for its respective rights and interests;
  - ii. Provide on request by the Supplier, copies of any schedules, endorsements and wordings of such insurance policies; and
  - iii. Notify the Supplier not less than 30 days before the expiration, cessation or cancellation of any such insurance policies by the insurer and include with such notification, any reasons provided by the insurer for cancellation of any such policies.

## 5. PPS Act

### 5.1 *PPS Act terms*

Unless a contrary intention appears, words or expressions used in this clause that are defined in the PPS Act have the same meaning as given to them in the PPS Act.

### 5.2 *Further assurance*

If at any time the Supplier determines that this agreement (or any of the transactions contemplated by or under it) creates a security interest in its favour over any personal property, the Supplier may apply for any registration, or give any notification, in connection with that security interest and the Purchaser must promptly, upon the Supplier's request, do anything (including, without limitation, signing and producing documents, getting documents completed or signed, obtaining consents and supplying information) to:

- a. Provide more effective security over the relevant personal property;
- b. Ensure that any such security interest in favour of the Supplier:
  - i. Is at all times enforceable, perfected (including, where applicable, by control as well as by registration) and otherwise effective; and
  - ii. Ranks as a first priority security interest;
- c. Enable the Supplier to prepare and register a financing statement or a financing change statement or give any notification in connection with that security interest; and
- d. Enable the Supplier to exercise any of its rights or perform any of its obligations in connection with any such security interest or under the PPS Act.

### 5.3 *Costs*

All costs and expenses arising as a result of actions taken by either party pursuant to this clause will be for the account of the Purchaser. Within 7 days of a written request, the Purchaser must pay to the Supplier any costs or expenses incurred or to be incurred in connection with this clause.

### 5.4 *Contracting out of PPS Act enforcement provisions*

If Chapter 4 of the PPS Act would otherwise apply to the enforcement of the security interest created under this agreement, the Purchaser agrees that the following provisions of the PPS Act will not apply:

- a. Section 95 (notice of removal of accession), to the extent that it requires the Supplier to give a notice to the Purchaser;
- b. Section 121(4) (enforcement of security interests in liquid assets – notice to grantor);
- c. Section 125 (obligation to dispose of or retain collateral);
- d. Section 130 (notice of disposal), to the extent that it requires the Supplier to give a notice to the Purchaser;
- e. Paragraph 132(3)(d) (contents of statement of account after disposal);
- f. Subsection 132(4) (statement of account if no disposal);
- g. Section 142 (redemption of collateral); and
- h. Section 143 (reinstatement of security agreement).

### 5.5 *Notices under PPS Act*

The Supplier does not need to give the Purchaser any notice required under the PPS Act (including a notice of a verification statement under section 157 of the PPS Act) unless the requirement for the notice cannot be excluded.

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## 6. Your Authorisation to INS:

- 6.1 Village Management and residents are to allow and provide safe access by INS staff and/or their authorised representatives at all reasonable times to enter the home, or wherever the Services installation is or to be installed, to install, connect, disconnect, tidy up, inspect, alter, service, remove or reinstall the Equipment and Services as required and agreed.

- 6.2 Village Management must obtain all permissions necessary, including the permission of the owner of the equipment, to allow INS to provide the Services.
- 6.3 Village Management and residents acknowledge and agree that calls made from and to the monitoring control room may be recorded, stored and disclosed by INS, and there are no objections to this.

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## 7. Your Responsibilities:

- 7.1 Village Management are to notify INS as soon as possible when important Village details change.
- 7.2 Residents should notify INS LifeGuard as soon as possible when their personal details within the Client Information Form change.
- 7.3 Village Management and residents must notify INS LifeGuard immediately if there are any problems with the Services in any way.
- 7.4 Village Management and residents must keep all monitoring equipment in good and usable condition at all times.
- 7.5 Village Management and residents should test all equipment monthly to ensure it is in good working order.
- 7.6 If INS Technicians are required to perform work at the village (e.g. installing, servicing and/or upgrading equipment), INS will need minimum four weeks' notice to schedule the work. Scheduling is at the sole discretion of INS and we do not guarantee availability nor timeframes for attendance. Once the date and time are scheduled and approved by village management or the person/company engaging INS, the village / person / company must notify INS within 24 hours of the scheduled date if the work must be rescheduled or cancelled. Failure to provide 24 hours' notice may mean that INS (at its discretion) will bill for a full day of labour charges.
- 7.7 INS LifeGuard will not be liable for any direct or consequential loss or damage incurred as a result of INS LifeGuard providing the Services (including any act or omission by INS LifeGuard or any of its authorised representatives) where the loss arises from a cause or causes beyond the reasonable control of INS LifeGuard, including equipment, electrical and telecommunications failures.
- 7.8 Village Management and residents hereby agree to indemnify INS LifeGuard for all direct loss or damage which may occur as a result of incorrect operation or use of the equipment, its negligence or its failure to comply with this Agreement.
- 7.9 Village Management will be entitled to license to its residents the use of INS LifeGuard devices and services in accordance with the terms of this Contract.
- 7.10 Village Management agree and warrant that pursuant to any license granted to residents to use INS LifeGuard devices and services that the residents will comply with the normal terms and conditions of use for those devices and services as they exist from time to time.
- 7.11 Village Management warrant that any resident that uses INS LifeGuard devices and services has been licensed to use those devices and services in accordance with the provisions of this Contract.
- 7.12 Village Management agree to indemnify INS LifeGuard arising from any claim a resident has against INS LifeGuard in respect of direct or consequential loss and damage arising from use of INS LifeGuard equipment or the provision of services pursuant to this Contract by INS LifeGuard.

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## 8. Our Responsibilities:

- 8.1 INS will maintain the service and any Equipment supplied by INS LifeGuard. If, however, INS LifeGuard determines that equipment not supplied by INS is defective, INS LifeGuard will advise you or the owner of the equipment of the fault and may at its absolute discretion withdraw services at any time.
- 8.2 INS LifeGuard will not be liable for default or failure in performing its obligations under this Agreement resulting directly or indirectly from government action, strikes or labour disputes, a shortage of suitable parts or components, your operation and use of the equipment, any damage

caused by weather, your failure to comply with this Agreement, or any other cause beyond the reasonable control of INS LifeGuard.

- 8.3 Where a provision is incorporated into this Agreement by legislation and that provision is capable of exclusion or restriction by this Agreement, then that provision is excluded and restricted to the maximum extent permitted by law and INS' liability limited to the maximum extent allowed.
- 8.4 INS LifeGuard warrants that it:
- a. Has the necessary expertise, experience, capacity, equipment and personnel to perform its obligations under this Agreement;
  - b. Is not aware of any circumstance which could adversely affect its ability to fulfil its obligations under this Agreement;
  - c. Has the capacity and power to enter into and perform its obligations under this Agreement;
  - d. Holds all licences necessary to provide the Services;
  - e. Will provide the Services with due care and skill;
  - f. Will comply with all applicable laws and regulations, including without limitation the Privacy Act 1988 (Cth).
- 8.5 INS LifeGuard indemnifies and will keep indemnified the Village Management against any loss or liability arising out of its:
- a. Breach of this Agreement;
  - b. Damage to real or personal property;
  - c. Negligent or wilful act or omission; or
  - d. Infringement of a third party's intellectual property rights.

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## 9. Changing the Agreement:

- 9.1 Where either party wishes to vary this Agreement, including the Services, the requesting party must provide written notice to the other setting out the proposed variation, and both parties must negotiate in good faith.
- 9.2 No variation or change to this Agreement or the Services will be valid unless agreed to in writing signed by both parties.

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## 10. Ending this Agreement:

- 10.1 INS LifeGuard may end this Agreement immediately by giving written notice if
- a. Any fees or charges due and payable to INS LifeGuard under this Agreement are not paid within 14 days of notice from INS LifeGuard that the payment is overdue;
  - b. Village Management or residents fail to remedy a material breach of this Agreement within 14 days of receiving notice from INS LifeGuard requiring them to do so;
  - c. Village Management is declared bankrupt or enters into an agreement with its creditors;
  - d. Any licence or other approval required to be obtained by the Village Management and which is essential to the delivery of the Services within the terms of this Agreement is cancelled, and is not replaced by another sufficient authorisation.
- 10.2 Village Management or INS LifeGuard may end this Agreement for any reason by giving a written notice to the other party with a minimum of thirty (30) days prior notification.
- 10.3 Village Management may immediately end this Agreement if INS LifeGuard fails to remedy a material breach of this Agreement within 28 days of receiving notice from Village Management requiring it to do so.

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## 11. Miscellaneous:

- 11.1 Either party may transfer its rights and obligations under this Agreement to any other person or company by giving written notice to the other.

- 11.2 This Agreement and the documents referred to within it contain the whole of the Agreement between the parties. This Agreement can only be amended as set out in this Agreement.
- 11.3 Any provision of this Agreement which is illegal, void or unenforceable will be ineffective only to the extent of that illegality or unenforceability without invalidating or limiting the remaining terms or provisions of the Agreement.
- 11.4 The laws of the state or territory in which the Village is located will govern this Agreement.
- 11.5 The Services and terms specified in the Quote provided by INS will take precedence over this Agreement to the extent of any inconsistency, unless otherwise agreed in writing signed by both parties.
- 11.6 INS equipment complies with all relative Australian standards, however, having other electrical appliances near the base unit may cause interference. It is your responsibility to ensure electronic appliances such as TVs, radios, personal computers, wireless devices or other phones are not placed near the base unit.

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## 12. Notices:

- 12.1 Notices to Village Management will be effective if they are delivered personally or posted to the address last known to INS LifeGuard or by email to Village Management.
- 12.2 Notices to INS LifeGuard should be made by calling 1800 636 226, or in writing posted to PO BOX 485, UNANDERRA NSW 2526 or by email to [lifeguard@theinsgroup.com.au](mailto:lifeguard@theinsgroup.com.au).

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## 13. Definitions:

- 13.1 **Agreement** means these Terms and Conditions, and the Quote which was provided by INS.
- 13.2 **INS LifeGuard** is a division of C. Rafin and Co Pty Ltd., ACN 003640793.
- 13.3 **Chat Line** means a chat line for the lonely or socially isolated residents who may just need someone to talk with. An INS LifeGuard nurse or other healthcare professional is available at any time of the day or night.
- 13.4 **Goods** means the goods to be provided by the Supplier to the Purchaser as described in the Quote and as may be varied at any time by agreement of the parties, and any additional goods that the parties agree in writing will be supplied under this agreement.
- 13.5 **Equipment** means all of the equipment provided by INS LifeGuard for providing the Services as described.
- 13.6 **Home** means the dwelling specified by residents in the *Client Information Form* including the building, land and/or grounds surrounding the building.
- 13.7 **Interest** means interest on any unpaid monies due to INS LifeGuard by the Purchaser, and is calculated on a daily basis at an interest rate of 10% p.a. with a minimum \$10 administrative charge applied.
- 13.8 **Installation Fee** and **Establishment Fee** mean the fees payable for the commencement of the Services as set out in this Agreement and the Quote provided by INS LifeGuard.
- 13.9 **Medical Info Line** means a health information line where the residents can call to speak with our nurses or other healthcare professional at any time for information or support. An INS LifeGuard nurse or other healthcare professional can interact with the residents' GP or other primary health provider, on-site village staff, family, friends etc., as may be required or appropriate.
- 13.10 **PPS Act** means the Personal Property Securities Act 2009 (Cth).
- 13.11 **Purchaser** means the individual or entity to which the Quote is addressed as being the responsible party for payment of Equipment and Service.
- 13.12 **Quote** means the actual quote provided by INS LifeGuard on the date referenced on top of page one of this Agreement.
- 13.13 **Services** mean each and all of the services provided by INS LifeGuard pursuant to this Agreement, including without limitation those specified in the Quote provided by INS LifeGuard.
- 13.14 **Subscription Fee** means the ongoing fee charged by INS LifeGuard for the Services provided as set out in this Agreement and the Quote provided by INS LifeGuard.



13.15 **Village Management** means the owner and also the operator of the Village.

13.16 **Village** means the Village named at the top of page one of this document.

**14. Authority for Disclosure of Information:**

14.1 Village Management and residents acknowledge that INS LifeGuard might collect, hold, use and disclose personal information about you in accordance with their Privacy Policy. You acknowledge that you have been informed about the Privacy Policy, and acknowledge that it is available online at [www.theinsgroup.com.au](http://www.theinsgroup.com.au) or by contacting The INS Group Privacy Officer at [privacy@theinsgroup.com.au](mailto:privacy@theinsgroup.com.au).

14.2 It is agreed and acknowledged that The INS Group Privacy Policy as amended from time to time forms part of the terms and conditions of this document.

14.3 Village Management and residents provide authority to other professionals to provide INS LifeGuard with any information it reasonably determines necessary in providing the Services.

14.4 Village Management and residents acknowledge and agree that calls made from and to the monitoring control room may be recorded, stored and disclosed by INS and there are no objections to this.

14.5 A copy of this document shall have the same force as the original.

Your signature below indicates you acknowledge that you have read, understood and agreed to be bound by the above Terms and Conditions and have authority to sign on behalf of the Village named on page one.

**Representing the Retirement Village**

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**Representing INS LifeGuard**

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_