

(Sale of a sectional title unit by the Developer)

PALM LAKES RETIREMENT VILLAGE

OFFER TO PURCHASE

entered into between

ROYAL PALM PROPERTY HOLDINGS LIMITED

(Registration Number 2002/022582/06)
represented herein by WIM SAK or PRANISHA CHETTY
duly authorized hereto by a resolution of a Board of Directors
(hereinafter referred to as **“the Seller”**)

and

(hereinafter referred to as **“the Purchaser”**)



SCHEDULE OF DETAILS

A. Details of the Seller:

1. Name of Seller: ROYAL PALM PROPERTY HOLDINGS LIMITED
2. Registration Number: 2002/022582/06
3. Registered Address: 22 LAKE MALAWI AVENUE, PALM LAKES ESTATE,
TINLEY MANOR, KZN, 4450
4. VAT Number: _____
5. Represented by: WIM SAK, he being duly authorized thereto by
resolution of the Board of Directors
6. E-mail address: _____

B. Details of Purchaser

1. Name(s) of the Purchaser(s): _____
2. ID number(s) / Registration number: _____
3. Married in/out of community
of property: _____
4. Spouse's full names
(if married in community of property) _____
5. Contact person: _____
6. Contact number: _____
7. Income Tax No: _____
8. Physical Address: _____
9. E-mail Address: _____

To be initialled by:

Purchaser(s)

Seller

Palm Lakes HOA

Retirement Village HOA

Estate Agent

Witnesses

C. Description of the Section

1. Section Number: _____
Scheme Name: _____
Extent of Section: _____
2. Exclusive Use Area (if applicable): _____

D. Purchase Price

1. Purchase price of the Section: _____ **INCLUDING VAT**
(_____) **In words**

E. Payment of the Purchase Price (Delete what is not applicable)

1. Deposit is the sum of: _____
It is payable to the Conveyancer's trust account within _____ days of the Date of Signature.
2. Further cash deposit in the sum of: _____
It is payable to the Conveyancer's trust account within _____ days of the Date of Signature.
3. In the event that the Purchaser intends securing the balance of the purchase price by way of a **mortgage bond** in terms of clause 4.1.2 of the Conditions of Sale:
- 3.1. Guarantee amount: _____
Guarantee shall be made payable on the Date of Transfer and is to be issued by a recognized and registered financial institution in a form acceptable to the Conveyancers. Said guarantee shall be delivered to the Conveyancers within 30 (thirty) calendar days of the fulfilment of clause 4.1.2 of the Conditions of Sale.

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

4. In the event that the Purchaser intends securing the balance of the purchase price from the proceeds of a **prior property sale** in terms of clause 20 of the Conditions of Sale:

4.1. Purchaser's property: _____

4.2. Amount of proceeds of sale: _____

4.3. Date by which purchaser's property to be conclusively sold: _____

F. **Estate Agent and Commission**

1. The estate agent is: _____

2. Estate Agency is: _____

3. Agents commission (inclusive of VAT): _____

G. **Improvement Special Levy & Levy Stabilization Fund**

1. Improvement Special Levy: **R5 000.00**
Payable by Purchaser in terms of the Palm Lakes HOA.

2. HOA Levy Stabilization Fund: **R5 000.00**
Payable by Purchaser in terms of the Palm Lakes HOA.

3. Retirement Village HOA Levy Stabilization Fund: **R3 000.00**
Payable by the Purchaser in terms of the Retirement Village HOA.

H. **Occupation Date & Occupational Rental**

1. Occupation Date: _____

2. In the event that the occupation date precedes the Date of Transfer, the Purchaser shall pay occupational rental to the Seller in the amount of _____ per month, payable monthly in advance and refunded proportionally on the Date of Transfer for any unexpired portion of the transfer month.

To be initialled by:

Purchaser(s)

Seller

Palm Lakes HOA

Retirement Village HOA

Estate Agent

Witnesses

CONDITIONS OF SALE

1. INTERPRETATION

- 1.1 The singular shall include reference to the plural and vice versa.
- 1.2 Any one gender shall include a reference to another gender and to a body corporate and vice versa.
- 1.3 The headings to clauses of this Agreement are for the purposes of reference only and shall not govern their interpretation.
- 1.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.
- 1.5 If any period is referred to in this Agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a business day, in which case the day shall be the next succeeding business day.
- 1.6 Any reference to days shall be reference to business days, unless specified to the contrary.
- 1.7 In this Agreement, unless the context clearly indicates the contrary, the following words, phrases and expressions shall have the respective meanings assigned to each of them as set out hereunder:
- | | | |
|-------|---------------------------------------|---|
| 1.7.1 | “the Act” | the Sectional Titles Act, 95 of 1986 (as amended); |
| 1.7.2 | “the Agreement” | this offer to purchase agreement and which shall include the Schedule of Details and Annexures hereto; |
| 1.7.3 | “the Architect” | the architect appointed by the Seller; |
| 1.7.4 | “Certificate of Practical Completion” | the certificate issued by the Architect or Engineer stating the date upon which Practical Completion is achieved; |
| 1.7.5 | “the Conveyancers” | Hornby, Smyly, Glavovic Incorporated
15 Acacia Avenue, Westville
Tel: 031 266 7751; |
| 1.7.6 | “the CPA” | the Consumer Protection Act, No. 68 of 2008, as amended; |

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Witnesses

- 1.7.7 “Date of Signature” the date by when both the Seller and Purchaser have signed this Agreement;
- 1.7.8 “Date of Transfer” the date of registration of transfer of the Section in favour of the Purchaser, in the Deeds Registries Office Pietermaritzburg;
- 1.7.9 “the Engineer” the engineer appointed by the Seller;
- 1.7.10 “the Estate” Palm Lakes Estate;
- 1.7.11 “the Palm Lakes HOA” the Palm Lakes Home Owners’ Association;
- 1.7.12 “the Palm Lakes HOA Constitution” the Palm Lakes Home Owners’ Association’s constitution, a copy of which can be viewed at:
<http://palmlakesfamilyestate.co.za/resources/>;
- 1.7.13 “Practical Completion” the stage of completion whereby the Section is certified by the Architect or Engineer as substantially complete and the Section can effectively be used for the purposes intended;
- 1.7.14 “the Retirement Village” the retirement village developed within the Estate and as indicated by Annexure “B” attached hereto;
- 1.7.15 “the Retirement Village HOA” the Palm Lakes Retirement Village Home Owners’ Association;
- 1.7.16 “the Retirement Village Constitution” the Palm Lakes Retirement Village Home Owners’ Association constitution, a copy of which can be viewed at:
<http://palmlakesfamilyestate.co.za/resources/>;
- 1.7.17 “the Section” the section referred to in Item C1 of the Schedule of Details, which shall comprise part of the building and an undivided share in the common property of the Sectional Scheme;
- 1.7.18 “VAT” Value-added Tax, as applicable in terms of the VAT Act;
- 1.7.19 “VAT Act” the Value-Added Tax Act, 89 of 1991, as amended.

To be initialled by:

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Witnesses

2. **SALE OF THE SECTION AND RESERVATION OF RIGHTS IN TERMS OF SECTION 25 OF THE ACT**

2.1 Subject to the terms and conditions of this Agreement and with effect from the Date of Signature, the Seller hereby sells and the Purchaser hereby purchases, the Section.

2.2 The Purchaser hereby acknowledges that:

2.2.1 the Seller has reserved a real right to extend the sectional scheme as contemplated in section 25 of the Act; and

2.2.2 the full particulars and details of the reservation of rights of extension referred to in clause 2.2.1 above have been disclosed to him.

3. **PAYMENT OF PURCHASE PRICE**

3.1 The purchase price, as reflected in Item D1 of the Schedule of Details, shall be paid by the Purchaser to the Seller on the Date of Transfer.

3.2 The Purchaser shall secure payment of the purchase price in accordance with the applicable provision(s) completed under Item E of the Schedule of Details.

3.3 Any payments made to the Conveyancers on account of the purchase price shall be held by the Conveyancers in trust and invested in an interest bearing account for the benefit of the Purchaser until the Date of Transfer, it being specifically recorded that the Conveyancers cannot attend to the aforementioned investment until such time as the Purchaser has:-

3.3.1 Complied fully with the requirements as set out in the Financial Intelligence Centre Act, Act 38 of 2001; and

3.3.2 Signed, completed and returned to the Conveyancers **Annexure "A"** to confirm the instruction to invest.

4. **SUSPENSIVE CONDITIONS**

4.1 This Agreement is subject to the fulfilment, by the Purchaser, of the following suspensive conditions:

4.1.1 in the event that Item E1 of the Schedule of Details is completed, payment of the deposit in the amount and within the time period as reflected in Item E1 of the Schedule of Details; and/or

4.1.2 in the event that Item E3 of the Schedule of Conditions is completed, obtaining written approval of a loan, in the form of a quotation and/or pre-agreement, from a recognized and registered financial institution of not less than the amount reflected in Item E3.1 of the Schedule of Details and providing such written approval to the Conveyancers within 30 (thirty) days from the Date of Signature or such extended date as the Seller may agree in writing.

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Witnesses

- 4.2. With respect to the application for a loan in terms of clause 4.1.2 above, the Purchaser warrants that:
- 4.2.1. He is aware of the financial requirements relating to the loan and undertakes to the best of his ability to immediately provide and sign, upon request by the financial institution concerned, all information and documentation which may, in the sole discretion of the said financial institution, be required in order to apply for and approve the said loan application; and
- 4.2.2. There are no existing judgments noted against his name which would preclude any financial institution from approving his loan application.
- 4.3. In the event that the suspensive condition(s) above are not fulfilled timeously and/or as specifically stated, then this Agreement shall be of no further force or effect, save for this clause 4, and neither party shall have any claim against the other.
- 4.4. It is hereby recorded that the suspensive conditions as contained in clause 4.1 above have been included for the benefit of the Purchaser and can be waived by the Purchaser provided that the Purchaser informs the Seller of such waiver unconditionally and in writing prior to the expiry of the period in clause 4.1.
- 4.5. In the event that the Purchaser waives the suspensive conditions in terms of this clause 4.4 above, the Purchaser undertakes to pay the full purchase price to the Conveyancer's trust account within 7 (seven) days of the said waiver.

5. **SPECIAL CONDITIONS IN RESPECT TO OCCUPATION OF THE SECTION**

- 5.1 The Purchaser hereby acknowledges that the Retirement Village and facilities thereon are designed and have or will be erected for self-sustained or retired persons.
- 5.2 The Minimum age to reside in the Retirement Village is 48 (Forty Eight) years and, notwithstanding the age or constitution of the Purchaser, no person may reside in the Section unless they are aged 48 (forty eight) years or older.
- 5.3 Notwithstanding clause 5.2 above, the board of trustees of the Retirement Village HOA shall have the sole and absolute discretion to approve or reject persons who are below the age of 48 (forty eight) years old, including, but not limited to, instances where the occupants are a married couple and one of the spouses is below the age of 48 (forty eight).
- 5.4 The Purchaser shall not be entitled to dispose, let, make over, cede or assign any of his/her/its rights in terms of this Agreement to any third party, if same has the effect that the Section is being occupied by a person or persons who do not comply with the age provisions of this clause 5.
- 5.5 **The Purchasers attention is drawn to the Retirement Village Constitution in regard to these rules and which is published and available for perusal and download, free of charge, at <http://pamlakesfamilyestate.co.za/resources/>.**

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Witnesses

6. **FACILITIES AND/OR CARE SERVICES**

- 6.1 All facilities and services in the Estate will be available to the occupants of the Retirement Village.
- 6.2 The Retirement Village facilities shall be communal to the Retirement Village HOA members but will, where the facility has been constructed exclusively by funds raised from Retirement Village home owners' funding, be exclusive to those members and the utilisation thereof shall be subject to the rules and the payment of an applicable levy as determined and amended from time to time.
- 6.3 The Retirement Village facilities referred to in clause 6.2 above will be implemented, operated and maintained by the Retirement Village HOA.
- 6.4 The Retirement Village HOA shall be responsible for providing health care services as referred to in annexure HS1 to the Retirement Village Constitution **which is published and available for perusal and download, free of charge at**
<http://pamlakesfamilyestate.co.za/resources/>.
- 6.5 The Seller shall provide accommodation from which the health care services referred to in clause 6.4 above shall be provided and until such time as the Retirement Village HOA has constructed such alternate facilities as it deems necessary and adequate for this purpose.

7. **OCCUPATION, POSSESSION, RISK AND BENEFIT**

- 7.1 The Seller shall give occupation of the Section to the Purchaser on the date as reflected in Item H1 of the Schedule of Details, provided that the date of actual occupation of the Section shall not be prior to the date of issue of the Certificate of Practical Completion, unless agreed between the Seller and Purchaser to the contrary.
- 7.2 In the event that the Purchaser takes occupation of the Section prior to the Date of Transfer then:
- 7.2.1 Item H2 of the Schedule of Details shall apply;
- 7.2.2 No tenancy shall thereby be created and under no circumstances will the Purchaser acquire any lien or be entitled to any compensation for any improvements effected to the Section and, should this sale terminate for any reason prior to the Date of Transfer, the Purchaser shall be obliged to vacate the Section immediately upon such termination;
- 7.2.3 The Purchaser shall be bound by the Act, rules of the Estate, rules of the Body Corporate and the Association's Constitution, notwithstanding that the Section has not yet been registered in the name of the Purchaser;
- 7.2.4 the Purchaser shall not be entitled to make any improvements to the Section nor alterations to any existing improvements thereon without prior written consent of the Seller; and

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

- 7.2.5 In addition to the sum of occupational rental payable to the Seller, the Purchaser shall, on demand, pay monthly to the Seller the cost of water and electricity consumed at the Section for the period between the occupation date and the Date of Transfer.
- 7.3 The Purchaser shall be entitled to inspect the Section prior to the date of actual occupation, at such time as is agreed between the Purchaser and the Seller.
- 7.4 In the event of a dispute as to whether the Section is sufficiently complete for occupation, such dispute shall be referred to the Architect or Engineer whose decision shall be binding on the parties.
- 7.5 Notwithstanding the above, or the occupation date reflected in Item H1 of the Schedule of Details, the Purchaser hereby acknowledges that the actual occupation date of the Section may vary from that recorded in this Agreement and that the Seller shall not be liable for any loss or damage of whatsoever nature suffered by the Purchaser as a result of such delays.
- 7.6 In the event of the Seller not being able to provide occupation of the Section in terms of Item H1 of the Schedule of Details, the date of occupation shall be amended to a later date and the Seller shall provide the Purchaser with 30 (thirty) calendar days written notice of such amended occupation date.
- 7.7 Notwithstanding the above, the Purchaser shall not, under any circumstances, be entitled to occupation of the Section until such time as the full purchase price is secured and the Purchaser has paid to the Conveyancers the full costs of transfer.
- 7.8 The risk in and benefits of the Section shall pass from the Seller to the Purchaser with effect from the Date of Transfer and from which date the Purchaser shall be liable for all contributions, levies, special levies, rates and taxes and any other charges levied upon the Section by any competent authority.

8. **TRANSFER**

- 8.1 Transfer shall be effected by the Conveyancers within a reasonable time after:
- 8.1.1 The Purchaser has secured the full purchase price;
- 8.1.2 The Purchaser has furnished all the information necessary for transfer of the Section, as the Conveyancer's in their sole discretion may determine and/or require;
- 8.1.3 The Purchaser has signed all transfer documents, as the Conveyancer's in their sole discretion may determine and/or require;
- 8.1.4 The Purchaser has paid, to the Conveyancers, all amounts for which the Purchaser is liable in terms of this Agreement, including, but not limited to, rates application fees, estimated pro rata rates and taxes, levy clearance certificate fees, estimated pro rata levies, pro rata special levies and costs of transfer; and

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Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

- 8.1.5 Unless specifically agreed between the parties to the contrary, a Certificate of Practical Completion has been issued in respect of the Section.
- 8.2 The Purchaser shall furnish all information and complete, sign and return such transfer documents as may be required by the Conveyancers within 7 (seven) days of the written request by the Conveyancer to do so, without prejudice to the Seller's rights in terms of clause 14 below.
- 8.3 The Purchaser shall pay to the Conveyancers the costs of transfer, including, but not limited to, transfer duty/VAT (whichever is applicable), conveyancing fees, bond registration attorney's fees, rates application fees, estimated pro rata rates and taxes, levy clearance certificate fees, estimated pro rata levies, pro rata special levies, water clearance fees (if applicable), FICA verification fees; online electronic fees, deeds office levies and any other charges levied against the Section by any competent authority and/or other such charges as are required in order to effect registration of transfer, and which amount(s) shall be paid within 7 (seven) days of the written request by the Conveyancers to do so.
- 8.4 The parties to this Agreement hereby acknowledge that the Conveyancers shall not proceed to lodge the necessary documentation in the Deeds Registries Office, Pietermaritzburg, nor proceed with registration of transfer of the Section into the name of the Purchaser until such time as the purchase price and costs of transfer have been secured to the satisfaction of the Conveyancers.
- 8.5 The Section is sold subject to all conditions and servitudes whether or not mentioned or referred to in the current or prior title deeds, and subject to the conditions of subdivision, if any.

9. **VARIATION IN EXTENT OF THE SECTION**

- 9.1 The Purchaser acknowledges that the boundaries and extent of the Section will be shown on a sectional plan, prepared by a land surveyor in accordance with the provisions of the Land Survey Act, Act No. 8 of 1997. In the event of a conflict between the description and/or extent of the Section as provided for in the Schedule of Details and that as reflected on the sectional plan, the description and extent of the Section as provided for in the sectional plan shall prevail, subject to clause 9.2 and 9.3 below.
- 9.2 The following shall apply in the event that there exists a variation between the extent of the Section as contained in the Schedule of Details and the actual extent of the Section as reflected in the approved sectional plan:
- 9.2.1 If the variation is less than 5% (five percent), neither party shall have any claim against the other nor shall any party be entitled to resile from this Agreement;
- 9.2.2 If the variation is greater than 5% (five percent) and transfer of the Section has not yet occurred, then either party shall be entitled, but not obliged, to resile from this Agreement by giving written notice to the other party within 7 (seven) days of becoming aware of such variation.
- 9.3 In the event of a party proceeding in terms of clause 9.2.2 above, both parties shall be restored to their respective positions prior to the conclusion of this

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Agreement and neither party shall have any claim against the other resulting therefrom.

- 9.4 The Seller shall not be responsible for pointing out or indicating the position of any surveyor beacons or pegs in respect of the Section.
- 9.5 If the Section has been erroneously described herein, such mistake or error shall not be binding upon the parties but the correct description as intended by the parties and reflected on the sectional plan shall apply, and they shall effect rectification of this Agreement accordingly.
- 9.6 The Purchaser acknowledges that he/she/it shall not be entitled to give any instructions of any nature to the contractors, architects, engineers, sub-contractors or any other person or persons attending to the construction of the Section.
- 9.7 In the event that the Purchaser is authorized, in writing, by the Seller to use his/her/its own contractor, sub-contractor, architect or materials, the Purchaser shall neither be entitled to delay any payment to be made in terms of this Agreement nor shall the Purchaser be entitled to delay transfer of the Section.

10. **RECTIFICATION OF DEFECTS**

- 10.1 Without derogating from any provision or right contained in the CPA or any other law, the Purchaser shall, within a period of 14 (fourteen) days from the date of actual occupation of the Section, provide the Seller with a written list of defects in respect of the Section, failing which the Purchaser shall be deemed to have inspected and accepted the Section in good order and condition.
- 10.2 The Seller's obligations in terms of 10.1 above shall only apply in respect of defects arising as a result of faulty workmanship and/or materials and shall not apply in respect of other defects or leaks howsoever arising.
- 10.3 The Seller shall cause repairs to be made in respect of the listed defects within 30 (thirty) days after receipt of the said list of defects, it being specifically recorded that the Seller, and all persons appointed and/or authorized by the Seller, shall be entitled to enter/access the Section for the purposes of effecting the said repairs.
- 10.4 In the event of a dispute arising as to whether the Seller has rectified such defects, a certificate issued by the Architect or Engineer certifying that such defects have indeed been rectified shall be final and binding on the parties and shall relieve the Seller from any further obligations in respect of the said list of defects.
- 10.5 The Purchaser acknowledges that he may suffer inconvenience from building operations conducted upon erven being sold by the Seller in the immediate surrounds and from noise and dust resulting therefrom, or, alternatively, from the installation of services in the event of the Seller phasing the installation of the required services and the Purchaser shall have no claim whatsoever against the Seller, nor shall the Purchaser be entitled to the cancellation of this Agreement or any reduction in the purchase price or interest thereon by reason of such inconvenience.

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Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

THE HOUSING CONSUMER PROTECTION MEASURES ACT, NO. 95 OF 1998
(the "HCPM Act")

- 10.6 In terms of Section 13(2)(a) of the HCPM Act, the Seller warrants that:
- 10.6.1 The Section shall be enrolled with the National Home Builders Registration Council ("NHBRC");
 - 10.6.2 The Section shall be constructed in a workmanlike manner;
 - 10.6.3 The Section shall be fit for occupation; and
 - 10.6.4 The Section shall be constructed in accordance with terms, plans and specifications as contained in this Agreement and the NHBRC Technical Requirements to the extent applicable at the date of enrollment of the Section with the NHBRC.
- 10.7 In terms of Section 13(2)(b) of the HCPM Act, the Seller undertakes, at its cost, to:
- 10.7.1 rectify major structural defects in the Section caused by non-compliance with the NHBRC Technical Requirements occurring within a period of no more than 5 (five) years from the actual date of occupation of the Section, provided that the Seller is notified by the Purchaser within the aforementioned period; and
 - 10.7.2 repair roof leaks attributable to workmanship, design or materials occurring and notified to the Seller by the Purchaser within a period of 12 (twelve) months from the actual date of occupation of the Section.
- 10.8 Notwithstanding anything contained in this Agreement to the contrary, the Seller shall not be liable for defects in the Section in respect of:
- 10.8.1 any damage or defects not having been caused by the Seller or its agents; and
 - 10.8.2 damage or defects caused by stormwater, rainwater, shrinkage, hairline cracks in plaster work and normal wear and tear resulting from general use or neglect by the Purchaser.

11. **MEMBERSHIP OF THE PALM LAKES HOA AND RETIREMENT VILLAGE HOA**

- 11.1 The Purchaser acknowledges that:
- 11.1.1 The Section falls within the Estate and as result, the Purchaser shall be and become a member of the Palm Lakes HOA upon registration of transfer of the Section into his name and shall remain a member for so long as he owns the Section; and
 - 11.1.2 The Section also falls within the Retirement Village and as a result, the Purchaser shall be and become a member of the Retirement Village HOA upon registration of transfer of the Section into his name and shall remain a member for so long as he owns the Section.

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Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

- 11.2 **The Purchaser acknowledges that the Palm Lakes HOA Constitution and conduct rules are published and available for perusal and download, free of charge, at <http://palmlakesfamilyestate.co.za/resources/>.**
- 11.3 **The Purchaser acknowledges that the Retirement Village Constitution and conduct rules are published and available for perusal and download, free of charge, at <http://palmlakesfamilyestate.co.za/resources/>.**
- 11.4 The Purchaser hereby warrants that:
- 11.4.1 he has made himself fully acquainted with the provisions of both the Palm Lakes HOA Constitution and conduct rules **AND** the Retirement Village Constitution and conduct rules;
- 11.4.2 he hereby agrees to abide by the provisions of both the Palm Lakes HOA Constitution and the Conduct Rules **AND** the Retirement Village Constitution and conduct rules, as amended from time to time, this clause being a benefit given by the Purchaser in favour of the Seller and a third party or parties, namely the Palm Lakes HOA and the Retirement Village HOA; and
- 11.4.3 Should he sell the Section, he shall ensure that his purchaser is made fully aware of the Palm Lakes HOA Constitution and conduct rules **AND** the Retirement Village HOA and conduct rules.
- 11.5 The Purchaser shall not be entitled to sell, donate, grant any option or pre-emptive rights in respect of, alienate, transfer or in any way deal with the Section without the prior written consent of:
- 11.5.1 the Palm Lakes HOA, which shall not be unreasonably withheld; **and**
- 11.5.2 the Retirement Village HOA, which shall not be unreasonably withheld.
- 11.6 The following clause, or such variation thereof as may be required by the Conveyancers in order to protect the rights of the Palm Lakes HOA and the Retirement Village HOA, will be inserted as a condition in the Title Deed of the Section:
- “The herein mentioned section shall not be sold or transferred without the prior written consent of both the Palm Lakes Home Owners’ Association and/or its successor-in-title and the Palm Lakes Retirement Village Home Owners’ Association and/or its successor-in-title, of which the Transferee (or his or her successor-in-title) shall become a member, which consent shall not be unreasonably withheld.”
- 11.7 By virtue of his membership of the Palm Lakes HOA and the Retirement Village HOA, the Purchaser will be obliged to make payment of levies to enable the aforementioned associations to maintain the common roads and areas, private open space and services (if any) and to cover its administrative costs, and these

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associations shall not be obliged to give the written consent referred to in clause 11.5 above until all amounts due to it by the Purchaser have been paid in full.

11.8 The Purchaser, by signing this Agreement, is deemed to have agreed to all the terms and conditions as contained in the Palm Lakes HOA and conduct rules **AND** the Retirement Village HOA and conduct rules, and to be bound thereby.

11.9 The Purchaser hereby undertakes and acknowledges that any person occupying the Section or entering upon the Retirement Village and/or the Estate on behalf of or as guest/visitor of the Purchaser shall comply with the rules of both the Palm Lakes HOA and the Retirement Village HOA, and that the Purchaser shall be personally liable for any act or omission by any of his/her/its guests/visitors, tenants and/or employees in contravention thereof.

12. **RESERVATION OF CONDITIONS OF TITLE**

12.1 The following conditions shall, to the extent possible, be registered against the title deed of the Section in the form set out hereunder, or in such other form as may be required by the Registrar of Deeds:

12.1.1 the section hereby sold ("the section") shall not be transferred without the prior written consent of the Palm Lakes Home Owners' Association established in accordance with the order granted by the Development Tribunal in terms of the Development Facilitation Act, 67 of 1995 ("the Association") of which the within transferee and each of his successors-in-title shall be obliged to be a member, bound by the rules and regulations as contained in the Constitution of the Association, for so long as he is the registered owner of the section;

12.1.2 The sectional title unit shall not be sold or transferred without the prior written consent of the Palm Lakes Retirement Village Home Owners' Association and/or its successor-in-title, of which the Transferee (or his or her successor-in-title) shall become a member, which consent shall not be unreasonably withheld

12.1.3 no improvement of any nature may be effected to or on the section, nor may the access to the section be altered without the prior written approval of the Association and any building plans in respect of the improvements to be erected on the section shall be subject to the prior written approval of the Association. Such approval will be required without limitation to all external finishes, including materials and colours for all walls, roofs and windows;

12.1.4 the Association shall have reasonable access to the section for the purpose of painting the exterior of any buildings constructed thereon.

12.2 The Purchaser shall be bound by such conditions whether or not they are so registered.

12.3 This clause 12 has been inserted for the benefit of the Palm Lakes HOA and the Retirement Village HOA.

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

13. **PURCHASER'S LIABILITY FOR LEVIES**

13.1 The Purchaser shall be liable for all levies and special levies due in respect of the Section, as determined by:

- 13.1.1 the Palm Lakes HOA; and
- 13.1.2 the Retirement Village HOA;

from the Date of Transfer.

13.2 In addition to the levies referred to in 13.1 above, the Purchasers shall be liable for payment of the Special Levies as referred to in Item G of the Schedule of Details, which amounts are payable on the Date of Transfer and shall be secured and paid to the Conveyancers as part of the costs of transfer referred to in clause 8.3 above.

13.3 The Purchaser shall also be liable for all levies and special levies imposed in terms of the Act by the body corporate of the sectional scheme, from the Date of Transfer.

14. **BREACH**

14.1 In the event of either party failing to fulfil on due date his obligations in terms of any provision or provisions of this Agreement and remaining in such default for **7 (SEVEN) calendar days** of delivery of a written notice by the innocent party calling upon the guilty party to rectify such default, then and in such event, the innocent party shall have the right to:

14.1.1 Hold the guilty party to this Agreement and demand fulfilment of his/her obligations in terms thereof; or

14.1.2 Cancel this Agreement without prejudice to the innocent party's rights to claim all damages suffered as a result of such breach/default. If the cancellation was due to the Purchaser's breach, the Seller shall be entitled to:

14.1.2.1 Retain any amounts deposited with the Conveyancers under this Agreement (after payment of the commission due to the Agency and deduction of wasted conveyancer's costs) up to an amount equal to the reasonable damages suffered by the Seller as pre-estimated, liquidated damages and the Purchaser hereby irrevocably authorizes the Conveyancers in this case to pay their wasted costs and estate agent's commission from the amount held in trust and to pay the balance to the seller; or

14.1.2.2 claim all damages suffered by the Seller by reason of such breach/default, in which event the parties hereby agree that the Seller shall be entitled to retain any amounts deposited with the Conveyancers under this Agreement (after payment of the commission due to the Agency and deduction of wasted conveyancer's costs) in reduction of such damages sustained by the Seller without prejudice to the Seller's rights to claim the balance of such damages from the Purchaser. The Purchaser hereby irrevocably authorizes the Conveyancers in this case to pay their wasted costs and estate agent's commission from the amount held in trust and to pay the balance to the seller.

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

- 14.2 Should this Agreement be cancelled in terms of clause 14.1.2 above, the Purchaser shall forthwith give up possession and vacate that Section and the Seller shall immediately be entitled to resell the Section. The membership of the Palm Lakes HOA and Retirement Village HOA by the Purchaser shall immediately cease on such cancellation but it shall not absolve the Purchaser of his/its indebtedness to the said associations.
- 14.3 The Purchaser shall be liable for any costs, including attorney and own client costs, collection commission or tracing agent's fees or loss of commission, incurred by the Seller or its agent arising out of or in connection with any breach by the Purchaser of any of the provisions of this Agreement or any other matter relating to this Agreement.
- 14.4 No indulgence granted by the Seller shall constitute an *estoppel* or a waiver of any of the Seller's rights under this Agreement. Accordingly, the Seller shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the Purchaser which may have arisen in the past or which may arise in the future.

15. **PENALTY INTEREST**

- 15.1 In the event of there being any delay in connection with the registration of transfer for which the Purchaser is responsible, the Purchaser, in addition to any other payment which may be due in terms of this Agreement, shall pay a penalty interest calculated at the rate of 10% (Ten percent) per annum on the purchase price calculated from the date that Purchaser has been notified in writing by the Seller or the Conveyancers as being in mora, to the date upon which the Purchaser has ceased to be in mora.
- 15.2 The provisions set out in clauses 15.1 above shall in no way prejudice the rights of the Seller to give notice and take whatever other steps and remedies as are available in terms of clause 14 above.

16. **COMPANY, CLOSE CORPORATION OR TRUST ALREADY FORMED**

- 16.1 If this Agreement is signed by a person acting or purporting to act for and on behalf of a company, close corporation or trust (other than one not yet incorporated or formed) such person hereby warrants and undertakes that:
- 16.1.1 the company, close corporation or trust, as the case may be, is in existence and is registered as at the Date of Signature;
- 16.1.2 he is duly authorized to sign this Agreement on its behalf (the signatory shall provide the Seller with a resolution either authorizing or ratifying his authority to sign this Agreement within 7 (seven) days of the Date of Signature); and
- 16.1.3 he is hereby bound in favour of the Seller as surety and co-principal debtor *in solidum*, under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company, close corporation or trust in terms of or arising out of:

To be initialled by:

Purchaser(s)

Seller

Palm Lakes HOA

Retirement Village HOA

Estate Agent

Witnesses

- 16.1.3.1 this Agreement; or
- 16.1.3.2 any cancellation of this Agreement; or
- 16.1.3.3 section 35 of the Insolvency Act, 1936, as amended, pursuant to the abandonment by a liquidator or cancellation by a Court of this Agreement, in the event of the said company, close corporation or trust being wound-up, whether provisionally or final.

17. **COMPANY TO BE FORMED**

- 17.1 If the person signing as Purchaser acts or purports to act as agent or trustee for a company not yet incorporated, such person undertakes personally that the company will be formed within 30 (thirty) days of the Date of Signature and will within 14 (fourteen) days of being incorporated or formed, adopt or ratify this Agreement unconditionally and without modifications.
- 17.2 If the said company is not incorporated within the period prescribed in clause 17.1, or having been incorporated or formed does not adopt or ratify this Agreement within the period of 14 (fourteen) days, then such person shall be deemed to be the Purchaser in terms of this Agreement.
- 17.3 If the said company is incorporated and does adopt or ratify this Agreement as contemplated in 17.1, then such person is hereby bound in favour of the Seller as surety and co-principal debtor *in solidum*, under renunciation of the benefits of division, excussion and cession action, for the due performance of all the obligations of the said company in terms of or arising out of:
 - 17.3.1 this Agreement; or
 - 17.3.2 any cancellation of this Agreement; or
 - 17.3.3 section 35 of the Insolvency Act, 1936, as amended, pursuant to the abandonment by a liquidator or cancellation by a Court of this Agreement, in the event of the said company being wound up, whether it be provisionally or final.

18. **COMMISSION**

- 18.1 The Seller acknowledges being solely responsible to the estate agent referred to in Item F of the Schedule of Details and the parties confirm that the said estate agent introduced the Purchaser to the Seller and to the Section and, consequently, the said estate agent is the effective cause of this transaction.
- 18.2 The Purchaser warrants that the said estate agent is the only agent who introduced him to the Section.
- 18.3 If the Purchaser fails to carry out his obligations in terms of this Agreement, the Seller shall without prejudice to its other rights, have the right to recover the said commission from the Purchaser or cede such rights as provided for herein to the appointed agent on terms and conditions acceptable to the Seller.

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

19. **LEVY ON RE-SALE OF SECTION**

The Purchaser hereby acknowledges that, in terms of clause 10.6.2 of the Palm Lakes HOA Constitution, should he sell the Section in future, he shall be liable to the Association for an amount limited to a maximum of 1% (one per cent) of the gross selling/purchase price and which amount shall be payable to the Palm Lakes HOA by the appointed conveyancers on registration of transfer of the sale to his purchaser and from proceeds of the said sale.

20. **SALE OF PURCHASER'S PROPERTY**

20.1 In the event that Item E4 of the Schedule of Details has been completed, then this Agreement is, in addition to any applicable conditions under clause 4.1 above, subject to the Purchaser conclusively selling his property for an amount and by the date as reflected in Item E4 of the Schedule of Details, failing which this Agreement shall be of no force and effect.

20.2 If the Purchaser conclusively sells his property in accordance with clause 20.1 above read in conjunction with Item E4 of the Schedule of Details, then the Purchaser shall, within 30 (thirty) calendar days of that conclusive sale, deliver guarantees to the Conveyancers, in a form acceptable to the Conveyancers and expressed to be payable on the Date of Transfer, for the amount of the proceeds of that sale and which proceeds shall be paid toward the balance of the purchase price in terms of this Agreement.

20.3 If the Purchaser has already conclusively sold the property reflected in Item E4 of the Schedule of Details prior to the Date of Signature of this Agreement, then the guarantees, in a form acceptable to the Conveyancers and expressed to be payable on the Date of Transfer for the amount of the proceeds of that sale and which proceeds shall be paid toward the balance of the purchase price in terms of this Agreement, shall be delivered to the Conveyancers within 30 (thirty) calendar days from the Date of Signature of this Agreement.

21. **DOMICILIA AND NOTICES**

21.1 The parties hereby choose as *domicilium citandi et executandi* for all purposes under this Agreement at the following addresses:

21.1.1 the Seller at the registered address and/or e-mail address as set forth in Item A of the Schedule of Details;

21.1.2 the Purchaser at the address and/or e-mail address as set forth in Item B of the Schedule of Details.

21.2 Any notice given in terms of this Agreement shall be in writing and must either be:

21.2.1 delivered by hand during normal business hours of the recipient; or

21.2.2 sent by registered post to the address chosen by the addressee; or

21.2.3 sent by e-mail to the e-mail address chosen by the addressee.

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

21.3 A notice in terms of the provisions of this Agreement will be considered to be duly received:

21.3.1 if hand-delivered: on the date of delivery;

21.3.2 if sent by registered post: 5 (five) calendar days after the date it was posted;

21.3.3 if sent by e-mail: on the date of transmission.

21.4 Notwithstanding anything to the contrary herein contained, a written notice of communication actually received by a party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at his chosen *domicilium citandi et executandi*.

22. **JURISDICTION**

The Purchaser hereby consents to the jurisdiction of any Magistrate's Court (having jurisdiction in respect of his person) for any case arising herefrom.

23. **JOINT AND SEVERAL LIABILITY**

Should there be more than one Purchaser, the Purchasers shall be liable jointly and severally and *in solidum* for the payment of all monies hereunder and for the carrying out of all the terms of this Agreement.

24. **WHOLE AGREEMENT**

This Agreement constitutes the entire contract between the parties and any representations, terms, conditions or warranties not contained in this Agreement shall not be binding on the parties. The Purchaser warrants not having been induced into entering into this Agreement by any representation not contained herein.

25. **VARIATION AND CANCELLATION**

No agreement varying, adding to, deleting from or canceling this Agreement shall be effective unless reduced to writing and signed by or on behalf of both parties.

26. **APPLICATION OF THE CPA**

26.1 For the purposes of this Agreement, the Seller is acting in the ordinary course of business, in which case the provisions of the CPA apply to the Seller's disclosure(s) herein.

26.2 The invalidity, in terms of the CPA, of any provision(s) of this Agreement shall not affect any other valid provision(s) of this Agreement and such valid provision(s) shall remain in full force and effect.

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

- 26.3 The Seller has made every effort to incorporate the Purchaser's consumer rights, as provided for in the CPA, into this Agreement. In the event that any provision of this Agreement is found to contravene the CPA, the parties agree that such provision shall be severed from this Agreement and treated as if it were not part of this Agreement.
- 26.4 The Purchaser acknowledges that he understands the contents of this Agreement, alternatively, that any conditions/provisions that the Purchaser did not understand have been fully explained to the Purchaser by either the Seller, estate agent or Conveyancer.
- 26.5 The Purchaser hereby confirms that this Agreement was not concluded as a result of Direct Marketing as the Purchaser was not approached in person, by ordinary mail or electronic communication. The Purchaser therefore acknowledges that the "cooling off period" as envisaged in the CPA is not applicable to this Agreement.

27. **COOLING OFF PERIOD – ALIENATION OF LAND ACT**

In the event of Section 29A of the Alienation of Land Act 68 of 1981 applying to this Agreement in that the Section is sold for an amount equal to or below R250 000.00, then in such event, the Purchaser shall have the right to revoke this offer or terminate this Agreement by written notice to be delivered to the Seller or his agent within the 5 (five) day period as stipulated in Section 29A (1) read with Section 29A (2) of the aforesaid Act.

28. **FIXTURES AND FITTINGS**

The Section is sold with all fixtures and fittings, unless specifically excluded by agreement between the Seller and Purchaser and reduced to writing in this Agreement, and the Seller warrants that the fixtures and fittings are fully paid for and owned solely and exclusively by the Seller.

29. **INCOME TAX**

- 29.1 The Purchaser declares that his/her/its/their income tax is paid to date or that satisfactory arrangements for payment of same have been made with the South African Revenue Services ("SARS").
- 29.2 It is hereby agreed that in the event that the Purchaser fails to comply with clause 29.1 above and SARS refuse to issue the required receipts, same will be treated as a default/breach of this Agreement by the Purchaser.

30. **IRREVOCABLE OFFER AND EXPIRY THEREOF**

- 30.1 This Agreement, once signed by the Purchaser, shall constitute an irrevocable offer by the Purchaser, which shall not be capable of being withdrawn for a period of 21 (twenty one) calendar days calculated from the date of the Purchaser's signature hereto.
- 30.2 Receipt of this document by the Seller or his agent or representative shall constitute acceptance of the Purchaser's undertaking to keep the offer to

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

purchase open for 21 (twenty one) calendar days, and no further communication to the Purchaser of such acceptance shall be necessary.

- 30.3 Only signature by the Seller to this Agreement within the said 21 (twenty one) calendar day period shall constitute a binding agreement between the parties. The Seller shall, however, forward to the Purchaser a copy of the signed contract for the records of the latter.

SIGNED at _____

on this day _____ of _____ 20____

AS WITNESSES:-

1. _____

2. _____

PURCHASER(S)

SIGNED at _____

on this day _____ of _____ 20____

AS WITNESSES:-

1. _____

2. _____

ON BEHALF OF THE SELLER

The stipulations in favour of the Palm Lakes HOA provided for in this Agreement are hereby accepted.

SIGNED at _____

on this day _____ of _____ 20____

**For and on behalf of PALM LAKES
HOME OWNERS' ASSOCIATION**

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

The stipulations in favour of the Retirement Village HOA provided for in this Agreement are hereby accepted.

SIGNED at _____
on this day _____ of _____ 20_____

**For and on behalf of PALM LAKES
RETIREMENT VILLAGE HOME OWNERS' ASSOCIATION**

The stipulations in favour of the Estate Agent provided for in this Agreement are hereby accepted.

SIGNED at _____
on this day _____ of _____ 20_____

ESTATE AGENT

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

LIST OF ANNEXURES

- ANNEXURE "A" - INSTRUCTION TO INVEST TRUST MONEYS**
- ANNEXURE "B" - PALM LAKES RETIREMENT VILLAGE SITE PLAN**
- ANNEXURE "C1" - GENERAL SPECIFICATIONS (SINGLE RESIDENTIAL UNITS)**
- ANNEXURE "C2" - GENERAL SPECIFICATIONS (SECTIONAL TITLE UNITS)**
- ANNEXURE "D" - VARIATIONS TO STANDARD CONTRACT**
- ANNEXURE "E" - FLOOR PLAN**
- ANNEXURE "HS1" - ALDEM HEALTH CARE**

To be initialled by:

Purchaser(s)

Seller

Palm Lakes HOA

Retirement Village HOA

Estate Agent

Witnesses

ANNEXURE "A"

INSTRUCTION TO INVEST TRUST MONEYS

(In respect of a conveyancing transaction)

Section 78(2A) of the Attorneys Act, 1979 (Act No 53 of 1979)

To: HORNBY, SMYLY, GLAVOVIC INC.
Attorneys, Notaries & Conveyancers
WESTVILLE

TRANSFER FROM:

ROYAL PALM PROPERTY HOLDINGS LIMITED
Registration Number 2002/022582/06

TO:

OF:

Section Number: _____

Scheme Name: _____

I/We, the undersigned,

being the Transferee/s in the abovementioned transaction, hereby confirm my/our instructions to HORNBY, SMYLY, GLAVOVIC INC. to invest with STANDARD BANK OF S A LIMITED all funds paid to HORNBY, SMYLY, GLAVOVIC INC. by me/us on account of the purchase price, on the basis that:

1. the amount is invested in a trust savings account or other interest-bearing account;
2. the account contains a reference to Section 78(2A) of the Attorneys Act 1979 (Act No 53 of 1979);
3. the interest which accrues on such investment is to be for the company/close corporation/my benefit and is to be paid to me/us/it into the bank account indicated herein below, after deducting your professional fee and costs for

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses

administering the investment, as soon as possible after the date of registration of the above-mentioned transaction;

4. the capital amount invested is to be paid in accordance with the transferor's instructions on the date of registration of transfer.
5. I am aware of the fact that while the funds are so invested with the said bank, the funds are not protected against a possible liquidation of the said bank.
6. I/we hereby authorise Hornby, Smyly, Glavovic Inc to pay any amounts due and payable to me during the course of this transaction and upon registration of transfer, by means of electronic funds transfer, to the following bank account

Account Name: _____

Bank: _____

Account Number: _____

Branch Number: _____

Branch Name: _____

7. I/we undertake that I/we will advise Hornby, Smyly, Glavovic Inc in writing of any change(s) to name(s), identity number(s), registration number(s), marital status or physical address of the transferee(s) that occurs prior to this transaction being concluded.
8. I/we undertake to provide Hornby, Smyly, Glavovic Inc with a copy of a bank statement or cancelled cheque to enable Hornby, Smyly, Glavovic Inc to verify the my/our bank details in the event of a refund.

SIGNED AT _____ ON THIS _____ DAY OF _____
201__ .

Purchaser(s)

ACCEPTED THIS ___ DAY OF _____ 201__ .

Hornby Smyly Glavovic Inc

To be initialled by:

Purchaser(s) Seller Palm Lakes HOA Retirement Village HOA Estate Agent Witnesses