

OPTION CONTRACT FOR SALE AND PURCHASE (Agreement)

This agreement, made and entered into this day of , 1976, by and between CENTURY VILLAGE EAST, INC., a Florida corporation, hereinafter referred to as "East" or "Seller", and Cencub Homeowners Association, Inc., a Florida non-profit corporation, hereinafter referred to as "CHOA" or "purchaser".

WITNESSETH:

1. **Deposit.** For and in consideration of the sum of One Hundred Dollars (\$100.00), this date deposited by purchaser with seller, receipt of which is hereby acknowledged, and subject to the further provisions of this agreement, seller hereby grants to purchaser an option to purchase the following land lying, situate and being in Broward County, State of Florida, as set forth on Exhibit A of the lease attached hereto as Schedule A, which description is made a part hereof in accordance with the terms of this agreement. Such property shall hereinafter be referred to as "Lands" or "Cencub".

2. **Nature of Cencub.** Cencub, as described on Exhibit A, is that certain property referred to as the Demised Premises in the long-term lease, attached hereto as Schedule A. Lands are presently used and shall hereinafter be used for recreational facilities for lessees under leases substantially similar to Schedule A and after the closing of this transaction by the purchaser and its members and said lessees, if any.

3. **Personal Property.** All personal property located in and about the Lands at the time of closing shall be inventoried and conveyed in accordance with this agreement.

4. **Purchase Price and Method of Payment.** The purchase price for the Lands is the lesser of the sum equal to the rent scheduled to be collected in the year 2019 from members of CHOA (notwithstanding any prepayments) or the value as then appraised for ad valorem taxation of the same, (subject to the provisions of §5.a) which shall be paid in the following manner:

(a) The sum of One Hundred Dollars (\$100.00) deposited with seller this date shall be applied to the purchase price of the Lands.

(b) A sum equal to the basic monthly rent scheduled to be paid by members of CHOA in the month of January 2019, plus or minus prorations hereinafter specified, shall be paid at closing either in cash or by cashier's or certified check drawn on a local bank.

(c) The balance of the purchase price shall be payable in eleven equal monthly installments commencing February 1, 2020 and on the first of each month thereafter. This sum shall be evidenced by a non-interest bearing corporate promissory note, (with an acceleration clause and an attorney's fee provision) and secured by a mortgage of the standard form then in use in Broward County, Florida.

5. **Closing Date.** This contract shall be closed and the deed and possession shall be delivered on or before the thirty-first day of December, 2019 a.d., unless altered by other provisions of this contract.

5.a Exercise of Option and Acceleration of Closing Date.

Purchaser by and through its authorized officers shall notify Seller of the exercise of this option in writing, certified mail, not later than November 15, 2019 a.d. Failure to so notify Seller shall, at Seller's option, make this option null and void and of no further force and effect.

Seller may accelerate the closing date and convert this option to a firm, irrevocable contract for sale and purchase in accordance with the terms of this agreement upon giving to CHOA and posting a notice thereof on the Demised Premises ninety days prior to the date scheduled in said notice for closing, provided, however, that in that event, the price for the Lands shall be \$10,000 in cash at closing plus or minus prorations and adjustments and subject to the provisions of this agreement.

6. **Evidence of Title.** Within fifteen (15) days prior to the closing, the seller shall, at purchaser's expense to be reimbursed at closing, deliver to the purchaser or its attorney, a title guarantee commit-

ment issued by a qualified title insurer agreeing to issue to the purchaser upon recording of the deed hereafter mentioned, an owner's guarantee policy in the amount of the purchase price insuring the title of the purchaser to the Lands, subject only to liens, encumbrances, exceptions or qualifications set forth in this contract and those which shall be discharged by seller at or before closing.

Purchaser shall have ten (10) days from the date of receiving the evidence of title to examine the same. If the title is found to be defective, the purchaser shall, within said period, notify the seller in writing specifying the defects. It is understood and agreed that title defects which do not affect the actual use of the Lands for the recreational purposes, regardless of whether or not they make the same unmarketable or uninsurable, shall not be an impediment to accepting title as it then is and the purchaser shall close accordingly.

If the title defects affect the use of the land as aforesaid and are such that require the purchaser to make substantial monetary expenditures in excess of \$5,000.00 and are not contemplated by this agreement, then the purchaser shall have the option of (a) accepting title as it then is, or (b) demanding a refund of all monies paid hereunder which shall forthwith be returned to the purchaser and, thereupon, the purchaser and seller shall be released of all further obligations under this agreement. If such monetary expenditures required are less than the aforesaid, then the same shall be allowed to the purchaser at closing. The property shall, unless agreed to by CHOA, be free and clear of any mortgage or like security device at closing.

7. **Conveyance.** Seller shall convey the title to the Lands to purchaser by special warranty deed subject to matters contained in this contract and for taxes for the year of closing.

8. **Place of Closing.** Closing shall be held at the office of the seller's attorney or as is otherwise agreed upon.

9. **Time is of the Essence.** Time for performance by the purchaser is of the essence in all portions of this agreement except where specified to the contrary.

10. **Documents for Closing.** Seller's attorney shall prepare the required documents for closing and submit the same to purchaser or purchaser's attorney as designated at least ten (10) days prior to the scheduled closing date.

11. **Expenses.** State surtax and documentary stamps which are required to be affixed to the instrument of conveyance, shall be paid as follows:

(a) seller shall pay those state surtax and documentary stamp taxes, or such other similar taxes in effect at the time of closing, not to exceed the sum of \$1,500.00.

(b) in the event that additional surtax and stamps other than those heretofore specified in subparagraph (a) are required based upon the value of the property rather than the purchase price paid or as specified, the same shall be paid by the purchaser;

(c) the cost of recording the deed shall be paid by the seller.

12. **Proration of Taxes (Real and Personal).** Taxes shall be prorated for the year of closing.

13. **Special Assessment Liens.** Certified, confirmed, ratified or pending special assessment liens as of the date of closing shall be assumed by the purchaser at the closing.

14. **Condition of Personal Property.** The seller makes no representations or warranties concerning the condition of the personal property or of the real property and appurtenances thereon conveyed. Purchaser shall be required to take title thereto in a then "as is" condition.

15. **Changes in Character and Amounts of Property.** It is understood and agreed between the parties hereto that the seller has the right to vary the description of the Lands in accordance with the provisions of the long term lease. In the event that seller so alters the Lands, this agreement shall be deemed to have included ab initio the revised property description and the sale shall be consummated

based on the property description as it exists at the time of conveyance. This agreement shall not be construed as granting to the purchaser the right to prohibit the seller from making any changes in said description or from creating any easements, restrictions, etc. thereon except those which will materially restrict CHOA from the use of its Property.

Further, in the event that through loss or destruction from any cause whatsoever, or condemnation of the property, it is understood and agreed that the seller shall have no duty to reconstruct or repair, nor shall the purchaser be entitled to any credit therefor, it being the understanding of the parties that the property constituting the Lands shall be that which constitutes the Lands and the improvements thereon at the time of closing and not at the time of this contract.

16. No Rights. It is understood and agreed between the parties hereto that, by virtue of this contract, the purchaser shall have no rights, either legal or equitable, in and to the Lands or the personal property thereon prior to the date of the closing. The fact that members of the purchaser shall be using the property in their capacity as individual lessees shall not be deemed to be constructive or other possession of the property so as to allow equitable or legal title or any other rights to be vested in the purchaser. Further, the execution of this agreement shall not affect any leases in and to said Lands and property, now or hereafter executed, nor shall said leases be deemed to affect this agreement.

17. Accounting for Arrearages and Prepaid Rent. Except as specified to the contrary herein, there shall be a full accounting at closing for arrearages and prepaid rents for the continuing individual lessees' accounts or condominium association accounts as the case may be with the seller being entitled to credit the arrearages against any prepaid rents on hand and thereafter assigning to the purchaser the claims for said arrearages so credited. Provided, however, that this accounting provision shall not affect any prepayments made under pre-payment agreements which sums shall be retained as the sole property of seller with no accounting to purchaser on account thereof.

As to all arrearages which exceed the amount of prepayments, (exclusive of prepayments per agreement as aforesaid) the seller shall be entitled to cash payment therefor in full at closing and shall assign contemporaneously therewith its claims for said arrearages to be pursued by purchaser.

18. Continuing Leases. Seller and purchaser acknowledge that there are, at the time of this contract, several thousand existing leases, substantially in the same form as Exhibit B, to both individual lessees and lessee associations. The expiration of those continuing leases is December 31, 2079, a.d. It is presently the intent of seller to offer to, in return for the joinder of said lessees in the CHOA, terminate those leases as of December 31, 2019, a.d. The purchaser does agree to accept said lessees as members in its corporation, and if said joinder is accomplished and a lien confirmed for the collection of the pro rata share of expenses by the members of CHOA by the lessees, said leases shall terminate on December 31, 2019, a.d. Thereafter, the said former individual lessees shall be regular members of the CHOA and shall be treated accordingly. However, in the event that some individual lessees or lessee associations do not care to be members of CHOA, it is understood and agreed that those lessees shall have a continuing leasehold interest as such in and to the Lands in accordance with the provisions of their respective long-term leases. Purchaser agrees, which fact shall also be acknowledged in the instrument of conveyance from seller to purchaser, to fully recognize and as lessor abide by the terms and conditions of said long-term leases and to do no act whatsoever which will cause the CHOA, as lessor under said long-term leases, to breach its covenants and obligations to said lessees thereunder. Purchaser shall, and does by these presence, hereby indemnify and hold seller harmless from any loss, cost, expense, including reasonable attorneys' fees, and damages of whatever nature, caused by any breach by CHOA as lessor under said long-term leases. In addition, if the conveyance to CHOA occurs prior to December 31, 2019 than the leases expiring on December 31, 2019 shall be treated as continuing leases and may not be cancelled as hereinafter provided.

Seller has not made and does not make any statements, warranties or representations as to the gross or net income of such existing leases or as to the expenses, operation and maintenance costs of Conclub; and the purchaser hereby expressly acknowledges that no such statements, warranties or representations have been made and that it is with this understanding that this contract is made and entered into.

For and in consideration of the conveyance of the Lands to purchaser, the purchaser shall, for the duration of any long-term leases which do not terminate on the date of conveyance, pay over unto the seller an amount equal to the difference between the monthly rent then entitled to be received pursuant to the said long-term leases and the amount of the operating costs then assessed against the members of the CHOA for their pro rata share of operating, etc. expenses of Conclub, (it being understood that the number of continuing lessors shall be considered in the pro rata calculation for the payment of expenses). For the purpose of illustration, assume the pro rata share of each CHOA member and individual lessee for the payment of expenses for the operation (operational rent, if applicable) of the Lands is \$10.00 per month. Assume also that the rent entitled to be received from individual lessees is \$30.00 per month. Therefore, out of each \$30.00 payment made to the purchaser as lessor under the long-term lease, the lessor shall be entitled to retain said \$10.00 and the balance shall be immediately remitted on a monthly basis to seller. Should the pro rata share of expenses on any individual lessee be in excess of his rent, seller shall not be liable therefor to the purchaser. This arrangement shall be reflected in the instrument of conveyance and confirmed by a lien on the lands on a form acceptable to seller at closing, and the purchaser does hereby agree to diligently pursue the collection of said monthly rents under the long term lease against both individual lessees and lessee associations. Purchaser does hereby agree not to cancel any of such leases prior to the expiration thereof. Purchaser shall annually certify to seller the amount of collections and the amount of each lessee's pro rata share of expenses. In the event any prepayment is made then the monies received therefrom shall, except for the portion attributable to operating expenses, if any, be immediately paid over to seller.

19. **Cancelability.** In the event that either through judicial decision the current and/or future long-term recreational leases are declared by final judgment (from which no further appeal may be taken) prior to December 31, 2019 or the date of conveyance whichever is earlier to be totally void or unenforceable as contrary to public policy, or for any other similar reason, then this contract shall, at seller's option, immediately become void ab initio and the deposit returned to the purchaser with no obligation on either the purchaser's or seller's part in the future. If such declaration occurs after conveyance, the responsibility therefor shall solely be purchaser's. Seller shall have no obligation to bring or defend any such proceedings.

20. **Option to Purchase by Law.** Seller and purchaser acknowledge that by virtue of the operation of law in effect at the time of execution of this agreement or which hereafter may become effective certain leases may have the option to purchase said Lands prior to the closing date hereof. In the event such option is exercised, then and in that event, this contract shall immediately be void ab initio and the deposit returned to purchaser with no obligation on either purchaser's or seller's part in the future. If the option is exercised after the conveyance, the funds received shall be pro-rated between buyer and seller in accordance with the provisions of §18.

21. **Option to Purchase by Lease.** Purchaser and seller acknowledge that the lessees under the afore-described long-term leases which expire in 2079, a.d. have an option to purchase the Lands at the expiration of said leases. This agreement is accepted in full recognition of these facts and purchaser does agree to take title subject to said rights and to honor the same, which agreement shall be reflected in the instrument of conveyance.

22. **Encumbrances.** It is understood that seller shall have the unequivocal right, without consent from the purchaser, or restriction, to enter into further leases, encumber, mortgage, hypothecate, or execute any other like security device, of the lands described herein for such time as the seller deems appropriate, subject to the other provisions of this agreement.

23. **Other Mortgages.** In the event that the purchaser executes a mortgage for the purchase of the Lands, or subsequent to the acquisition of title decides to mortgage the premises, the purchaser shall pay all costs and charges incidental thereto.

24. **Insurance.** The purchaser shall keep the premises fully insured subsequent to the date of closing in an amount acceptable to the seller.

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25. **Attorneys' Fees and Costs.** In connection with any litigation arising out of this contract, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorneys' fees.

26. **Recordation of Contract.** This contract or memorandum thereof may, at seller's option, be recorded in the Public Records of any county in Florida. Purchaser or any of its members may not record the same and if the same is done it shall be a breach hereof.

27. **State of Title at Closing.** The purchaser shall take title subject to the following:

- (a) zoning and/or restrictions and prohibitions imposed by governmental authority;
- (b) restriction and matters appearing on the plat and/or to the subdivision;
- (c) public utility easements of record;
- (d) easements, restrictions, reservations and covenants of record existing at the time of closing and not at the time of execution of this agreement provided that they do not materially restrict the use of the premises contrary to the intent of this agreement;
- (e) then existing long-term recreational facilities leases as amended (if applicable);
- (f) any rights accruing to any individual located within the property known as Century Village, Deerfield Beach, Florida as set forth in the Declaration of Condominium creating a condominium regime on any parcel of property within said project and all exhibits attached thereto;
- (g) master management agreement providing for provision of community facilities in accordance with such individual contracts between residents of Century Village, Deerfield Beach, Florida and the Master Management Firm defined therein and Century Village East, Inc.;
- (h) any franchise, concession or other agreements affecting the Lands.

Title shall be conveyed by special warranty deed subject to the matters referred to in this contract and the continuing covenants by the purchaser, all of which shall survive the closing. Acceptance by the purchaser and delivery of the deed by the seller as herein provided shall be deemed full compliance by the seller of the provisions hereof. No liability of seller under this agreement shall survive the delivery of the deed except as herein otherwise expressly provided.

28. **Covenants of Purchaser.** For and in consideration of the execution of this contract, purchaser does covenant, which covenants shall have current effect and shall also be reflected in the deed of conveyance, as follows:

- (a) at the request of seller, the purchaser shall immediately execute, without consideration, such easements for public utility and other purposes over and across the Lands as requested;
- (b) the purchaser shall join in, prior to closing, any mortgage or like security instrument affecting the Lands if the same is deemed necessary by seller;
- (c) upon the closing of this transaction, seller shall assign without recourse its rights as lessor to purchaser in all then existing leases and purchaser shall, by written instrument, assume and agree to perform the terms and covenants of the lessor therein contained and release seller from all liability under such leases and shall indemnify seller from all loss, cost, damages and expenses, including reasonable attorneys' fees on account thereof from the date of conveyance ad infinitum.
- (d) to do no act prior to closing which would affect any then existing leases or to interfere with seller's ownership or operation of the Lands or its performance as lessor under said leases.
- (e) honor any agreements existing at closing for franchises and/or commercial concerns on the Lands.
- (f) not to amend its charter or by-laws in any manner which would affect its obligations under this agreement or which would prejudice the ability to effectuate its agreements herein contained or its performance of continuing obligations after closing.

(g) purchaser will, at the time of closing, execute a declaration of restrictive covenants restricting the use of the Lands to recreational purposes only for a period of ninety-nine (99) years.

29. Assignment. This contract may not be assigned by the purchaser. Seller, if seller conveys Club to any other party, may assign this contract and purchaser shall look solely to the assignee thereof for full performance hereunder.

30. Construction. This agreement shall be construed in accordance with the laws of the State of Florida.

31. Gender. Whenever the context hereof so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender will be deemed to include all genders.

32. Entire Agreement. This agreement contains the entire agreement between the parties and neither this paragraph nor this agreement may be altered, terminated, modified or amended except by written instrument executed by the parties with the same formalities as this instrument is executed.

33. Captions. The headings and subheadings used throughout this agreement are for convenience only and have no significance in the interpretation of the body of this agreement, and they shall be disregarded in construing the provisions of this agreement.

34. Binding Effect. This agreement shall be binding upon the parties hereto, their heirs, successors, personal representatives and assigns forever. Any representation made by any party hereto to the other party hereto shall, unless the representation is specifically limited to such party personally, be binding upon the heirs, successors, assigns and personal representatives of such party making such representation.

35. Breach of Existing Agreements. In the event that this contract is deemed to constitute a breach of any existing recreational facilities lease or any covenant or agreement between the seller as either developer, sponsor, or lessor, under its agreements with prospective purchasers and lessees in that project known as Century Village, Deerfield Beach, Florida, then this contract shall be void ab initio and shall have no force and effect. In the event that for any reason this contract is deemed void prior to the closing, this fact shall be confirmed by seller and purchaser by written instrument which shall be recorded in the public records of Broward County, Florida.

36. Covenant of Cooperation. Purchaser covenants with seller to execute any documents requested by seller for any purpose consistent with seller's ownership of the Lands. In the event purchaser fails to so cooperate or execute any agreements required in this agreement then purchaser does hereby irrevocably appoint Seller as its attorney in fact for the purposes herein expressed.

37. Notice. For any notice required to be given hereunder, notice shall be given by certified mail to the following parties:

Seller: Century Village East, Inc.
c/o Robert Lee Shapiro, Esq.
Levy, Plisco, Perry, Reiter & Shapiro, P.A.
120 North County Road
P.O. Box 1151
Palm Beach, Florida 33480

Purchaser: CHOA (Corp. address)
c/o G. Bergmann, President

38. Brokerage. Seller and purchaser acknowledge that they have dealt with no real estate brokers in connection with this transaction. In the event that this representation shall be proven to be untrue, then and in that event, any party making such untrue representation agrees to and by these presence does indemnify the other party of and from any loss, cost and expense, including reasonable attorneys' fees incurred on account of the falsity of any such representation.

39. Authority. The parties hereto represent that they have the full power, authority and legal right to execute this instrument and observe and perform all of the terms, covenants and provisions of this agreement to be observed and performed.

40. **Action and Proceedings.** The parties hereto agree that venue on any litigation brought concerning this agreement directly or indirectly or concerning the breach or alleged breach hereof shall be in the circuit court having jurisdiction in Broward County, Florida. Both parties hereto waive trial by jury.

41. **Severability.** If any term, covenant or provision of this agreement shall be held to be invalid, illegal or unenforceable in any respect, this agreement shall be construed without such provision, provided, however, that if, in the sole opinion of seller, such severance makes this agreement impractical to perform or materially alters the obligations of the seller hereunder, then the seller may unilaterally cancel this agreement, which fact shall be evidenced by written instrument recorded in the public records of Broward County, Florida.

42. **Conflict of Interest.** It is acknowledged that upon the execution of this contract, the purchaser agrees and understands that the directors of the purchaser are, or may be, also directors, officers or employees of the seller. It is in full recognition of these facts that this contract and a joinder of CHOA are being effected with full knowledge of this potential conflict of interest as disclosed and that such potential conflict is not now nor may it ever be raised to void this agreement it being acknowledged that each prospective member of CHOA shall have the full opportunity to examine this agreement for fairness prior to his joinder in CHOA and his execution of the long-term lease contemporaneously therewith.

43. **Default.** In the event of a default by purchaser, seller shall have the full right of specific performance of this agreement against purchaser and shall have all such rights provided by law on equity.

In the event that seller defaults, purchaser shall have the right of specific performance against seller, it being specifically understood that the seller shall not be liable to the purchaser for money damages in any event.

44. **Duplicate Originals.** This agreement may be executed in any number of duplicate originals and each such duplicate original shall be deemed to constitute but one and the same instrument.

WITNESSES:

CLUB HOMEOWNERS ASSOCIATION, INC.

By: _____
(PURCHASER)

(SEAL)

CENTURY VILLAGE EAST, INC.

By: _____
(SELLER)

(SEAL)

