REAL PROPERTY REGULATIONS

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The Board of Directors of the DIFCA, in the exercise of the powers conferred on them by Article 175 of the Law, hereby make these Regulations.

1. INTRODUCTION

1.1 Application and interpretation

1.1.1 These Regulations may be cited as the "Real Property Regulations".

1.1.2 These Regulations apply to any person to whom the Law applies.

1.1.3 A reference in these Regulations to a law is a reference to that law as amended from time to time.

1.1.4 A reference in these Regulations to an Appendix is a reference to an Appendix in these Regulations, unless the contrary intention appears.

1.1.5 Defined terms are identified throughout these Regulations by the capitalisation of the initial letter of a word or phrase. Where capitalisation of the initial letter is not used, an expression has its natural meaning.

1.1.6 The following defined terms have the meaning given below:

Defined Term	Definition
Directives	the directives made by the Registrar of Real Property under Article 172 of the Law.
Freehold Transfer Fee	the fee payable by the Transferee or Developer in respect of a Transfer in accordance with Appendix 2, including any amount determined by the Registrar or the Court in accordance with paragraphs 5.5, 5.6 and 5.9 of that Appendix.
Freehold Transfer Fee Payment Date	the date that the Freehold Transfer Fee is payable under these Regulations.
Indirect Interest	any direct or indirect legal, equitable or beneficial interest, right, entitlement, or combination thereof, in a company, partnership, non-profit organisation, foundation or trust (inclusive of a Unit Trust), that is the Registered Owner of Real Property, or (in the case of a trust) where its trustee is the Registered Owner of Real Property.
Law	the Real Property Law DIFC Law No. 10 of 2018, and, in respect of any act or transaction which occurred prior to the commencement of the Law, the Real Property Law DIFC Law No. 4 of 2007.
Mortgage Registration Fee	the fee payable by the Mortgagor for the Registration of a Mortgage and is the sum equivalent to zero point twenty-five per cent (0.25%) of the amount of the debt or liability secured by the Mortgage.
Officer	a director, partner, member of a committee of management, chief executive officer, secretary, employee or other similar officer of the person to whom these Regulations apply, or a person purporting to act in such capacity, and an individual who is a controller of the person to whom these Regulations apply.
REIT	a Real Estate Investment Trust which is a company created for the sole purpose of channeling investible funds into operating, owning or financing income producing Real Property.
Transferee	a person that acquires a Real Property Interest or any Indirect Interest (including a Purchaser).
Transferor	a person that disposes of a Real Property Interest or any Indirect Interest.
Ultimate Beneficiary	a natural person who is the holder of an Indirect Interest.

Defined Term	Definition
Unregistered Freehold Transfer Penalty	the penalty payable for failing to pay the Freehold Transfer Fee on the Freehold Transfer Fee Payment Date and is the sum equivalent to five per cent interest (5%) accrued on the Freehold Transfer Fee from the Freehold Transfer Fee Payment Date until the date it is actually paid.

1.1.7 All other defined terms have the same meaning they have under the Law.

1.1.8 The Rules of interpretation in the Law apply to these Regulations.

1.2 **Transfers**

1.2.1 The following Transfers are exempt from the payment of a Freehold Transfer Fee:

(a) a Transfer by a natural person to a legal person where the Indirect Interest held by the natural person in the Transferee is in the same proportion as the ownership stake directly held by the natural person in the Real Property immediately prior to the Transfer;

(b) a Transfer from a legal person to a natural person where the Transferee will directly hold the same ownership stake in the Real Property as to the proportion indirectly held by the natural person by way of an Indirect Interest in the Transferor immediately prior to the Transfer;

(c) a Transfer from one legal person to another legal person where each Ultimate Beneficiary thereof remains the same and each Ultimate Beneficiary continues to hold the same proportion of Indirect Interests for a minimum period of one (1) year subsequent to the Transfer;

(d) a Transfer where the parent entity of the Transferor and Transferee is the same and the Ultimate Beneficiaries thereof remain the same and continue to hold the same proportion of Indirect Interests subsequent to the Transfer for a minimum period of one (1) year;

(e) a Transfer of the Real Property to the financed party as part of an Islamic financing transaction upon repayment of amounts due in respect thereof;

(f) a Transfer giving effect to an inheritance;

(g) a Transfer of Indirect Interests involving the buying and selling of shares of a Registered Owner that is publicly listed on a regulated stock market; and

(h) the Transfer of Indirect Interests involving a Registered Owner that is a REIT domiciled in the DIFC.

1.2.2 The Transfers set out in Regulations 1.2.1 (a)–(f) shall require a Transfer Instrument (in the case of a Transfer of a Real Property Interest) or an Indirect Interest Transfer Notification (in the case of a Transfer of an Indirect Interest) to be lodged with the Registrar in accordance with either paragraph 5.1 or paragraph 5.2 of Appendix 2.

1.2.3 For the purposes of establishing whether or not a Transfer falls within one (1) of the exemptions for the payment of the Freehold Transfer Fee, the Registrar shall have the discretion to request whatever documents the Registrar deems necessary to establish the beneficial interests in Transferors and Transferees.

1.3 **Freehold Transfer Fee**

1.3.1 The Freehold Transfer Fee Payment Date is as follows:

(a) in respect of an Off Plan Sale, within sixty (60) days from the date of entering into of the Off Plan Sales Agreement;

(b) in respect of a Transfer of Indirect Interests, within thirty (30) days from the effective date of the Transfer;

(c) in respect of a Transfer of a Lot that is subject to a Registered Mortgage, within fifty (50) days from the date of entering into of the Sales and Purchase Agreement;

(d) in respect of a Transfer of a Lot that is not subject to a Registered Mortgage, within thirty (30) days from the date of entering into of the Sales and Purchase Agreement; and

(e) in respect of any other Transfer, within thirty (30) days from the execution of the Transfer.

1.3.2 In the case of the Transfer referred to in Regulation 1.3.1(a) above it shall be the duty of the Developer or any subsidiary of the Developer legally entitled to Transfer Off Plan Units to register the Transfer Instrument and pay the Freehold Transfer Fee by the Freehold Transfer Fee Payment Date.

1.3.3 In the case of all other Transfers referred to in Regulations 1.3.1(b)–(e) above it shall be the duty of the Transferee to lodge the Transfer Instrument or Indirect Interest Transfer Notification with the Registrar and pay the Freehold Transfer Fee by the Freehold Transfer Fee Payment Date.

1.4 **Mortgage Registration Fee**

It shall be the duty of the Mortgagee to lodge the Instrument for Registration of a Mortgage with the Registrar and pay the Mortgage Registration Fee.

2. COMMENCEMENT

These Regulations commence on the date of their issuance.

3. AMENDING OR DELETING REGISTRAR'S DIRECTIVES

3.1 The Registrar may from time to time amend, add to, or delete any Directive.

3.2 If the Registrar acts under Regulation 3.1, the Registrar must:

(a) maintain a current version of the Directive; and

(b) make a copy of the current version of the Directive available to any person who requests a copy, on payment of the fee the Registrar considers appropriate.

4. PRESCRIBED FEES

4.1 The Prescribed Fee specified opposite the matters listed in Appendix 1 are payable to the Registrar by the applicant in respect of those matters.

4.2 The Prescribed Fee is payable before the provision of the service to which the Prescribed Fee relates, unless the Registrar agrees otherwise.

4.3 The DIFCA may from time to time vary the Prescribed Fees in Appendix 1, and may add other fees for matters not listed in that Appendix as it considers necessary or appropriate.

5. PENALTIES, POWERS AND REMEDIES

5.1 **A person to whom these Regulations apply who:**

(a) does an act or thing that the person is prohibited from doing by or under an Article of the Law or these Regulations;

(b) does not do an act or thing that the person is required or directed to do under an Article of the Law or these Regulations; or

(c) otherwise contravenes an Article of the Law or these Regulations,

contravenes the Law or these Regulations (as the case may be), commits an offence and is liable to a fine, as set out in Regulation 5.3.

5.2 In Regulation 5.1, the reference to "person" does not include the DIFCA, the Registrar or the President.

5.3 The penalty for failing to Register a Lease in accordance with Article 49(1) of the Law is one hundred dollars (US$ 100). The penalty for any other offence against the Law (including these Regulations) is one thousand dollars (US$ 1,000).

5.4 Where the Registrar considers that a person has committed an offence against the Law or these Regulations, the Registrar may, where such an offence is subject to a fine as set out in Regulation 5.3, impose that fine on the person.

5.5 The Registrar shall, in exercising the Registrar's power under Regulation 5.8, follow the procedures in Regulation 9 of the Operating Regulations 2018, including where applicable, the Decision Making Procedures contained in Appendix 2 of those Regulations which shall apply as if:

(a) references to "the Registrar" and the "Decision Maker" were references to the Registrar; and

(b) references to "Article 38 of the Law" (Operating Law, DIFC Law No. 7 of 2018) were references to Regulation 5.4.

5.6 Where the Registrar considers it necessary or desirable in the performance of the Registrar's powers and functions under the Law or these Regulations, the Registrar may require any person who is the holder or Transferee of a Real Property Interest or Indirect Interest, including any Officer or agent of such person, by written notice, to:

(a) give, or procure the giving of, such specified information; or

(b) produce, or procure the production of, such specified Documents,

to the Registrar and such person shall comply with the Registrar's request. A person who fails to comply with such a request or requirement commits an offence and is liable to a fine, as set out in Regulation 5.3.

5.7 If the Registrar considers that a person has failed to comply with an Order under Article 174 of the Law, a request under Regulation 1.2.3 or a requirement under Regulation 5.6, the Registrar may apply to the Court for one (1) or more of the following orders:

(a) an order directing the person to comply with the Order, request, requirement or with any provision of the Law or these Regulations relevant to the issue of the Order;

(b) an order directing the person to pay any costs incurred by the Registrar or other person relating to:

(i) the issue of the Order, request or requirement by the Registrar; or

(ii) the contravention of the Law or these Regulations relevant to the issue of the Order; or

(c) any other order that the Court considers appropriate.

5.8 Nothing in Regulation 5.7 prevents the Registrar from imposing a fine under Regulation 5.4 in respect of a failure mentioned in Article 174 of the Law, or any powers that the Registrar, the Court, or other person may have under any other provision of the Law or these Regulations.

5.9 In the event that a party fails to pay the Freehold Transfer Fee by the Freehold Transfer Fee Payment Date, that party is liable to pay the Freehold Transfer Fee under these Regulations, the Unregistered Freehold Transfer Penalty and the fine referred to in Regulation 5.3.

APPENDIX 1 — PRESCRIBED FEES

Activity	FEES ($USD)
Registration of a Transfer Instrument	$100
Request to alter the Real Property Register	$100
Registration of Caveat	$100
Request for Official Search Certificate	$200
Request for copy of an Instrument	$200
Request for issuing of each title deed on an initial application for individual Lots in a Strata Development	$100 per Lot
Application for replacement Title Deed	$273
Application for registration of a Transfer Instrument which falls within Regulations 1.2.1(a), (b), (c), (d), (e) and (f)	$273
Application for registration of a non-Islamic Mortgage	$100
Application for registration of a Mortgage involving Islamic financing provisions	$100
Registration of Lease with a term exceeding six (6) months and less than five (5) years	$100
Registration of Lease with a term of five (5) years or more and less than ten (10) years	$200
Registration of Lease with a term of ten (10) years or more	$300
Registration of any other Instrument	$100

APPENDIX 2 — TRANSFERS AND FREEHOLD TRANSFER FEES

1. **Purpose of this Appendix**

1.1 The purpose of this Appendix 2 is to impose an obligation on the Transferee or Developer (as appropriate) to Register a Transfer and to pay a Freehold Transfer Fee in relation to such Transfer.

1.2 The purpose of the Freehold Transfer Fee is to help defray the cost of guaranteeing title to Real Property.

2. **Freehold Transfer Fees**

2.1 Subject to this Appendix 2, a Freehold Transfer Fee is payable in relation to each Transfer unless exempted in these Regulations.

2.2 A Freehold Transfer Fee is payable in relation to a Transfer regardless of whether the transaction is in writing, or is effected by the conduct or act of the parties, by order of court or other authority, under statutory authority, by operation of law, or otherwise.

2.3 A Freehold Transfer Fee payable in respect of the acquisition of an Indirect Interest shall be calculated with reference to the proportion of the Indirect Interest acquired by an Ultimate Beneficiary in:

(a) a Registered Owner; or

(b) a trust on whose behalf a Registered Owner holds Real Property as trustee.

3. **Consideration as Basis of Freehold Transfer Fee**

3.1 The Freehold Transfer Fee on the direct Transfer of a Real Property Interest is based on the amount of the consideration paid or payable for the Real Property Interest, or the market value of the unencumbered Real Property Interest as determined by the Registrar, whichever is the greater.

3.2 The Freehold Transfer Fee on the indirect Transfer of a Real Property Interest is based on the amount of the consideration paid or payable for the Indirect Interest, or the amount of the market value of the proportional share of the unencumbered Real Property Interest to which the Indirect Interest relates, whichever is the greater.

3.3 Where the amount of the consideration is contingent on the occurrence of an event that may or may not occur, the amount of the consideration is to be calculated as if the contingency were satisfied.

3.4 Where the amount of the consideration cannot be ascertained, it is to be determined on a reasonable estimate of the market value of the Real Property Interest by the Registrar.

4. **Calculating the Freehold Transfer Fee**

The Freehold Transfer Fee is calculated at the rate of five percent (5%) of the amount of the consideration or market value referred to in paragraphs 3.1 or 3.2 of this Appendix 2.

5. **Duty to Notify Registrar of Transfer, And to Pay Freehold Transfer Fee**

5.1 The Transfer of a Real Property Interest must be Registered by the Registrar upon lodgment of a Transfer Instrument with the Registrar.

5.2 The Transfer of an Indirect Interest must be Registered by the Registrar upon lodgement of an Indirect Interest Transfer Notification with the Registrar.

5.3 When lodging the Transfer Instrument or Indirect Interest Transfer Notification the Transferee or Developer (as appropriate) must state in the Transfer Instrument or Indirect Interest Transfer Notification the Transferee's or Developer's assessment (a "self-assessment") of the Freehold Transfer Fee that, on the basis of the information contained in the Transfer Instrument or Indirect Interest Transfer Notification is payable in respect of the Transfer.

5.4 The Transfer Instrument or Indirect Interest Transfer Notification must be accompanied by payment of the Freehold Transfer Fee so assessed.

5.5 If the Registrar considers that the amount of the self-assessment is less than the amount that is properly payable under this Appendix 2, the Registrar may determine the additional amount that the Registrar considers payable, and the Transferee or Developer (as appropriate) must pay that additional amount within thirty (30) days of the Registrar notifying that party of the additional amount.

5.6 If a person liable to lodge a Transfer Instrument or Indirect Interest Transfer Notification fails to lodge it within the prescribed time period of the Transfer, the Registrar may at any time thereafter make an assessment of the amount of the Freehold Transfer Fee, which in the opinion of the Registrar ought to have been self-assessed by the person and notify the person of that amount and the Freehold Transfer Fee Payment Date applicable thereto and the person must pay that amount within thirty (30) days of the Registrar notifying that person of the amount.

5.7 Notwithstanding paragraphs 5.5 and 5.6 of this Appendix 2, for the purposes of calculating the Unregistered Freehold Transfer Penalty, any amount notified under either paragraphs 5.5 or 5.6 of this Appendix 2, shall be deemed to have become payable on the Freehold Transfer Fee Payment Date that would have been applicable if:

(a) the person notified had complied with the requirements of Regulation 1.3.1; and

(b) the person had self-assessed on the date of such deemed compliance in accordance with paragraph 3 of this Appendix 2.

5.8 The party liable to pay an amount notified under either of paragraph 5.5 or 5.6 of this Appendix 2 may appeal to the Court against the notification of that amount, but cannot refuse to pay the amount on the ground that an appeal has been lodged.

5.9 On the appeal:

(a) the appellant shall have the burden of showing that such amount should not have been notified by the Registrar and the amount (if any) which should have been notified in its place; and

(b) the Court may make any order it considers appropriate.

5.10 References in paragraphs 5.6 and 5.7 of this Appendix 2 to requirements under these Regulations apply with all necessary adaptations to the corresponding requirements under previous versions of these Regulations.

5.11 For the avoidance of doubt, each of the determination of an amount under paragraph 5.5 of this Appendix 2, the making of an assessment under paragraph 5.6 of this Appendix 2 or the calculation of the amount of an Unregistered Freehold Transfer Penalty under paragraph 5.7 of this Appendix 2 is not the imposition of a fine for the purposes of Regulation 5.4.

6. **Proceedings to Recover Freehold Transfer Fee**

The Registrar may bring proceedings in the Court to recover from a Transferee or Developer (as appropriate) the whole or part of the Freehold Transfer Fee, the Unregistered Freehold Transfer Penalty and any other moneys due and payable by a party under these Regulations.

7. **Cancelled Freehold Transfers**

No Freehold Transfer Fee is refundable under any circumstance.

8. **Power to Inspect**

8.1 The Registrar may authorise a person to inspect, make copies of, or take possession of, any property, records or files for the purpose of ascertaining:

(a) whether a Transfer has occurred;

(b) the market value of the Real Property Interest in respect of which a Freehold Transfer Fee is payable; and

(c) any other matter that the Registrar considers relevant to the payment of a Freehold Transfer Fee.

8.2 Any person having custody or possession of the Real Property, records or files must permit the person so authorised to inspect them, copy them or take possession of them.

8.3 Failure to comply with the obligation under paragraph 8.2 of this Appendix 2 is punishable in the same way as an offence against the Law.

9. **Developers Pre-Registration Records**

9.1 A Developer who maintains a register of Purchasers of Off Plan Lots (and each subsequent Purchaser) is entitled to charge each Purchaser (and each subsequent Purchaser) an administration fee to cover the Developer's reasonable costs of maintaining the register, not exceeding in any one case five thousand dirhams (AED 5,000).

9.2 A Developer must make the register available for inspection by:

(a) any former, current or prospective Purchaser, sub-purchaser or assignee; and

(b) any Relevant Authority.