

**LAND SALE AND PURCHASE CONTRACT**

THIS AGREEMENT, is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between:

1. **POINTE ESPRIT DEVELOPMENT NV**, a corporation, organized and existing under the laws of the Netherlands Antilles, having its local office address at Sapphire Road #6, Pelican Key, Cole Bay, St. Maarten, Netherlands Antilles (cell: 599-557-2100; fax: 440-325-5259; email: Landsales@pointeesprit.com) and represented on St. Maarten by its Managing Director - hereinafter to be referred to as the "*Seller*";

-and-

2. \_\_\_\_\_ an individual residing at \_\_\_\_\_  
\_\_\_\_\_, ( tel: \_\_\_\_\_ fax: \_\_\_\_\_  
Email: \_\_\_\_\_ ), - hereinafter to be referred to as the "*Purchaser*".

The *Seller* and the *Purchaser* together shall hereinafter be jointly referred to as the "*parties*".

WITNESSETH

*Seller* is the contract owner and has the right to sell to the *Purchaser*, who shall buy from *Seller*: a parcel of land located in the Little Bay District of St. Maarten and measuring approximately \_\_\_\_\_ (X,XXX +/-10%) square meters shown as Lot # \_\_\_\_\_ on the subdivision plan here attached as **Exhibit A**, which is a portion of the lands under contract to the *Seller* transcribed in Register C, volume 90, number 36 at the Land Registry on St. Maarten and which are hereinafter referred to as the "*property*".

This sale and purchase is effected for a price of approximately (+/-10%) US \_\_\_\_\_ (**& 00/100 US Dollars**), the *exact purchase price* being the multiplication of the total purchase area (as determined by the Certificate of Admeasurement) by the unit price of US \$ \_\_\_\_\_ **per square meter**; the payment of which will take place as follows:

A.) A **NON-REFUNDABLE** advanced payment of US \_\_\_\_\_ (**& 00/100 US Dollars**) hereinafter referred to as the "*deposit*", to be paid by bank check, certified check or other instrument acceptable to the *Seller*, drawn on a local bank and made payable to the *Seller* upon signing of this agreement, receipt of which is hereby acknowledged, subject to collection.

B.) The balance, being equal to the *exact purchase price less the deposit*, to be paid to the escrow account of the civil law notary specified herein for benefit of the *Seller* by bank or certified check drawn on a US bank or by other bank or instrument acceptable to the *Seller* in cleared offshore funds, prior to the day the notarial deed of conveyance will be executed and delivered ("*closing*").

This sale and purchase is furthermore subject to the conditions, restrictions, covenants and stipulations set forth in the following articles:

1. The notarial deed of conveyance, which shall be prepared in accordance with this *Land Sale and Purchase Contract* shall be executed before civil law notary Meridith Boekhoudt or her deputy at Osprey Drive #1, Unit 2B, Pointe Blanche, Sint Maarten, N.A..
2. Since the Certificate of Admeasurement is has not yet been prepared by the Cadastre of St. Maarten the *closing* date shall be scheduled for \_\_\_\_\_ (XX) calendar days after signing of this agreement to allow time for preparation of same. A Certificate of Admeasurement will be requested by the *Seller* who shall use his diligent best efforts to have this Certificate of Admeasurement prepared by the Cadastre of St. Maarten as soon as possible but no later than the *closing* date stipulated here above. In the event that the Certificate of Admeasurement can not be obtained from the Cadastre of St. Maarten within the allotted time, for reasons beyond the control of the *parties*, this agreement shall be deemed terminated without penalty to either the *Seller* or the *Purchaser* because of force majeure, unless another *closing* date has been agreed to in writing by the *parties*. Failure to close in accordance within the timeframe set forth herein shall constitute default under this agreement. Time is of the essence.
3. The *property* will be transferred to the *Purchaser* in its present condition, free from any mortgages, liens and attachments, whereas, in so far as the law permits all indemnification by the *Seller*, except against eviction, is precluded.
4. All risks of the *property* are for the account of the *Purchaser* as from the date of the deed of conveyance as referred to in article 1 or as from the moment the *Purchaser* has acquired the actual possession of the *property* pursuant to article 5.
5. Unless otherwise agreed by the parties the *Purchaser* may accept the *property* in possession immediately upon payment of the full purchase price and all transaction costs and the execution of the deed of conveyance.
6. All income and expenses related the *property* are for the account of the *Purchaser* as from the date of *closing*.
7. All transaction costs, including survey costs, Certificate of Admeasurement costs, transfer taxes, notarial fees, tariffs, home-owner foundation dues and all other transaction costs (except for brokerage commissions) in connection with this sale and purchase and transfer in ownership are for the account of the *Purchaser* and will be paid by the *Purchaser* in full by bank check(s) or by certified check(s) or by other instrument acceptable to the Seller at *closing*. Failure of the *Purchaser* to pay the full amount of agreed upon transaction costs at *closing* shall constitute default under this agreement.

8. The *Seller* and the *Purchaser* shall under no circumstances affect (or seek to affect) any lien, any attachment, any mortgage or any other encumbrance of any description against the *Property* or against any other real estate whatsoever under this agreement, prior to *closing*. Violation of this stipulation shall constitute default under this agreement.

9. The *Purchaser* may not transfer his rights or his obligations under this "Land Sale and Purchase Contract" to another party prior to *closing*, without the written consent of the *Seller*. The *Purchaser* agrees that he shall not apply for or nor obtain a building permit, and shall not undertake any construction activities of any kind on the *property* prior to *closing*.

10. The *Purchaser* agrees to purchase and take title to the sold *property* subject to all of the residential deed restrictions and conditions imposed by the *Seller* and set forth below.

The *property* is near prime residential lots and the *Seller's* ocean front site at Little Bay. The *Purchaser* is fully aware of, and agrees with, the desire of the *Seller* to preserve the aesthetic appeal of the area. Accordingly, this "Land Sale and Purchase Contract" and any subsequent transfer of title of the *property* is subject to the following restrictions with respect to the construction on and use of the *property* by the *Purchaser* or any subsequent owner:

a.) the *property* transferred herewith may **not** be further subdivided;

b.) the *property* may **only** be used for the construction and operation of one (1) single-family dwelling house by this *Purchaser* or any subsequent owner of the *property*.

c.) the *property* shall therefore **not** be used for any of the following: industrial activity of any kind, resort, hotel, motel, apartments, condominiums, commercial use, offices, restaurant, storage, warehousing, construction yard or any other activity, except as listed in (a.).

d.) no cattle, no livestock, no poultry, no domestic animals of any kind, with the exception of two (2) dogs or two (2) cats, shall be kept or maintained on the *property*;

e.) no building, structure or swimming pool on the *property* shall remain or be built less than eight (8) meters from the *property* boundary lines, without written consent of the *Seller*.

f.) no building shall be erected on the *property* except one of a permanent nature; therefore no house trailer(s), no office trailer(s) and no storage trailer(s) will be permitted on the *property*, except while the building is under construction;

g.) no refuse & no litter (except when stored in proper containers), no disabled vehicles and no construction equipment of any kind shall be stored or permitted to remain on the *property*, except while a building is under construction. In unforeseen circumstances the above mentioned offending items must be removed within a reasonable period of time as determined by the *Seller*.

h.) the *Purchaser* shall retain a licensed professional architect to prepare plans and specifications for any building or structure to be constructed on the *property*; complete conceptual design plans shall be submitted by the *Purchaser* to the *Seller* for review and approval by *Seller*; plans shall be at a scale of not less than one to fifty (1:50); the *Seller* shall conduct its review and return its comments to the *Purchaser* within twenty (20) business days after receipt of the completed design plans; the *Purchaser* will make certain that design plans and specifications comply with the architectural and technical regulations and requirements imposed by the St. Maarten Building and Housing Department of Public Works; the architectural *design standards* will be equal or superior to the those of the currently existing homes located nearby the *property*; *design standards* and exterior surfacing materials to be used are subject to *Seller's* written approval, which approval shall not be unreasonably withheld. In the unlikely event that the *Seller* and the

*Purchaser* cannot agree upon *design standards* or exterior surfacing materials they will select a mutually agreeable architect to arbitrate the unresolved design issue(s) and to make final approval(s), which will be binding on both *parties*.

i.) any building, wall, fence, structure or sign of any kind shall be placed or constructed on the *property* only in strict accordance with *Seller* approved plans and specifications, no alteration (differing from approved plans) of any building, wall, fence, sign or other structure or improvement shall be made without such written acceptance and approval;

j.) any building shall be restricted to two (2) floor levels with the top floor level being not more than 50% as large as the floor beneath and a total combined building interior floor area of the structure shall not exceed 150% of the allowable building footprint, which footprint is calculated as XX% of the lot size indicated on the Cadastral Certificate of Admeasurement.; and further restricted to a maximum building height of 3.0 meters per floor.

k) the *Purchaser* will make adequate provisions for paved automobile parking on the *property* including at least three (3) automobile parking stalls, but in any event the *Purchaser* will provide enough parking spaces so that residents will not park in roadways adjacent to the *property*; an adequate on-*property* septic system be constructed and maintained on the *property* by the *Purchaser*; all on-*property* utilities shall be underground, no overhead utilities shall be permitted;

l.) all exterior construction activities on the *property* commencing at ground breaking shall be completed within a period of 15 months; a reasonable extension of time may be granted in writing by the *Seller* if unforeseen circumstances prevent completion of the building within this timeframe.

m.) the *Purchaser*, at his sole expense, shall bring all utilities, including potable water electric, telephone and cable television service, to the *property* boundary;

n.) the *parties* shall grant each other mutual easements to facilitate the orderly flow of traffic, automobile parking, and conveyance of underground utilities including electric, telephone, cable television, potable water, storm drainage and future sewer services (if any). The specific details of all such easements will be negotiated between *parties* and be mutually agreed to in writing prior to installation of any utilities under this agreement.

o.) the restrictions, conditions, covenants and stipulations set forth herein as well as the terms set forth in the "Pointe Esprit Design Guidelines & Development Standards" and the Island Resolution Entailing General Measures AB: 1996 NR. 38, receipt of all of which is hereby acknowledged., shall apply to the entire *property*.

p.) the *Purchaser* or any subsequent owner will be required to continuously maintain a full participation in good standing in the Pointe Esprit Home Owners Foundation (hereafter, "PEHOF") as a condition of the transfer of title. The foundation will assess participant dues for the purpose of maintaining roads, common areas, landscaping, security and other facilities and operations as it may deem appropriate. PEHOF will be governed under a one-lot/one-vote system and will ultimately be controlled by the participants. Initial participant dues will be assessed at US\$960.00 per year. Failure to pay PEHOF participant dues will result in a claim against title on the *property*.

q. in the event that the *Purchaser* fails to strictly adhere to the residential deed restrictions listed above the *Seller* shall have the absolute right (1) file a claim for damages for instant payment in the amount of \$100,000.00 (One-hundred thousand US dollars) against the *Purchaser* or any future owner, and (2) immediately attached the *property* by filing a lien against title for the amount listed here above in (1), and (3) to remove any and all offending structures at the cost of the *Purchaser* upon thirty days written notice; and an additional fine of One Thousand United States Dollars (US\$1,000.--) for each day, or part of a day, of non-compliance, each of which amounts shall become due at instant notice, without prejudice to the right of Seller or the PEHOF to have any violation of said restrictions and conditions removed for the account of Purchaser; the Purchaser or the person(s) acquiring the property in ownership or in enjoyment shall remain in default by the sole fact of non-compliance without any proof of default The *Seller* shall not be required to prove violation in any court of law, but instead by virtue of the simple existence of offending structure or activity alone, shall have the absolute right to immediately initiate the actions listed herein.

11. In the event of the *Seller's* non-compliance or improper compliance with the terms of this agreement, other than because of force majeure, the *Seller* will be liable towards the *Purchaser* for all damages, including all expenses and interest as a result of such noncompliance or improper compliance up to a limit of ten (10) percent of the *purchase price* agreed upon herein, except as set forth in article (16).

12. In the event of the *Purchaser's* noncompliance, improper compliance or default under the terms of this agreement, the *Purchaser* will be liable to the *Seller* for damages equal to ten (10) percent of the *purchase price* agreed upon herein. In the event that the *Purchaser* is unwilling, unable or for any reason fails to perform on the scheduled *closing* date strict accordance with article (2) of this agreement, then the Seller shall have the absolute right to retain the *deposit* described in section (A) in full without the approval of any court or other authority. Time is off the essence.

13. As from the moment of execution of the deed of conveyance the *parties* cannot claim cancellation or annulment of this agreement

14. The *parties*, in pursuance of this agreement, choose domicile at the aforementioned civil law notary office until *closing*.

15. This agreement will be executed in triplicate with one (1) original copy of this for each of the *parties* and the remaining one (1) original copy to be deposited and kept on file with the aforementioned civil law notary office.

16. In the event that either of the *parties* bring any legal action against the other; all legal fees and expenses for both parties shall be paid by and at the sole cost of the unsuccessful litigant. Further, if the *Purchaser* brings any legal action against the *Seller* and is unsuccessful in court then the *Seller* shall have the right to seek unlimited damages and interest from *the Purchaser*.

17. This *Land Purchase and Sale Contract* constitutes the entire agreement between the *parties* and will be governed by the laws of the Netherlands Antilles.

Signed at \_\_\_\_\_, St. Maarten by:

**POINTE ESPRIT DEVELOPMENT NV (Seller)**

BY: \_\_\_\_\_  
Date

\_\_\_\_\_  
(Purchaser)

BY: \_\_\_\_\_  
Date

\_\_\_\_\_  
(Witness)

BY: \_\_\_\_\_  
Date