

**MEMORANDUM OF AGREEMENT**

**BETWEEN**

**THE GOVERNMENT OF ANTIGUA AND BARBUDA**

**AND**

**MILLENNIA-MONTAIGNE DEVELOPMENTS (ANTIGUA) LIMITED**

Handwritten initials and a signature, possibly including the letters 'M' and 'S'.

## MEMORANDUM OF AGREEMENT

**THIS MEMORANDUM OF AGREEMENT** (the "MOA") is made this <sup>26<sup>TH</sup></sup> day of July, 2011, by and between **THE GOVERNMENT OF ANTIGUA AND BARBUDA** (the "Government"), with its address in St. John's, Antigua, W.I., and **MILLENNIA-MONTAIGNE DEVELOPMENTS (ANTIGUA) LIMITED** of 25 Atholl Street, Douglas, Isle-of-Man, British Isles, re-registered as an External Company under the Companies Act of Antigua and Barbuda with registered offices situated at Lower factory Road, St. John's, Antigua and Barbuda.

## PREAMBLE

**WHEREAS**, it is the policy of the Government to promote, encourage and foster developments of high standard in order to project the image of Antigua and Barbuda as a quality resort destination;

**WHEREAS**, Millennia-Montaigne Developments (Antigua) Limited ("the Company") has purchased a total of not less than 549 acres of land in Antigua registered as follows: **Registration Section: Five Islands; Block: 54 1489A; Parcel 410**, measuring not less than **304 acres**; and **Registration Section: Jennings: Block: 53 1488A: Parcel 1**, measuring not less than **245 acres**, together known as the Seaforth Estates ("Seaforth Estates"), and intends to develop Seaforth Estates as a world-class, high quality resort and residences as described below ("the Project") involving an investment from external sources in the range of US\$350-500 million;

**WHEREAS**, the Company may also plan to acquire directly or indirectly additional contiguous acreage for the expansion of the Project;

**WHEREAS**, the Parties desire to enter into this MOA to set out their agreements and understandings with respect to the development of the Project (as hereinafter defined in Part I, clause 5 hereof);

**WHEREAS**, this MOA replaces, nullifies and supersedes all previous Memoranda of Agreement relating to Seaforth Estates and the Project.

**NOW, THEREFORE**, the Parties hereby agree as follows:

## PART I

## GENERAL

1. The Parties recognize and agree that this MOA is entered into in good faith and that the success of the Project is dependent upon the continued cooperation of the Parties.
2. The Parties agree to work in good faith toward resolving in a mutually beneficial manner, on the request of the Company or the Government, matters arising during the term of this MOA, and during the course of construction of the Project that were not addressed in this MOA or any other Project agreements entered into pursuant hereto or in connection with the Project. Each Party agrees to designate one official who shall serve as that Party's liaison to facilitate the goals set forth in this MOA, and with whom the Company or the Government, may consult on an ongoing basis for the duration of the life of the Project to address and resolve any issues that may arise.

3. The Company agrees to keep the Government fully informed on the progress of the Project and shall cooperate with the Government on all reasonable requests for information concerning the Project.
4. The Government agrees to keep the Company fully informed on the progress of all undertakings of the Government hereunder; and shall cooperate with the Company on all reasonable requests for information concerning the Project.
5. Under this MOA, the Government will specifically grant permission for the development and construction of a high quality tourism project that will include a five star Hotel, Health Spa and Sports Rehabilitation Clinic, Villas, Condominiums and private residences and Marina, together with a Casino and Championship Golf Course and related commercial development, all of which comprise the Project. The Government will also grant Seaforth Estates Port-of-Entry (POE) status provided that the Company pays all costs associated therewith.
6. In order to facilitate the Company's purchase of Seaforth Estates the Government agrees to waive the requirement under the Registered Land Act as amended for a survey of the property and the issue of a Surveyor's Certificate and will instruct the Land Registry to register the Transfer of Seaforth Estates to the Company without requiring a survey and a Surveyor's Certificate.

## PART II

### AGREEMENTS REGARDING THE PROJECT

#### 1. The Project

- (a) Subject to the terms and conditions hereof, the Company agrees to construct and develop (i) a world class championship 18 hole golf course, club house and related facilities (the "Golf Course"); (ii) a five star luxury hotel, with a minimum of one hundred (100) rooms with a planned expansion of up to a maximum of three hundred (300) rooms, some of which may be developed as condominium units or may be otherwise fractionalized; (iii) a minimum of fifty (50) and a maximum of three hundred (300) fractional ownerships and a similar number of condominium owned "Club Residences"; (iv) a minimum of fifty (50) and a maximum of three hundred and fifty (350) residential estate lots; (v) a Health Spa facility and Sports Rehabilitation Facility; (vi) a Marina; (vii) a Casino; (viii) related commercial development (collectively, the "Project") at a total anticipated cost of between US\$350 million to US\$500 million. The number of hotel rooms and the composition and mix of the residential component of the Project as well as the type and timing of a Casino are subject to further analysis and will be dependent upon economic viability and market conditions, save that but subject as aforesaid the Company undertakes to construct the Hotel, Golf Course and Health Spa within 24 months of the later of the date of completion of the purchase of Seaforth Estates by the Company and the granting of all requisite consents, approvals, permits and permissions..
- (b) The Company and the Government shall cooperate in the grant of all requisite consents, approvals, permits and permissions for the Project..

- (c) The Company shall engage an internationally recognized luxury hotel operator for the operation of the accommodations and facilities of the Project, subject to the approval of Government which approval shall not be unreasonably withheld in the case of a first class reputable operator. It is also agreed that the following operators shall be pre-approved: St. Regis, Mandarin Oriental, Orient Express, Peninsula, Amanresorts, Armani Hotels & Resorts, Jumeirah Hotels, Ferragamo Hotels, Golden Door Hotels and Resorts, Rosewood, Raffles Hotels & Resorts, Fairmont, Four Seasons, Intercontinental, Sofitel, Barcello, Bulgari, Hilton, Waldorf Astoria and Ritz Carlton.
- (d) The Company agrees as follows: (i) When fractional residences are available for rental, the rental arrangements will be part of the operation; (ii) The owners of fractional and/or condominium residences will be entitled to rent their properties as part of the hotel operation; (iii) The Company and Government shall encourage the owners of residences to lease their residences when not occupied by their respective owners; and (iv) Single owner residences may be built in such places within the Project as have been designated by the Company for such purpose.
- (e) Since large quantities of water are essential for irrigation of a championship 18 hole golf course, and since this quantity of water is not naturally available and cannot be adequately supplied by the existing water supply system, the Government agrees to grant permission to the Company to construct a reservoir of the size and type that would harness a sufficient supply of water to be used both for the needs of the Project, and for the agricultural and other needs of the community. The reservoir will be constructed on Government owned lands in the area of the Chinese Bridge at Bolans, agreed by the Parties, acting in good faith and in partnership, shall agree upon the acreage of the said land, and the arrangements pertaining thereto. The reservoir shall be constructed at the sole expense of the Company. The Company and Government will work together to ensure that all engineering and environmental concerns are satisfied in the location and construction of the reservoir.
- (f) Since the overall Project will require water, both for the Golf Course and for the operation of the Resort that will not be available through natural means or through the available Government supply, the Government agrees that the Project shall have the right to operate desalination equipment and to produce potable and irrigation water on Project land, and further, that water drilling rights over Project lands will be granted to the Project, to facilitate an adequate supply of water throughout the Resort. The Project will recycle any water viably capable of being recycled.

### PART III

#### DEVELOPER'S COVENANTS

The Company hereby covenants as follows:

1. To develop the Project in accordance with the provisions of this MOA.
2. During the development and operation of the Project, to observe and maintain all environmental codes and standards as may be prescribed by the laws of Antigua and Barbuda and, in particular, to undertake and be guided by an environmental impact assessment of the Project, and to produce and submit on the Project such reports as may lawfully be required by

*[Handwritten signature]*

and as are satisfactory to any Government Agency or Department with responsibility for environmental affairs in Antigua and Barbuda.

3. To undertake on completion of the Project to employ or cause to be employed in various positions and capacities a minimum of 500 persons locally.
4. To undertake in conjunction with the resort operator to institute and continue during the operation of the Project, training programmes for citizens and residents of Antigua and Barbuda that are designed to provide, develop and expand the skills base of all employees of the Project so as to facilitate their advancement as employees.
5. To undertake in conjunction with the resort operator, an understudy program that will ensure that Antiguan and Barbudans will receive the necessary training and experience to ultimately assume, insofar as reasonably possible, any role, job or function in the Project which may initially be undertaken by a non-citizen of Antigua and Barbuda.
6. To establish and maintain the Project as a Five Star luxury resort.
7. To use its best efforts to market and promote Antigua and Barbuda regionally and internationally as a marquis tourism destination.
8. To comply with all applicable policies, laws and regulations subject to any concessions and incentives and/or waivers agreed to in this MOA.
9. Subject to and apart from what may be waived and/or modified in accordance with this MOA or otherwise by mutual decision of the Government and the Company, the Company, shall pay all taxes, licenses, fees, charges or other levies in accordance with all applicable laws and regulations.
10. To support educational, health, social, cultural, sports, environmental or community development projects as part of its commitment to being a responsible corporate citizen.
11. Subject to the confidentiality provisions of this MOA, to comply with all lawful requests for information that may reasonably be required from any Government Department or statutory body.
12. To utilize local labour and contractors on the Project where the necessary expertise is available locally at the required times, and further to use equipment available in Antigua and Barbuda where such equipment has the capacity to do the required work, is available on a timely basis and is competitively-priced.
13. To obtain materials required for the construction and operation of the Project from business entities in Antigua and Barbuda in so far as available on a timely basis and where the quality of the materials are of an acceptable standard for the proposed use and where the price is competitive, provided always that at least 25% of the materials so purchased shall be obtained from local and small business in Antigua and Barbuda.
14. Subject to the provisions of clause 1 (a) of Part II to complete the first phase of the Project, comprising the construction of the Golf Course, Hotel and Health Spa facility, within 24



months from the later of the date of completion of the purchase of Seaforth Estates, and the granting of all requisite governmental consents, approvals, permits and permissions in default of which the Incentives and Concessions granted hereunder may be rescinded at the sole discretion of the Government, acting in good faith, and excepting any default or delays in completion that may be caused by acts of God, *force majeure*, industrial action, or any other cause not within the reasonable control of the Company.


#### PART IV

#### GOVERNMENT INCENTIVES, CONCESSIONS AND UNDERTAKINGS

In recognition of the long-term benefit of the Project to Antigua and Barbuda, Government hereby agrees to the following Incentives and Concessions:

1. Waiver of any fees, stamp duties or taxes related to the importation of foreign exchange into Antigua and Barbuda in connection with the Project.
2. Waiver of land transfer taxes and Non-Citizen Land Holding Licence fees on the initial purchase by the Company of all land to be used for the Project and a waiver of transfer taxes on the initial transfer of shares to the Project's four Principals, namely David Monks, Lukas Nakos, Eric Levine and Bruce Baxter (together "the Principals") in connection with the Project, if, the Company acquires an entity rather than the real estate.
3. Exemption of stamp duty on any mortgages or instruments of charge to be used as security for the repayment of any amounts borrowed from time to time by the Company for the purpose of acquiring land or shares and generally in connection with the Project.
4. Commencing from the date hereof through the construction phases of the Project and subject to the provisions of Part III clauses 12 and 13 and the exclusions set forth in these clauses, waiver of all taxes, stamp duties and customs import duties and related fees, on all imported construction materials, tools and equipment, furniture, fixtures and equipment (FF&E) together with the interior and exterior decorative items necessary to outfit the hotel(s) and for any planned subsequent expansion of same. The foregoing exemption also applies to all taxes and duties related to the importation of golf carts, vehicles and/or boats that are related to the Project. Such waivers shall also, on a one time basis, extend to the personal effects of the Principals, including vehicles and/or boats for the aforementioned four Principals. A list of the said items to be exempt shall be subject to approval from the Ministries of Public Works and Tourism which approval shall not be unreasonably refused or delayed. The waivers and exemptions herein do not include the Antigua and Barbuda Sales Tax, environmental levy or customs service tax, which shall be payable on the items mentioned herein unless any of such items qualify at the relevant times for a reduction, waiver or exemption from such taxes and levy.
5. To use its best endeavours to expedite approval of work permits required for all foreign nationals working on the development and construction of the Project where the Government is satisfied that the requisite skills are not available locally.
6. Permission for the Project to operate foreign currency accounts with a waiver of any foreign exchange levy in respect of the transactions related thereto.

7. To use its best endeavours to expedite approval of all construction and development plans that satisfy legal requirements, and to expedite the issue of all licenses and permits required for the construction of the Project, together with the identification of an official in the relevant Government agency to act as liaison for the Project.
8. The expeditious grant of Non-Citizens Land Holding License to the Company to own and develop Seaforth Estates.
9. Subject to conforming with the relevant laws of Antigua and Barbuda the grant of Permanent Residence status to the Principals together with the right-to-work without requiring a work permit and with approval to maintain foreign currency bank accounts in Antigua and Barbuda for each Principal.
10. The granting of a Non-Citizens Land Holding Licence to each of the Principals to own land in Antigua and Barbuda purchased directly in connection with the Project, together with a waiver of the Non-Citizen Land Holding Licence fees in respect of each Principal, such waiver to be limited to the purchase of one property for each Principal for the purpose of a private residence. All other purchases of project land or property by foreign nationals will be subject to the payment of all relevant taxes.
11. Exemption from withholding tax in respect of the remittance of interest accruing on the debt financing of the Project.
12. Notwithstanding any other investment incentive for which the Project may qualify, exemption from Corporate Income Tax for the period of twenty-five (25) years in accordance with the **Income Tax (Amendment) Act, No. 4 of 2003**, provided that the Project is developed in accordance with the terms of this Agreement. The said exemptions will include the right of the Company to repatriate profits, dividends, commissions, royalties, management fees, interest, rentals, capital investment and other payments made during the exemption period.
13. Commencing from the date hereof through the construction phases of the Project and subject to the provisions of Part III clauses 12 and 13, waiver of customs duties and all related fees, stamp duties or taxes with respect to all construction materials and related tools and equipment, Furnishings, Fixtures and Equipment (FF&E) for any renovation, expansion or reconstruction of the Hotel and related facilities. A list of the said items to be exempt shall be subject to approval from the Ministries of Public Works and Tourism which approval shall not be unreasonably withheld or delayed. This waiver does not include the Antigua and Barbuda Sales Tax, environmental levy or Customs Service Tax which shall be payable on the items mentioned herein unless any of such items qualify at the relevant times for a reduction, waiver or exemption from any of such taxes or levy.
14. Subject to compliance with the Labour Code(s) of Antigua and Barbuda, approval for the grant of all necessary work permits to the Company and to the Hotel Operator for any of its employees who are foreign nationals during the tax holiday period for each, on condition that the Government is satisfied that the Project reasonably requires the services of the foreign national, and on the condition that the skills so required are not available locally.



15. Exemption from all taxes for the Hotel Management company to permit the Project to maintain its status as a first class tourism project while being operated on an economically viable basis. This exemption does not include statutory deductions payable by non national employees of such company who are resident and work in Antigua.
16. To use its best endeavours to facilitate the prompt and efficient processing of the arrival and departure of guests of the Project, and the improvement of the level of transportation services to and from the airport.
17. Granting of permission to build and maintain a helipad at the Project property.
18. Subject to compliance with the relevant laws of Antigua and Barbuda, granting the Company the right to operate the Project's own electricity generators as an alternate source of power in the event of interruption of the national supply, or in the event that APUA is unable for any reason to provide a stable supply, without spikes and brown-outs. In the event that an adequate and reliable electricity supply cannot be assured, whether by APUA or otherwise, the Government will grant all requisite consents, permits, approvals and support to enable the Company to install and operate adequate primary electric generation equipment for the Project, including, in the event of lack of supply of fuel on island to import fuel directly to service the generation of electricity and the transportation and storage of the electricity system.
19. Subject to the laws of Antigua and Barbuda, granting the Company the right to install and operate desalination or other like plant and equipment to produce potable and irrigation water on the Project land and the right to drill for water on the Project land and to take such other action to ensure an adequate supply of water throughout the Project.
20. Granting the Company the right to install and operate its own secondary or tertiary sewage treatment facility.
21. Granting on-site Customs clearance for all containers and other imported content, on condition that all costs, fees or charges incurred in so doing will be met entirely by the Company.
22. Granting permission for the Company or its affiliate to operate a Casino as part of the Project.
23. Fast track processing and approval on a case by case basis of applications for licenses under the **Non-Citizens Land Holding Regulation Act Cap. 293**, in respect of the sale of lots, condominiums, and fractional ownership units. The license fees payable under the Act shall apply to all purchases by foreign nationals.
24. Granting the right but not the obligation to upgrade and pave the existing Government right-of-way leading from the main paved road to the southwest of the Chinese Bridge up to the boundary of the Project land, measuring approximately one quarter of a mile (distance to be verified by survey). The works shall be undertaken by the Company at a time and following a bidding procedure to be mutually agreed between the Parties prior to the commencement of the first phase of construction of the Project. The Government shall grant to the Company the right to redirect the said right-of-way over and through Sealorth Estates, provided that all construction and other costs relating to repositioning the right-of-way shall be at the sole expense of the Company.

1 Hz  
1



25. It is understood that completion of the entire Project will be phased over a number of years according to a master plan to be prepared by the Company in conjunction with the Government. To the extent that market conditions, global events, economic slowdowns or other circumstances beyond the Company's control interfere with or slow down the Project the Government undertakes to exempt any undeveloped portions of Seaforth Estates from the Non-Citizen Undeveloped Land Tax Act or any superseding or amending legislation for a maximum period of ten (10) years from the date of completion of the construction on the Hotel/Hotel condominium element of the Project.
26. Granting the right for the Company and the Company's representative to have fast-track, favourable treatment of all applications for an access pass for the Departure and Arrivals area of the airport and the VIP lounge and as and when possible to arrange for the Company to have access for its Principals, Project residents and guests to a First Class lounge at the airport of a standard commensurate with a Five star Project and to have authority to negotiate with the international airlines for check-in facilities at the Project.
27. The Government will cooperate with the Company to obtain for the Project such grants, concessions and subsidies as may be available from the World Bank, EEC, the Commonwealth or other national or international bodies or any entities or organizations affiliated with or sponsored by any of them.
28. To the extent that the Government grants additional or improved benefits to other equivalent projects those additional or improved benefits will be allotted to the Project by way of a Supplemental Agreement

#### PART V

#### UPGRADING OF INFRASTRUCTURE

1. The parties recognize that there may be a lack of road and other infrastructure outside of Seaforth Estates to support the needs and demands of the Project. The Government accordingly agrees to use its best efforts to upgrade, improve and if necessary construct any such infrastructure improvements. To the extent that the Government is unable to undertake the necessary work the Parties will negotiate in good faith to find an appropriate means whereby the necessary works can be undertaken.

#### PART VI

#### ARBITRATION, CONFIDENTIALITY, ASSIGNABILITY AND APPLICABLE LAWS

1. Arbitration

Any dispute or difference which should arise as to the rights or obligations of the Parties to this Memorandum of Agreement shall be referred to arbitration in accordance with Arbitration legislation in Antigua and Barbuda.

2. Confidentiality

The Parties shall keep the terms of this Memorandum of Agreement confidential and shall not communicate the terms hereof to any third party save as may be required by the laws of Antigua and Barbuda and then in terms and manner as shall be agreed between the Parties.

3. Assignability

The Company shall be entitled to assign the benefit of this Agreement or any portion or part thereof to any other entity it may control, subject to the approval of the Government, which approval shall not be unreasonably withheld..

4. Laws of Antigua and Barbuda.

This Memorandum of Agreement shall be construed and interpreted in accordance with the laws of Antigua and Barbuda.

SIGNED by )

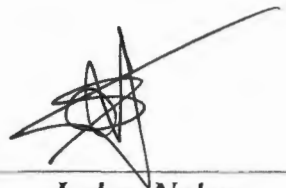
for and on behalf of the Government of )  
Antigua and Barbuda in the presence of: )

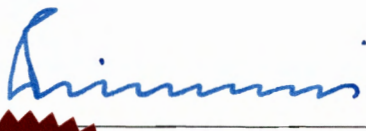
  
\_\_\_\_\_

**Arthur G. B. Thomas**  
Attorney-At-Law  
THOMAS JOHN & CO.

  
\_\_\_\_\_

SIGNED by LUKAS NAKOS )  
For and on behalf of Millennia- )  
Montaigne Developments (Antigua) )  
Limited in the presence of: )

  
\_\_\_\_\_ *Lukas Nakos*

  
\_\_\_\_\_



