

LOT OWNER'S AGREEMENT

**Project: Botany Heights
 Saint Thomas**

Lot No.: 1

THIS AGREEMENT is made on the date set out in Item 1 of the First Schedule hereto BETWEEN the party specified in Item 2 of the First Schedule hereto (hereinafter called "the Registered Proprietor") being the registered proprietor of the Lot described in Item 3 of the First Schedule of the ONE PART AND the party specified in Item 4 of the First Schedule (hereinafter called "the Remaining Lot Owners") being the registered proprietor of the lots described in Item 5 of the first Schedule hereto of the OTHER PART

WHEREAS:

1. The Registered Proprietor and the Remaining Lot Owners (hereinafter together called "the Lot Owners") are each the owners of an undivided share and interest in the land described in Item 5 of the first Schedule (hereinafter called "the common area").
2. The Registered Proprietor and the Remaining Lot Owners have agreed that it is in their mutual interest that the common area be maintained at a standard and in a manner which will lead to the mutual enjoyment by the parties of the same as a private recreational and service area.
3. The Registered Proprietor has agreed with the Remaining Lot Owners to provide a proportion of the cost of maintaining and keeping the common area and buildings now or hereafter to be erected thereon and the infrastructure thereunder in a good state of repair, upkeep and maintenance in the manner hereinafter set forth.

NOW THIS AGREEMENT WITNESSETH that:-

4. The Registered Proprietor HEREBY COVENANTS AND AGREES with the Remaining Lot Owners as follows:-

(a) He will meet with the Remaining Lot Owners at least once in each year and more often if the owner or owners from time to time of Twenty-Five percent (25%) of the lots described in the First and Second Schedules hereto, shall so request, for the purpose of deciding and determining what steps should be taken for the maintenance of the common area and for providing services for or to all the said lots and as to how the cost thereof should be provided in accordance with the terms hereinafter contained. Such other meetings may be summoned by any of the Lot Owners giving at least fourteen (14) days written notice to the other Owners summoning such meeting to be held at such place and time as the Lot Owners may decide.

(b) He shall be bound by the following rules:-

At any annual meeting and at any other meeting summoned hereunder:-

- (i) Decisions shall be made and be deemed to have been agreed upon whenever a resolution embodying such decision is put to the vote of the meeting and passed by a simple majority in number of the Lot Owners there present in person or by their proxies or persons duly authorized in writing.
- (ii) Each of the Lot Owners shall have one vote on any such resolution.
- (iii) If any Lot Owner shall require a poll to be taken upon the passage of a resolution or before the same is passed, the poll shall be taken by secret ballot.

- (iv) The instrument appointing a proxy shall be in writing and shall be signed by the Lot Owner appointing the proxy. The proxy document need not be in any specific form, but any proxy given shall state that it authorizes the person holding such proxy to exercise all the rights of the person giving the proxy for a given meeting or a fixed time period.
- (v) Fifty percent (50%) of the Lot Owners or their proxies or persons authorized present at such meeting shall constitute a quorum.
- (vi) Companies or corporate entities may attend and vote through an appointed person.
- (vii) A proxy given for any specific meeting shall be valid for any meeting subsequently held on an adjournment of that meeting.
- (viii) Whenever any of the Lot Owners consist of more than one party, the party whose name first appears on the duplicate Certificate of Title for the relevant lot shall be entitled to cast the vote of that Lot Owner in the event of the two parties disagreeing as to how to vote.

5. The registered Proprietor shall contribute to the maintenance of the development with respect to the open spaces, conservation area, including drains, recreational areas and other areas for non-residential use including roadways, by making monthly payments in the amount of approximately **Three Thousand Dollars (\$3,000.00)** more or less (this sum being estimated for the purposes of this Agreement) in the first instance or as subsequently stipulated by Frantom Development Company Limited, such payments to begin on completion of the phase in which the said Lot is located. **The first six (6) months of maintenance payments as aforesaid shall be made to the Vendor Frantom Development Company Limited on behalf of “Botany Heights Lot Owners Association” on the date of completion failing which**

possession will not be granted to the Purchaser and interest on the said sum shall accrue against the Purchaser.

6. The Lot Owners shall open a bank account for the purpose of depositing therein maintenance payment and satisfying therefrom any expenditure incurred in relation to the common area.
7. A resolution passed at a meeting of the Lot Owners in accordance with Clause 4(b) hereof fixing the amount required to be raised for the maintenance of the common area or any part thereof over any given period, shall be deemed to be conclusive as between the Lot Owners as the amount so required, and thereupon the Registered Proprietor shall pay his share of such cost (hereinafter called "the maintenance cost") on the dates stipulated by the said resolution into the aforesaid bank account.
8. The share of the maintenance cost to be borne by each of the Registered Proprietors shall be borne equally and in proportion to the interest in the common area as endorsed on the Duplicate Certificate of Title.
9. The registered Proprietor shall enter into a contract with the National Water Commission, or any other company designated by the Developer in writing, for the provision of water to his premises.
10. For the purpose of better securing the payment of his portion of the maintenance cost to be raised hereunder, the Registered Proprietor HEREBY CHARGES to the Remaining Lot Owners all his estate and interest and all the estate and interest he is entitled to dispose of in the land described at Item 2 in the First Schedule hereto and the Remaining Lot Owners or a simple majority in number of the Lot Owners shall be at liberty to lodge a Caveat in the Office of Titles against his title to ensure the performance by the Registered Proprietor of the terms of this Agreement. The said charge shall rank subject

and subsequent to all existing charges endorsed on the Certificate of Title for the said land at the date hereof, but in the event that the Registered Proprietor shall wish to sell his holding, he shall, upon payment of any indebtedness to the Remaining Lot Owners and upon obtaining the signature of the person who is to be registered as the new owner of his lot, to an agreement in similar form hereto, be entitled to have the charge hereby created released and any caveat lodged to protect this charge withdrawn.

11. The Registered Proprietor shall pay the sum of **Six Thousand Dollars (\$6,000.00)** plus GCT for the drafting of this Agreement.
12. All notices or communication to be given or made hereunder shall be sent by registered post or delivered personally to the address of the Registered Proprietor as stated herein unless such address has been changed and such change notified in writing to the Remaining Lot Owners. Such notice shall be deemed to be received three days after the time of posting if posted at any post office in Jamaica. Where the Registered Proprietor consists of more than one person, the notice shall go to the first named on the Certificate of Title therefor.
13. Being a gated community no front fence higher than **1.2 metres (4 feet)** is allowed.
14. In this Agreement where the context so admits or requires the term "Registered Proprietor" importing the singular number shall be deemed also to include the plural number and the words "he" and "his" importing the masculine gender shall be deemed also to include the feminine gender and plural number.

FIRST SCHEDULE

ITEM 1: The Date

The day of 2013

ITEM 2: The Registered Proprietor

Name:

Address:

Occupation:

ITEM 3: Description of Lots

ALL THAT PARCEL of land part of CREIGHTON HALL situate at BOTANY BAY now called BOTANY HEIGHTS in the parish of SAINT THOMAS being **part** of the land comprised in the Certificate of Title registered at Volume 1013 Folio 263 and known as **Lot** on the Subdivision Plan of Botany Heights prepared by Richard A. Stewart, Commissioned Land Surveyor of Leslie B. Mae & Associates Limited bearing National Land Agency - Survey & Mapping Division Examination No. **PE: 000000** and now being all the land contained in Duplicate Certificate of Title registered at **Volume** **Folio** of the Register Book of Titles.

Secondly, as to one undivided 1/42 share in ALL THOSE PARCELS of land part of BOTANY HEIGHTS in the parish of SAINT THOMAS shown as **open areas** (Lots 43, 44a, 44b & Green Belt) which are to be used for amenity space and

common areas, and Reserved Roads 1 & 2 inclusive, on the aforesaid plan and being part of the land comprised in Certificate of Title registered at Volume Folio of the Register Book of Titles.

ITEM 4: The Remaining Lot Owners

“BOTANY HEIGHTS LOT OWNERS ASSOCIATION” on its own behalf and on behalf of the remaining Lot Owners now or hereafter acquiring an interest in the lands comprised in the said subdivision.

ITEM 5: THE COMMON AREA

ALL THOSE PARCELS of land part of BOTANY HEIGHTS in the parish of SAINT THOMAS shown as open areas (Lots 43, 44a, 44b & Green Belt) which are to be used for amenity space and common areas, and Reserved Roads 1 & 2 inclusive, on the aforesaid plan and being part of the land comprised in Certificate of Title registered at Volume Folio of the Register Book of Titles.

IN WITNESS WHEREOF this Agreement has been duly executed by the Registered Proprietor the day and year first hereinbefore written.

Executed for and on behalf of)
FRANTOM DEVELOPMENT)
COMPANY LIMITED)
by) _____
in the presence of:-)
)
_____)

WITNESS

SIGNED by the said)
Lot owner's name) _____
in the presence of)
)
_____)

WITNESS