

## **Novation Agreement**

**THIS DEED** is made *[date]* **BETWEEN**:

- (1) *The Cable Bay Hotel Development Company* (No. *[company number]*) whose registered office is at *[address]* (the 'Developer'); and
- (2) *[company name]* (No. *[company number]*) whose registered office is at *[address]* (the 'Contractor'); and
- (3) *[name] of [address]* (the 'Consultant').

**WHEREAS:**

- (A) The Consultant is [a partnership between the individuals named in Schedule 2 in practice as consulting [architects or civil and structural engineers or mechanical and electrical engineers or [specify as appropriate]]].
- (B) By an agreement in writing dated *[date]* (the 'Appointment') the Developer appointed the Consultant to provide *[architectural or civil and structural engineering or mechanical and electrical engineering or [specify as appropriate]]* services in connection with the development of *[give details]* at *[address]* (the 'Development').
- (C) The Developer and the Contractor have entered into a contract incorporating the JCT Design Build Contract, 2005 edition (Revision 1, 2007) as amended for use in the Federation of St. Christopher & Nevis, under which the Contractor has been appointed to complete the design of and to construct the Development.
- (D) The parties have agreed to novate the Appointment to the Contractor on the terms set out below.

**NOW THIS DEED WITNESSES** and the parties agree as follows:

**1. Novation of Appointment**

- 1.1. The Appointment is hereby novated from the Developer and the Consultant to the Contractor and the Consultant.

**2. Release of Developer**

- 2.1. The Developer shall no longer owe any duty or obligation to the Consultant under or in respect of the Appointment.

**3. Release of Consultant**

- 3.1. The Consultant shall no longer owe any duty or obligation to the Developer under the

Appointment whether by virtue of its terms or by virtue of any breach or otherwise.

#### **4. Binding of Consultant to Contractor**

4.1. The Consultant binds himself to the Contractor in the terms of the Appointment as if the Contractor were and always had been named in the Appointment in place of the Developer.

#### **5. Binding of Contractor to Consultant**

5.1. The Contractor binds itself to the Consultant in the terms of the Appointment as if the Contractor were and always had been named in the Appointment in place of the Developer.

#### **6. Vesting of remedies in Contractor**

6.1. All rights of action and remedies vested in the Developer against the Consultant under the Appointment shall from the date of this Deed vest in the Contractor.

#### **7. Vesting of remedies against Contractor**

7.1. All rights of action and remedies vested in the Consultant against the Developer under and in respect of the Appointment shall from the date of this Deed lie against the Contractor.

#### **8. Fees and disbursements**

8.1. The Consultant acknowledges that all fees and disbursements earned by the Consultant in respect of services performed to date under the Appointment have been paid in full.

#### **9. Amendment of Appointment**

9.1. The Consultant and the Contractor agree that the terms of the Appointment shall be and are varied in the manner set out in Schedule 1.

#### **10. Affirmation of Appointment**

10.1. Subject to the terms of this Deed the Appointment shall remain in full force and effect.

#### **11. Collateral warranties**

11.1. Nothing in this Deed shall affect or derogate from any collateral warranty given or to be given by the Consultant to the Developer respecting the Development.

#### **12. Governing law and interpretation**

12.1. The law of this Deed is the law of the Federation of St. Christopher & Nevis and the courts of St. Christopher & Nevis shall have sole jurisdiction with regard to all matters arising from it.

12.2. The definitions given in the recitals to this Deed shall apply to this Deed.

12.3. Clause headings in this Deed shall be of no effect.

**EXECUTED AND DELIVERED** as a deed:

## **SCHEDULE 1**

### **Variations to the terms of the Appointment**

(Clause 9)

*[List variations, if appropriate]*

## **SCHEDULE 2**

### **Partners in the consultant**

(Recital A)

*[Full names of all the partners in the consultant]*

## **ATTESTATION**

Executed as a deed with the common seal of *[the developer]* in the presence of:

director

director/ secretary

Executed as a deed with the common seal of *[the contractor]* in the presence of:

director

director/ secretary

*[If the consultant is a partnership each partner should execute as follows:*

Signed and sealed as a deed and delivered by *[full name of partner]* in the presence of:

Witness

Signature .....

Name .....

Address .....

*or if the consultant is a company it should execute as follows*

Executed as a deed with the common seal of *[the consultant]* in the presence of:

director

director/ secretary