

Upon this thirtieth day of December of the year two thousand five came and appeared before me, Ferdinand Josephus Lambertus Marie Steeman, civil law notary of Sint Maarten: -----

Miss Sandra Theresia Panka, a legal secretary, with office address at Professional Office Park, Osprey Drive 1, Point Blanche, Sint Maarten, according to her declaration born on Curaçao on November fourteenth, nineteen hundred and sixty-one, hereby acting as proxy-in-writing of: -----
 Mister Rudolph Richard Neuss, a businessman, residing at Sapphire Road 6, Sint Maarten, according to his declaration born in Newburgh, New York, United States of America, on May twenty-third, nineteen hundred and fifty-three, not married, by granting this power of attorney acting in his capacity as sole managing director of- and as such legally representing the limited liability company: -----

POINTE ESPRIT DEVELOPMENT N.V., a limited liability company, established on Sint Maarten, with business address at Sapphire Road 6, Sint Maarten, registered in the Commercial Registry of the Chamber of Commerce, Sint Maarten, under number 014384. -----

The authorization of the appearer is sufficiently evident to me, civil law notary, from a power of attorney, which after having been duly authenticated in accordance with the law will be attached to the original of this deed. -----

The appearer, considering that Pointe Esprit Development N.V. (further also to be referred to as the "Developer") is developing a residential project at Cay Hill, in the district of Little Bay, Sint Maarten, declared that Pointe Esprit Development N.V. is herewith establishing a foundation, which will be governed by the following constitution. -----

----- **NAME, SEAT AND DURATION** -----

----- **Article 1** -----

1. The Foundation bears the name: -----
POINTE ESPRIT HOME OWNERS FOUNDATION - the word "Foundation" being the translation of the Dutch "Stichting" and which name may be abbreviated to "**PEHOF**". -----
2. The Foundation is established on Sint Maarten, Netherlands Antilles. -----
3. The Foundation is founded for an unlimited period of time. -----

----- **PURPOSE** -----

----- **Article 2** -----

1. The purpose of the Foundation is: -----
 - a. to function as the organization that represents the collective interest of: -----
 - the owners, as meant in the individual notarial deeds of conveyance of the parcels of land set forth on a map as residential "lots" in the current subdivision being developed by the Developer in Cay Hill, Little Bay, Sint Maarten, which provides for the subdivision into forty-four (44) single family lots, on said map described as lots C, D, E and F (hereinafter also to be referred to as the "Pointe Esprit Development", and -----
 - the owners of the residential lots originating from the first development in that same area by Cay Hill Estates Development

- N.V. and located along the roads currently known as Mozart Road and Beethoven Road, -----
 both developments hereinafter, solely and together, to be referred to as "Pointe Esprit", -----
 during the development and after the completion of Pointe Esprit Development as stipulated hereinafter, and thereto: -----
- b. to provide for the benefit of Pointe Esprit and its Participants: -----
 - administrative and financial guidance, security, cleaning of the roads and the common grounds, landscaping thereof and other services; -----
 - maintenance and/or improvement of roads and other infrastructures, common grounds and facilities which at any time may be owned by or entrusted to the Foundation and future improvements thereof; -----
 - the management of the services and facilities as aforementioned; -----
 - the protection of the architectural integrity of Pointe Esprit; -----
 - c. to execute those tasks that have been assigned to the Foundation in the individual notarial deeds of conveyance of the lots, inclusive of but not limited to the approval of building plans; -----
 - d. to take care of the assessing for and collecting of the contributions by its Participants necessary to cover the costs of maintaining, also on the longer term, the facilities and providing the services indicated under a; -----
 - e. to monitor, control and if necessary enforce the observance by the owners of: -----
 - the restrictive covenants with regard to the use of their properties and other obligations and conditions imposed upon the owners in their collective interest in the aforementioned deeds of conveyance; -----
 - the regulations that may be adopted by the Foundation with regard to the use of the common grounds and facilities, entrusted to or owned by the Foundation; -----
 - the regulations and restrictions prescribed by the Island Territory of Sint Maarten in its "Island Resolution Entailing General Measures AB: 1996 NR. 38, which Island Resolution contains the Planning Permit "Point Esprit" (PP95020)"; -----
 - f. to protect, by the former and otherwise, the collective interests and rights of the owners and thus durably preserve and improve the value of their individual investments; -----
 - g. represent the collective owners in collective matters. -----
2. The Foundation may only own immovable property within Pointe Esprit as far as such immovable property is designated for the collective use and benefit of the owners. -----
 3. The Foundation may not enter into any financial obligations which cannot be fully covered by it's capital, including forthcoming Foundation dues. ---
 4. The Foundation may furthermore not enter into any loan agreements, either as lender or as borrower, nor accept any joint or several liabilities, or give any surety or guaranty for the debts of third parties. -----
 5. The Developer, having established the Foundation, shall actively participate in its functioning for the duration of the development, to be referred to as the "Development Period". This period shall commence at the expiration of the Transition Period as defined in article 25 of this constitution and shall end by: -----
 - a. the transfer in ownership of all lots to the owners as mentioned above; and -----

- b. the transfer in ownership of all common grounds, roads and other infrastructures and facilities to the Foundation. -----

----- **CAPITAL** -----

----- **Article 3** -----

The capital of the Foundation will consist of: -----

- a. the contributions by Participants, in the form of: -----
 - the non-recurring contributions made upon the transfer of their property or voluntary joining; -----
 - the quarterly Foundation dues for the services rendered and the costs and expenses incurred by the Foundation in execution of its tasks; ----
 - special assessments, if any; -----
- b. other revenues. -----

----- **THE BOARD** -----

----- **Article 4** -----

1. The Foundation is governed by a Board consisting of an odd number of not less than three (3) and not more than seven (7) members of full age. The number of Board members shall be determined in a resolution of the Board. -----
2. Every Board member must be a Participant who is of full age and entitled to vote as meant in article 11, paragraph 3 of this constitution, or a spouse or partner of such a Participant, provided: -----
 - a. said Participant himself/herself is not a member of the Board; -----
 - b. the spouse or partner is of full age; -----
 - c. the spouse or partner is a permanent resident of Pointe Esprit. -----
3. The Board shall appoint its own members by resolution. If a list of recommended candidates has been made up by a Candidates Committee of Participants as meant in article 12, paragraph 1, under a of this constitution, the Board shall only appoint persons, at its sole discretion, who are mentioned on that list as long as there are at least three (3) persons on the list for every vacancy to be filled. Whenever there are less than three (3) persons (left) on the list, the Board is free to appoint any Participant eligible, able and willing as if no list was made. -----
4. Board members shall be appointed for one (1) year and may be reappointed for an unlimited number of terms. Vacancies shall be filled within sixty (60) days after the occurrence of the vacancy. -----
5. The membership of the Board will end: -----
 - a. on account of death; -----
 - b. on expiration of the one (1) year term mentioned in paragraph 4 of this article, unless the member is reappointed; -----
 - c. by written resignation; -----
 - d. by losing the qualities mentioned in paragraph 2 of this article; -----
 - e. by dismissal by the Board as provided for in paragraph 6 of this article. -----
6. The Board may dismiss a Board member for any reason, at its sole discretion, by a resolution passed by a majority of the votes cast in a Board meeting in which all Board members holding office are present or represented, after the Board member in question has been offered the opportunity to give his views on the matter(s) at hand. If not all Board members holding office are present or represented the resolution may be passed in the next meeting of the Board, by a majority of the votes cast by the Board members then present or represented. -----
7. The Board will as soon as possible appoint a person who will be charged temporarily with the management of the Foundation or indicate the way in which such person will be appointed in the event of impediment or default of all Board members, as to avoid a vacuum in management. -----

8. During the Development Period, the Developer is entitled, in deviation from the paragraphs 2, 3, 4, 5 and 6 of this article, to appoint one or more members of the Board in order to fill one (1) seat on the Board in case it consists of three (3) Board members, to fill two (2) seats on the Board in case it consists of five (5) Board members, to fill three (3) seats on the Board in case it consists of seven (7) Board members. Such a Board member: -----
 - a. is not required to be a Participant; -----
 - b. shall have the same rights and obligations as any other member of the Board, unless stated otherwise in this constitution; -----
 - c. shall be appointed and dismissed by the Developer, at its sole discretion and whenever it deems fit. -----
 With regards to the appointment of the other Board members, the prior approval from the Developer is required during the Development Period.
9. During the Development period, the Board can not validly pass any resolution without the prior approval from the Developer. -----

----- **ORGANIZATION OF THE BOARD** -----

----- **Article 5** -----

1. The Board shall elect among its members a President, a Secretary and a Treasurer for one (1) year. They may be re-elected in their positions for an unlimited number of terms. One person may hold the last two positions simultaneously. The Board may further elect a Vice-President for one (1) year to replace the President in the event the latter will be unable to act as such. A Vice-President may hold any of the other two positions on the Board and may be re-elected in his position for an unlimited number of terms. -----
2. The President, the Vice-President if any, the Secretary and the Treasurer must be permanent residents of Pointe Esprit, with the exception of the Board member(s) appointed during the Development Period by the Developer as meant in article 4, paragraph 8 of this constitution. -----
3. The President is charged with chairing the Board meetings and the meetings with the Participants. In the event the President will be unable to chair a meeting and the Vice-President, if elected, is also unable to chair a meeting, the Board members present shall assign an acting chairman among them. In all further references to the President in this constitution the Vice-President and the acting chairman, as the case may be, shall be considered included. -----
4. The Secretary is charged with the correspondence of the Foundation, the drafting of the minutes of the meetings of the Board and the Participants, of the resolutions of the Board and with the preparation of the reports on its activities. In the event the Secretary will be unable to attend a meeting, the Board members present shall assign an acting Secretary among them. In all further references to the Secretary in this constitution the acting secretary shall be considered included. -----
5. The Treasurer is charged with the financial administration of the Foundation and the preparation of its financial statements. -----
6. For the purpose of the efficient execution of its tasks the Board may establish: -----
 - a. a Daily Board, consisting of the President, the Secretary and the Treasurer and chaired by the President; in case the latter two functions are combined in one person, the Daily Board will consist of the President and the Secretary/Treasurer; -----
 - b. one or more Committees of the Board, consisting of at least two (2) Board members, one of which shall be a Board member appointed by the Developer as meant in article 4, paragraph 8 of this constitution

during the Development Period of Pointe Esprit in case the tasks of a Committee involve the approval of building plans. -----

7. A resolution to establish a Daily Board or a Committee of the Board shall:
 - a. specify the tasks mandated to that body and, in case of a Committee of the Board, its composition; -----
 - b. at no time infringe on the authority of the Board to determine the general policy of the Foundation concerning the tasks mandated to that body. -----

----- **COMPENSATIONS** -----

----- **Article 6** -----

Members of the Board shall not receive any wages or compensations from the Foundation apart from the reimbursement of reasonable expenses incurred by them for the exercise of their functions, unless approved by the majority of the Participants. -----

----- **REPRESENTATION** -----

----- **Article 7** -----

The Foundation will be represented in and out of court by two Board members, authorized thereto by the Board and acting jointly, at least one of which will be the President, the Secretary or the Treasurer. -----

----- **OPERATION AND MEETINGS OF THE BOARD** -----

----- **Article 8** -----

1. In addition to the three meetings to be held each year in accordance with article 19 of this constitution, the Board shall meet whenever: -----
 - a. deemed necessary by the President; -----
 - b. at least two Board members lodge a relative written request to the President and the Secretary, stating the subjects to be considered. ---
2. All meetings of the Board shall be held on Sint Maarten. -----
3. A Board member may be represented in a meeting by any other Board member by virtue of a special written power of attorney. -----
4. The Board shall draw up internal regulations, to be laid down in a resolution of the Board that shall be passed in accordance with article 10, paragraph 2 of this constitution The internal regulations shall at least concern the following subjects: -----
 - a. the convening of Board meetings in the event the President and/or the Secretary would be unable or unwilling to comply with the request mentioned in paragraph 1, under b of this article; -----
 - b. the way in which Board meetings shall be convened and the period of convening, including a regulation for a written advance notice; -----
 - c. the way in which the minutes of the Board meetings shall be drafted, confirmed and registered as well as deposited for inspection by the Participants and filed; -----
 - d. the protection of the privacy of individual Participants in the minutes as deposited and in the resolutions of the Board that will be sent to all Participants in accordance with article 10, paragraph 3, under b of this constitution; -----
 - e. the cases in which the Board may pass resolutions without a meeting being held; -----
 - f. the functioning of Committees of Participants as meant in article 12 of this constitution. -----

----- **VOTING** -----

----- **Article 9** -----

1. Votes in a Board meeting shall be cast orally, unless the President decides or one (1) of the Board members requests that votes will be cast in writing, which shall then be done by means of unsigned closed ballot papers. -----

2. Votes on persons shall always be cast in writing. Board members who are subject of a vote on persons do not have the right to participate in that vote. -----
3. In case of equality of votes on persons a second voting shall be held immediately after the first voting. If the voting concerns more than two (2) persons, an interim vote shall decide between which two persons the second voting will be held. In case the second voting also results in equality of votes the decision shall be taken by lot. -----
4. Abstentions will be deemed votes not cast. -----
5. Any disputes concerning the voting procedure that may not be covered by this constitution shall be decided by the President. -----

----- **RESOLUTIONS OF THE BOARD** -----

----- **Article 10** -----

1. Resolutions of the Board shall be passed by a majority of the votes, cast in a meeting in which at least one/half (1/2) of the Board members holding office are present or represented, unless a qualified majority or quorum is specifically prescribed in this constitution. -----
2. Resolutions concerning the following matters may only be passed by the Board by a two/third (2/3) majority of the votes, cast in a meeting in which all Board members holding office are present or represented or, in case that quorum is not met, in a second meeting by a two/third (2/3) majority of the votes cast by the Board members then present or represented: -----
 - a. the number of Board members as meant in article 4, paragraph 1 of this constitution; -----
 - b. the establishment of a Daily Board or a Committee of the Board as meant in article 5, paragraph 6, under b of this constitution; -----
 - c. the internal regulations as meant in article 8, paragraph 4 of this constitution; -----
 - d. entering into and terminating outsourcing agreements as meant in article 21, paragraph 1 of this constitution; -----
 - e. the amount of the non-recurring contributions by Participants and the refunding (of parts) thereof as meant in article 16, paragraphs 1 and 2 of this constitution; -----
 - f. the amount of the Foundation dues and of the special assessments as meant in article 17, paragraph 1 of this constitution; -----
 - g. the regulations as meant in article 20, paragraph 1 of this constitution; -----
 - h. amending the constitution of the Foundation, mentioned in article 24 of this constitution. -----
3. Any resolution of the Board that directly affects, financially or otherwise, all Participants or one or more Participant(s) in particular shall: -----
 - a. be duly motivated in the body of the resolution or in an explanation attached thereto; -----
 - b. contain the decision of the Board that the resolution will be sent to the Participant(s) affected by that resolution. -----
4. Resolutions of the Board shall become valid through the confirmation by the President and the Secretary, as evidenced by their signatures. A confirmed resolution shall only be revoked or changed by a new confirmed resolution of the Board. -----
5. No resolution may be passed by the Board to dissolve the Foundation. Any resolution to that effect shall be null and void. Any resolution of the Board to amend this paragraph shall be null and void as well. -----

----- **PARTICIPANTS** -----

----- **Article 11** -----

1. The owners of the individual lots within Pointe Esprit at any given time are herein referred to as "Participants". An owner of more than one lot is considered to be a Participant for each lot owned and as such is subject to all the rights and obligations thereof. -----
2. In case a lot is owned by two or more persons jointly or by a corporation or other legal entity, they/it shall appoint one duly authorized person to represent the owner(s) towards the Foundation. Provided the owners(s) of the lot have given written notice to the Secretary, containing that authorization, such a person is considered to be a Participant and is as such subject to all the rights and obligations thereof. -----
3. All Participants are entitled to take part in any voting of the Participants that may be held under this constitution with the exception of those Participants whose rights under this constitution may have been suspended by the Board in accordance with article 18, paragraph 2 and article 20, paragraph 4 of this constitution. -----
4. The Board shall keep or have kept: -----
 - a. a proper administration of all Participants and of their contributions to the Foundation, as meant in the articles 3 under a, 16 and 17 of this constitution; -----
 - b. a list of the Participants, based on that administration, who are entitled to vote as meant in paragraph 3 of this article. -----
5. The Board shall direct all notices, convening letters and other communications to a Participant by direct delivery, mail or E-mail to the address as it appears on the records of the Foundation or to another address submitted in writing to the Secretary. -----

----- **COMMITTEES OF PARTICIPANTS** -----

----- **Article 12** -----

1. The Board shall be assisted by: -----
 - a. a Committee of Participants, whose task includes the preparation of a list of recommended candidates for the membership of the Board, respectively of a Committee of Participants (Candidates Committee of Participants); -----
 - b. a Committee of Participants, whose task includes the supervision of the financial policy of the Board (Financial Committee of Participants). -----

At its discretion, the Board may be further assisted by Committees of Participants, charged with other tasks on behalf of the Participants as specified in the resolution containing the establishing of such Committees. -----

All Committees referred to in this paragraph shall be established by a resolution of the Board and consist of three (3) members. -----

2. Every member of a Committee of Participants must be a Participant who is entitled to vote or be a spouse or partner of such a Participant. The requirements of article 4, paragraph 2 of this constitution apply mutatis mutandis. -----
3. The members of a Committee of Participants shall be appointed by the Board for four (4) years, unless the resolution containing its establishment specifies otherwise and may be reappointed for an unlimited number of terms. Vacancies shall be filled within sixty (60) days after the occurrence of the vacancy. The procedure mentioned in article 4, paragraph 3 of this constitution (second and third sentence) applies mutatis mutandis. -----
4. The membership of a Committee of Participants will end: -----
 - a. on account of death; -----

- b. on expiration of said four (4) year term, unless the member is reappointed; -----
- c. by written resignation; -----
- d. by losing the qualities mentioned in paragraph 2 of this article; -----
- e. by dismissal by the Board ex paragraph 5 of this article. -----
- 5. The Board may dismiss, for any reason, a member of a Committee of Participants by resolution upon a recommendation of the two (2) other members of the Committee involved. -----
- 6. A Committee of Participants shall report to the Board in writing at least once a year, prior to the annual meeting mentioned in article 13, paragraph 1 of this constitution, in which the Committee may present and explain the conclusions of the report. -----

----- **MEETINGS OF PARTICIPANTS** -----

----- **Article 13** -----

- 1. Each year the board shall organize a meeting of the participants to be held in the month of November, in which the board shall at least present the draft budget and the draft policy plan for the coming year as meant in article 19, paragraph 4 of this constitution. -----
- 2. In addition to said annual meeting the Board shall meet with the Participants whenever: -----
 - a. deemed necessary by the President; -----
 - b. a relative written request, stating the subjects to be considered, is lodged with the President and the Secretary, signed by at least one quarter (1/4) of the Participants who are entitled to vote. -----
- 3. All meetings between the Participants and the Board shall be held on Sint Maarten at such a location as shall from time to time be determined by the Board. -----
- 4. All meetings between the Participants and the Board shall be called by the Secretary, by means of convening letters accorded by the President and containing the subjects on the agenda and the date, place and time of the meeting. Meetings shall be held no sooner than four (4) weeks after the day of convening. -----
- 5. The Secretary shall keep a proper record of the Participants entitled to vote that attend a meeting by means of a list of attendance that shall be taken up in the minutes of the meeting. -----
- 6. A Participant entitled to vote may be represented in a meeting of Participants by virtue of a special written power of attorney, to be submitted to the Secretary directly prior to the meeting, by: -----
 - a. any other Participant entitled to vote; -----
 - b. his/her spouse or partner of full age, provided he/she is a permanent resident of Pointe Esprit; -----
 - c. any other person of full age residing on Sint Maarten in case the Participant is not a permanent resident of Pointe Esprit. -----
- 7. The Secretary shall: -----
 - a. draft the minutes, reflecting the discussions held in the meeting and summarizing the recommendations passed in a meeting of Participants, as well as the recommendations which will be attached to the minutes separately; -----
 - b. submit for undersigning the draft minutes to the President and the draft recommendations to the Participant(s) who proposed them in the meeting, shall then co-sign both; the signatures of the President, respectively said Participant(s) and the Secretary being evidence of their confirmation; -----
 - c. send the confirmed minutes and recommendations of the meeting to all Participants and all Board members, the former to be validated in

- the next meeting with Participants, the latter being validated by the confirmation meant in this paragraph under b; -----
- d. register the confirmed minutes and recommendations in the records of the Board. -----

----- **RECOMMENDATIONS** -----

----- **Article 14** -----

1. The Board shall take duly account of any recommendations made to the Board by one or more Participants entitled to vote or by a Committee of Participants. -----
2. The Board shall lay down its position on a recommendation in a resolution, containing the reasons for adopting or rejecting the recommendation, in its next meeting, provided the recommendation: ----
 - a. has been passed by a majority of votes cast in a meeting in which at least one third (1/3) of the Participants entitled to vote, not including the members of the Board, are present or represented. -----
 - b. has been made in writing by a Committee of Participants, as meant in article 12 of this constitution, signed by all the members of that Committee; -----
 - c. has been passed in writing, without a meeting being held, cast by a majority of votes of the Participants entitled to vote, not including the members of the Board, by means of a recommendation form sent to all Participants entitled to vote and to which at least one third (1/3) of these Participants have responded. -----
3. A vote as meant in paragraph 2, under c of this article, shall be held within four (4) weeks upon a written and signed request to the Secretary, containing the proposed recommendation, of all members of a Committee of Participants or of at least one tenth (1/10) of the Participants entitled to vote. -----

The Secretary shall send out the recommendation forms to all Participants entitled to vote within two (2) weeks after receiving such a request. -----
4. The voting procedure on a recommendation as meant in paragraph 2, under c of this article, shall be the responsibility of the Secretary, who: ---
 - a. shall see to it that the recommendation form contains: -----
 - the proposed recommendation followed by voting blocks for YES, NO and ABSTENTION; -----
 - a brief explanation of the proposed recommendation; -----
 - the name and address of its initiators; -----
 - a summary of the provisions of paragraph 2, opening and under c, paragraph 3 and this paragraph of this article; -----
 - b. shall count the votes -----
 - which shall be valid if the filled out recommendation form is returned to the Secretary before the date mentioned thereon and if signed by the Participant unless the form is returned by E-mail;
 - in case the vote was requested by a Participants Committee, in the presence of that Committee; -----
 - c. shall inform the Board, in view of its obligations under paragraph 1 of this article and, in case the majority meant in paragraph 2, under c of this article, has not been reached, all Participants entitled to vote of the result in writing. -----
5. A recommendation to establish a Committee of Participants as meant in article 12, paragraph 1 of this constitution, shall at all times be adopted by the Board and laid down in the resolution mentioned in that article and paragraph, provided the recommendation: -----

- a. has been passed by a majority of votes cast in a meeting in which at least one half (1/2) of the Participants entitled to vote, not including the members of the Board, are present or represented; -----
 - b. has been passed in writing, without a meeting being held, cast by a majority of votes of the Participants entitled to vote, not including the Board members, by means of a recommendation form sent to all Participants entitled to vote and to which at least one half (1/2) of these Participants have responded in accordance with the requirements stated in the paragraphs 3 and 4 of this article. -----
6. Resolutions of the Board upon recommendation as meant in paragraph 2 under a and c and paragraph 5 of this article shall be considered to affect all Participants directly and thus will be sent to them. -----

----- **CONSULTATION OF PARTICIPANTS** -----

----- **Article 15** -----

- 1. The Board shall consult the Participants in a meeting prior to passing any resolution aimed at: -----
 - a. the determination of the budget and policy plan for the coming year as meant in article 19, paragraph 4 of this constitution; -----
 - b. any refunding of the non-recurring contributions by Participants or parts thereof as meant in article 16 of this constitution; -----
 - c. adjustment of the amount of the Foundation dues or the introduction of any special assessments as meant in article 17 of this constitution;
 - d. introducing or amending regulations as meant in article 20 of this constitution, in which case the consultation shall have the form of a vote in accordance with paragraph 2 of that article; -----
 - e. amending this constitution, in which case the consultation shall have the form of a vote in accordance with article 24, paragraph 2 of this constitution. -----
- 2. With the exception of the matters, mentioned in paragraph 1, under d and e of this article, the consultation of the Participants does not require a vote, unless a vote is demanded by one quarter (1/4) of the Participants present or represented in the meeting. -----
- 3. During the Transition Period the Board is released from the obligation to consult the Participants as described in this article. -----

----- **NON-RECURRING CONTRIBUTIONS** -----

----- **Article 16** -----

- 1. The amount of the non-recurring contributions to the Foundation to be paid by: -----
 - all Participants-to-be upon the transfer of their property to them, in accordance with their purchase contract with the Developer, and -----
 - all other Participants upon voluntary joining, -----
 shall be determined in a resolution of the Board. -----
- 2. After the end of the Development Period, the Board may decide by resolution to refund the non-recurring contribution to the Participants, in total or in parts, if and when the Board, at its sole discretion, deems such refunding responsible in view of the long-term obligations of the Foundation towards the owners. -----
- 3. Any refund of a non-recurring contribution shall amount to the same sum and shall take effect at the same time for all Participants. The payment of such refund(s) shall be withheld to those participants whose rights under this constitution may have been suspended by the Board in accordance with article 18 or article 20 of this constitution. -----
- 4. The Board shall not pass a resolution aimed at the refund of the non-recurring contribution meant in paragraph 1 of this article before consulting the Participants, gathered in a meeting, in which the amount of

the intended refund is presented and duly explained in view of the long-term obligations of the Foundation towards the Participants. -----

----- **DUES AND ASSESMENTS** -----

----- **Article 17** -----

1. Every Participant is under the obligation to pay the Foundation dues as well as the special assessments as determined by resolutions of the Board. Both contributions shall amount to the same sum and shall take effect at the same time for all Participants at any given time. -----
2. Foundation dues and special assessments, if any, shall only be indebted to the Foundation if and as from the date on which a lot has been sold and transferred to a Participant. -----
3. The Foundation dues shall be charged, due and payable in equal quarterly installments on the first day of January, April, July and October of each calendar year. -----
4. The amount of the Foundation dues shall at all times cover all costs as projected by the Board of: -----
 - a. the services provided by the Foundation to the Participants; -----
 - b. the maintenance of the common grounds, roads and other infrastructures and facilities that have been or may be transferred or entrusted to the Foundation, including the long term reservation for such maintenance as deemed necessary by the Board; -----
 - c. other costs of the Foundation to be reasonably expected. -----
5. The Foundation dues may be raised or lowered by resolution of the Board if and when the Board deems such adjustment necessary, respectively responsible in view of the long-term obligations of the Foundation towards the Participants. -----
6. Special assessments shall be installed only if and when the Board deems such assessments inevitable, at its sole discretion, to counter the consequences of unforeseen circumstances or drastic events for the obligations of the Foundation towards the Participants. In case a refund of a special assessment, in total or in part, will be considered later, the provisions stated in article 16, paragraph 2 and 3 of this constitution shall apply mutatis mutandis. -----
7. The Board shall not pass a resolution aimed at the adjustment of the Foundation dues or at the installment of a special assessment as meant in paragraph 1 of this article before consulting the Participants, gathered in a meeting, in which the amount of the intended adjustment or assessment is presented and duly explained in view of the long-term obligations of the Foundation towards the Participants. -----

----- **DEFAULT** -----

----- **Article 18** -----

1. If the Foundation dues or a special assessment remain unpaid, in whole or in part, during two (2) months after the amount has become due and payable: -----
 - a. a fifteen percent (15%) surcharge to the balance due shall be added by the Board to all indebted quarterly Foundation dues and/or the assessment; -----
 - b. the Board may retain any refunds to the defaulting Participant meant in article 16, paragraph 2 and 3 of this constitution, that may have become payable since the date of default, until all indebted contribution(s) and surcharges thereon have been paid. -----
2. If the Foundation dues or special assessments, including the surcharges thereon, remain unpaid, in whole or in part, during six (6) months after the amount(s) has (have) become due and payable, all rights of the defaulting Participant under this constitution, inclusive of but not limited to

the right to vote as meant in article 11, paragraph 3 of this constitution and the rights to any refunds meant in article 16, paragraph 2 and 3 and article 17, paragraph 6 of this constitution, that have become payable since the date of default, shall be suspended by force of this constitution, until all indebted contribution(s) and surcharges thereon have been paid and provided all current payments due by the defaulting Participant are up to date. -----

----- **FINANCIAL YEAR, REPORTS AND BUDGET** -----

----- **Article 19** -----

1. The financial year of the Foundation coincides with the calendar year. Per the end of each year the books of the Foundation shall be closed. ----
2. Each year the Board shall hold a meeting in the month of May to discuss the following documents to be presented not later than April fifteenth (15th), by: -----
 - a. the Treasurer: the balance sheet and the statement of gains and expenditures of the Foundation over the past year; -----
 - b. the Secretary: the report on the activities of the Foundation over the past year. -----
3. The Treasurer shall see to it that: -----
 - a. the balance sheet and the financial statement are audited by a reputable accountant office; -----
 - b. the audit report of that office is presented to the Board no later than August fifteenth (15th) of each year. -----
4. Each year the Board shall hold a meeting in the month of September to: -
 - a. decide on the approval of the balance sheet and financial statement over the past year; -----
 - b. decide on the approval of the report on the activities of the Foundation over the past year; -----
 - c. discuss the interim financial situation and projections till year end and the interim state of the activities of the Foundation in view of the budget, respectively the policy plan that have been determined for that year; -----
 - d. discuss the long term prospects, financially and otherwise, for the services to be provided to the Participants in relation to the level of their contributions to the Foundation; -----
 - e. determine a draft budget and the draft policy plan for the coming year, to be discussed in the annual meeting of the Participants as meant in article 13, paragraph 1 of this constitution. -----
5. The Treasurer shall: -----
 - a. provide the Financial Committee of Participants as meant in article 12, paragraph 1, under b of this constitution with: -----
 - three copies of the balance sheet and financial statements over the past year as well as a copy of the audit report on said statements within seven (7) days upon approval by the Board; ----
 - all further information pertaining to the financial statements as it requires; -----
 - b. deposit at the location meant in article 22, paragraph 1 of this constitution a copy of the balance sheet and financial statements over the past year as well as a copy of the audit report on said statements within fourteen (14) days upon approval by the Board. -----
6. The Secretary shall: -----
 - a. provide the Financial Committee of Participants with the report on the activities of the Foundation over the past year within seven (7) days upon approval by the Board; -----

- b. deposit at the location meant in article 22, paragraph 1 of this constitution a copy of the report on the activities of the Foundation over the past year within fourteen (14) days upon approval by the Board. -----
- 7. Each year the Board shall hold a meeting in the month of December, in which the Board shall, taking duly account of the consultation of the Participants in their annual meeting, determine the budget and the policy plan for the coming year by resolution. -----
- 8. All financial books, records and reports shall remain the property of the Foundation and shall be kept by the Board for a period of at least ten (10) years. -----

----- **REGULATIONS** -----

----- **Article 20** -----

- 1. The Board may draw up regulations with regard to the use of the common grounds, roads and other infrastructures and facilities of Pointe Esprit, owned by or entrusted to the Foundation, to be laid down in a resolution of the Board that shall be passed in accordance with article 10, paragraph 2 of this constitution. The sole purpose of such regulations shall be to protect the collective interests and rights of the Participants. --
- 2. The Board may only pass a resolution to introduce or amend such regulations after having consulted the Participants, in accordance with article 15, paragraph 1, under e of this constitution, in a meeting in which an identical draft of that resolution was endorsed by the Participants by a majority of votes cast and at least one half (1/2) of the Participants entitled to vote, including the members of the Board, was present or represented. -----
- 3. The Board shall send the draft of said resolution to all Participants entitled to vote at least four (4) weeks prior to the meeting, in which: -----
 - a. the draft resolution may be voted upon in whole or in parts; -----
 - b. parts of the draft resolution, amended during the meeting, may be voted upon repeatedly; -----
 - c. a final vote on the whole resolution shall take place in case parts thereof were voted upon. -----
- 4. In case of repeated and/or continuous breach of one or more of the regulations meant in paragraph 1 of this article by a Participant, his spouse partner or other member of his household or a frequent visitor thereof, the Board, after having issued at least two (2) written warnings and after having given written notice of its decision, may suspend all rights under this constitution of the Participant responsible, inclusive of but not limited to the right to vote as meant in article 11, paragraph 3 and the right to any refunds meant in article 16, paragraph 2 and 3 and article 17, paragraph 6 of this constitution that have become payable since the first warning, for a period of one (1) year. -----
- 5. In case regulations as meant in paragraph 1 of this article have been amended or are laid down in more than one resolution, the Board shall provide all Participants with a bundled collection of the consolidated texts of all regulations in effect. -----

----- **OUTSOURCING** -----

----- **Article 21** -----

- 1. The Board may decide by resolution to enter into agreements to outsource the administrative or financial guidance of Pointe Esprit as well as the day-to-day management of its facilities or services or parts thereof. -----
- 2. When entering into an outsourcing agreement, the Board shall ensure that: -----

- a. the party who will perform the outsourced task(s), shall properly report to the Board in writing at least once a year; -----
- b. the outsourcing shall at no time infringe on the authority of the Board to determine the policy of the Foundation concerning the outsourced task(s). -----
- 3. The Board may seek the assistance of professional advisors or experts – inclusive of but not limited to accountants, architects, lawyers and notaries - at the expense of the Foundation, if necessary for a proper fulfillment of its tasks. -----
- 4. The Board may invite said parties in outsourcing agreements, advisors or experts to be present in the meetings of the Board and/or of the Participants that are relevant to them. Their explanations and remarks shall be summarized in the minutes. -----

----- **TRANSPARANCY** -----

----- **Article 22** -----

- 1. Any Participant or Committee of Participants may inspect the following records and documents, in so far they have not been sent to the Participants in the current year, at reasonable notice at a location on Sint Maarten designated by the Board for that purpose: -----
 - a. all confirmed minutes and resolutions of the Board, the transparency of which may however be restricted for the sole reason of protecting the privacy of individual Participants to abbreviated or anonymized versions thereof, in the internal regulations meant in article 8, paragraph 4 of this constitution; -----
 - b. the confirmed minutes of the meetings with the Participants and the recommendations reached therein, mentioned in article 13, paragraph 7, under d of this constitution; -----
 - c. any outsourcing agreements meant in article 21 of this constitution and any other contracts the Foundation has entered into; -----
 - d. any advices and reports as meant in said article 21; -----
 - e. the confirmed balance sheet and financial statements over the past year and the audit report thereon, mentioned in article 19, paragraph 5 of this constitution; -----
 - f. the reports of the activities over the past year mentioned in article 19, paragraph 6 of this constitution. -----
- 2. The Financial Committee of Participants as meant in article 12, paragraph 1 of this constitution may inspect at reasonable notice and under conditions set by the Board for the sole purpose of protecting the privacy of the individual Participants: -----
 - a. the financial books of the Foundation kept by or under responsibility of the Treasurer; -----
 - b. the administration of the Foundation kept by or under responsibility of the Secretary, mentioned in article 11, paragraph 4, under a of this constitution. -----
- 3. The Candidates Committee of Participants as meant in article 12, paragraph 1 may inspect the list of Participants entitled to vote mentioned in article 11, paragraph 4, under b of this constitution, at reasonable notice and under conditions set by the Board for the sole purpose of protecting the privacy of the individual Participants. -----
 Any individual Participant may inspect at reasonable notice for the purpose of verification: -----
 the personal data concerning that Participant and the status of his/her financial contributions as taken up in the books or the administration meant in paragraph 2 of this article. -----

----- **DISPUTES** -----

----- **Article 23** -----

1. All disputes between a Participant and the Foundation concerning the approval of building plans shall be submitted to arbitration. Each party shall thereto appoint one (1) architect or other knowledgeable professional. Then the two (2) appointed arbitrators shall jointly appoint a third arbitrator, qualified thereto, to settle the dispute jointly. The decision of the arbitrators shall be binding on both the Foundation and the Participant and shall include the division of the costs of the arbitration. ---
2. Sole jurisdiction and competence concerning all other disputes is vested in the Court of First Instance of the Netherlands Antilles, Seat Sint Maarten. -----

----- **AMENDMENT OF THE CONSTITUTION** -----

----- **Article 24** -----

1. Without prejudice to what is stated in article 10, paragraph 5 of this constitution, the Board may decide to amend the articles of this constitution which decision is to be laid down in a resolution of the Board to be passed in accordance with article 10, paragraph 2 of this constitution. -----
2. The Board may only pass such a resolution after having consulted the Participants, in accordance with article 15, paragraph 1, under e of this constitution, in a meeting in which an identical draft of that resolution was endorsed by the Participants by a majority of votes cast and at least one half (1/2) of the Participants entitled to vote, including the members of the Board, were present or represented. -----
3. The Board shall send the draft of such a resolution to all Participants entitled to vote at least four (4) weeks prior to said meeting. The procedure mentioned in article 20, paragraph 3 of this constitution applies mutatis mutandis. -----
4. Any amendment of this constitution shall be laid down in a notarial deed. The Board shall deposit an authentic copy of such deed, as well as the consolidated text of the constitution as amended at the office of the Chamber of Commerce of St. Maarten. Further the Board shall provide all Participants with that text. -----

----- **TRANSITIONAL PROVISIONS** -----

----- **Article 25** -----

In deviation of article 4, article 5, article 7, article 8, article 9, article 10 with the exception of the paragraphs 3 and 5, article 12, article 13, article 14 with the exception of paragraph 1, article 15, article 19 and 22 of this constitution, the following provisions shall apply during a period commencing on the date of the establishment of the Foundation and ending on June thirtieth, two thousand eight (June 30th, 2008), further to be referred to as the "Transition Period": -----

1. The Foundation shall have a Transitional Board, consisting of one (1) or more Board members: -----
 - a. who shall be appointed and dismissed by the Developer whenever he deems fit; -----
 - b. who shall be entitled to all the powers granted in this constitution to the Board as meant in article 4, paragraph 1; -----
 - c. who shall act on the instructions of the Developer, at his sole discretion but in full accordance with these transitional provisions and the other provisions of this constitution as far as the latter do not derogate from said provisions; -----
 - d. who is/are not required to be Participant(s) of Pointe Esprit; -----

- e. of whom at least one (1) Board member shall be a resident of Sint Maarten, while the other Board members, if any, may have themselves represented by a proxy-in-writing, who is not a Participant; -----
- f. who shall execute all functions of the Board. -----
- 2. The Transitional Board may pass resolutions in and without a meeting and shall pass the following resolutions, a copy of which shall be sent to the Developer, before the Foundation will have any Participants: -----
 - a. the resolution concerning the amount of the non-recurring contribution of the Participants, meant in article 16, paragraph 1 of this constitution, which amount shall not be adjusted during the Transition Period; -----
 - b. the resolution concerning the amount of the Foundation dues, meant in article 17, paragraph 1 of this constitution, which amount shall not be adjusted during the Transition Period, which resolution shall further include the date from which the first dues will be charged, due and payable as meant in paragraph 3 of that article and an explanation of: -----
 - the services that shall be provided by the Foundation to the Participants from that date; -----
 - the costs of said services and other cost items that must be covered by the dues taking duly account of what is stated in paragraph 4 of that article. -----
- 3. The Transitional Board shall call a meeting with the Participants, to be held in the month of May of the year two thousand eight (May 2008), to which meeting article 13, paragraph 1, 3, 4, 5, 6 and 7 of this constitution shall apply mutatis mutandis. In a period of one (1) month preceding this meeting, a new Board shall be appointed consisting of three (3) members, in accordance with article 4, paragraph 2, 3, 4, and 7 of this constitution. In this meeting the Transitional Board shall present the new Board to the Participants. The Transitional Board shall resign per June thirtieth, two thousand eight (June 30th, 2008) and the new Board shall take office per July first, two thousand eight (July 1st, 2008). -----

----- **FINAL PROVISION** -----

----- **Article 26** -----

- a. The first financial year of the Foundation shall commence on the date of the inception of the Foundation and ends on December thirty-first, two thousand six (December 31st, 2006). -----
- b. In all cases not provided for by law or in this constitution, the Board shall decide. -----

Finally the appearer, acting as mentioned above, declared that Mister Rudolph Richard Neuss, aforementioned, shall be the first member of the Board, which appointment he has accepted. -----
 The appearer is known to me, civil law notary.

WHEREOF THIS DEED

has been executed on Sint Maarten, in one original copy, on the date mentioned in the heading hereof. -----
 After relating the substance of this deed to the appearer, she declared to have examined the contents of this deed and not to require a full reading thereof. -----
 Then, after a summary reading of this deed, this deed was signed by the appearer and by me, civil law notary. -----