

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 26 OF 2013

BETWEEN:

LOOKOUT HOLDINGS LTD

PLAINTIFF

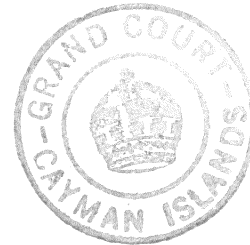
AND:

GARY BERRY

AND:

MELISSA BERRY

DEFENDANTS



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WRIT OF SUMMONS

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**TO: GARY BERRY** of PO Box 141, Grand Cayman, Cayman Islands, KY1-1601  
**MELISSA BERRY** of PO Box 141, Grand Cayman, Cayman Islands, KY1-1601

**THIS WRIT OF SUMMONS** has been issued against you by the above named Plaintiffs, of P.O Box 290, Grand Cayman, Cayman Islands in respect of the claims set out on the next page.

Within 14 days after service of this Writ on you counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein any intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 14<sup>th</sup> day of January 2013.

**NOTE** this Writ may not be served later than 4 calendar months beginning with the date of original issuance unless renewed by order of the Court

**IMPORTANT**

Directions for the Acknowledgement of service are given with the accompanying form.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2013

BETWEEN:

LOOKOUT HOLDINGS LTD

PLAINTIFF

AND:

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DEFENDANTS

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STATEMENT OF CLAIM

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**Introduction**

1. The Plaintiff, Lookout Holdings, is a duly company duly incorporated in the Cayman Islands whose registered office is at 45 Anton Bodden, Bodden Town, Grand Cayman
2. The Defendants are Gary and Melissa Berry who insofar as is known to the Plaintiff are husband and wife of P.O. Box 141, Grand Cayman, Cayman Islands, KY1-1601.
3. The Plaintiff was at all material times the owner and title holder of property known as Registration Section Bodden Town, Block 43A, Parcels 288, H3 and otherwise known as Griffin Manor Unit #12 (“**the Property**”)

**The Agreement**

4. By a contract in writing made between the Plaintiff and the Defendants on 17<sup>th</sup> February 2011 (“**the Agreement**”), the Plaintiff agreed to sell and the Defendants agreed buy the Property, including chattels. A copy of the Agreement is annexed hereto.
5. Pursuant to the express and material terms of the Agreement, the Defendants, *inter alia*, agreed and covenanted with the Plaintiff as follows:-
  - (a) The Defendants would purchase the Property for a purchase price (“**the Purchase Price**”) of CIS\$ 225,000 (Clause 2);

- (b) The Defendants would pay the Purchase Price to the Plaintiff in installments (“**the Installments**”). The Sum of CI\$ 5,000.00 was to be paid on the date of the making of the Agreement. Thereafter, the balance of the Purchase Price, of CI\$220,000.00 was to be paid to the Plaintiff in equal monthly installments of CI\$ 1,705.66, representing both principal and interest, to be begin on the 17<sup>th</sup> February 2011 and thereafter be paid on the first day of every consecutive month until 17<sup>th</sup> January 2031 at which time the Defendants were required to pay the balance remaining of the Purchase Price together with all other monies owing to the Plaintiff (Clause 2a);
- (c) The rate of interest payable by the Defendants on the outstanding principal balance was CI\$ Prime plus 3 per cent, with a minimum interest rate of 7 per cent (Clause 2b);
- (d) Time for paying the Installments was of the essence (Clause 2b);
- (e) In the event the Defendants failed to pay any of the Installments at the times provided for by the Agreement, upon the giving of 30 days written notice to the Defendants, the Plaintiff would be entitled without prejudice to any other remedy available, to forfeit and keep as liquidated damages all monies paid to the date of the written notice together with any interest thereon and further that the Agreement would automatically terminate and the Plaintiff would be entitled to re-enter upon the Property and take possession (Clause 2b);
- (f) Upon payment of the first Installment the Plaintiff would give to the Defendants vacant possession of the Property. (Clause 4);
- (g) Time was of the essence under the Agreement (Clause 6);
- (h) At any time after the execution of the Agreement and pending payment of the Purchase Price and interest thereon the Defendants were permitted to keep a Caution on the Land Register without any objection by the Plaintiff (Clause 8);
- (i) In the event the Defendants failed to pay any of the Installments at the times provided for by the Agreement, the Plaintiff would be entitled to charge interest on the late installment or the balance remaining of the Purchase Price at the rate of 10 percent calculated on a daily basis (Clause 11);
- (j) Should the Defendants fail to observe any of the terms of the Agreement, including the Covenants, upon the giving of 30 days written notice to the Defendants to cure any such breaches, the Plaintiff would be entitled without prejudice to any other remedy available, to retain as liquidated damages all monies paid to the date of the written notice together with any interest thereon and further that the Agreement would automatically terminate and the Plaintiff would be entitled to remove any Caution entered upon the Land Register by the Defendants (Clause 18);
- (k) ~~In consideration of the covenants referred to in the Agreement at Clause 20 to be observed and performed by the Defendants, the Plaintiff granted the Plaintiff a right to~~

possession and use of the Property and chattels, such license to occupy to be terminated in the event of a breach of Clauses 2 or covenants at Clause 20 (Clause 19);

(l) That for the duration of the Agreement the Defendants would punctually pay all insurance premiums and/or maintenance charges and other outgoings attributable to the Property. This included monthly payments due to the Proprietors of Strata Plan No 549. In the event of a failure of this covenant by the Defendants the Plaintiff was entitled to expend such sums as to cure the breach and add the amount so spent to the Purchase Price (Clause 20(a));

(m) That for the duration of the Agreement the Defendants would perform and observe all covenants and stipulations and restrictions as to the use of the Property and indemnify the Plaintiff from and against from and against, *inter alia*, any costs and expenses on account of any breach of the covenants (Clause 20(c));

(n) In the event of any failure to discharge the monetary obligation at Clause 2 of the Agreement or in the event of any breach of Defendants' covenants or obligation under the Agreement, the whole of the unpaid balance of the Purchase Price would be due and payable (Clause 20 (e));

6. Up to and including, on or about 1 July 2012 the Defendants had paid CI\$ 33,752.13, including interest to the Plaintiff by way of Installments.

7. Since on or about 1 July 2012, in breach of the Agreement and the terms, conditions and covenants hereinbefore set out the Defendants has:-

(i) neglected, defaulted and failed, at any time or at all, to pay the Plaintiff the Installments due;

(ii) neglected and failed within a reasonable time or at all to remedy the breach of the covenants and conditions by paying the Installments and arrears together with interest thereon to the Plaintiff;

(iii) neglected, defaulted and failed, at any time or at all, to pay punctually the monthly maintenance fees and payments to Proprietors of Strata Plan No 549;

(iv) neglected and failed within a reasonable time or at all to remedy the breach of the covenants and conditions paying punctually the monthly maintenance fees and payments to Proprietors of Strata Plan No 549 and arrears to the Plaintiff.

8. By letter and service of a formal notice on or about 12<sup>th</sup> December 2012 ("the Notice") as provided for at Clause 2, Clause 18 and Clause 20 of the Agreement the Plaintiff demanded that the Defendants remedy the breaches of the terms, covenants and obligations of the Agreement in full within 30 days and warned the Defendants that steps would be taken to exercise any remedies available to them should she fail to do so.

9. Notwithstanding the Notice and demands made by the Plaintiff, the Defendants, in breach of the terms, covenants and obligations of Agreement has failed to remedy or cure the breaches.

10. As at 1<sup>st</sup> January 2013:-

- (i) the Defendants were in arrears with the Installments payable to the Plaintiff in the total sum of CI\$ 12,258.05, together with interest thereon;
- (ii) the Defendants were in arrears with the monthly maintenance fees and payments due to Proprietors of Strata Plan No 549 in the total sum of CI\$2,112.90 ;
- (iii) the unpaid balance of the Purchase Price due and owing by the Defendant was CI\$ 222,137.55;
- (iv) pursuant to Clause 11 of the Agreement, the interest due and owing by the Defendants on the unpaid balance remaining of the Purchase Price, calculated on a daily basis was CI\$ 12,500.50

Accordingly, as at 1<sup>st</sup> January 2013, the Defendants were indebted to the Plaintiff in the total sum of CI\$ 236,508.50.

11. The Plaintiff has at all material times fulfilled all of his obligations under the Contract.

12. By reason of the Defendants' breaches the Plaintiff has suffered loss and damage.

13. The Plaintiff therefore seeks to enforce his rights against the Defendants in accordance with the Agreement.

**The Plaintiff therefore claims against the Defendant joint and severally:**

- (1) Specific performance of the said Agreement to purchase the Property;
- (2) Further or alternatively, damages for breach of contract in addition to or in lieu of specific performance or at common law;
- (3) All necessary and consequential accounts, directions and inquiries;
- (4) Further or alternatively, by virtue of the breach of Clause 2 and Clause 20(e) of the Agreement, Judgment against the Defendants in the sum of CI\$236,508.50 with interest thereon calculated at 10% per annum pursuant to Clause 11 of the Agreement or in the alternative, pre and post-judgment interest calculated pursuant to the Judicature Law (2007 Revision) and the Judgment Debt (Rates of Interest) Rules, as amended from time to time.

(5) Further or alternatively, pursuant to Clauses 2, 18 and 20 of the Agreement, Declarations or Orders;

- (a) that the Agreement is terminated;
- (b) that the Plaintiff has the right to forfeit and keep as liquidated damages the sum of CI\$ CI\$ 33,752.13 paid to date by the Defendants;
- (c) damages against the Defendants for breach of contract;
- (c) that the Plaintiff has the right to remove any Caution placed upon the Property by the Defendants in the Land Registry;
- (d) that the Plaintiff has the right of re-possession of the Property with the immediate right of re-entry into the Property;
- (e) that the Defendants do deliver up the Property forthwith, or alternatively, the Plaintiff has leave to issue a Writ of Possession pursuant to Order 45, rule 3 of the Grand Court Rules 1995 (Revised Edition).

(5) That the Defendants pay the Plaintiff's indemnity costs pursuant to Clause 20(c) of the Agreement

(6) Such further and other relief as this Honourable may seem just; and

**DATED** at Grand Cayman this 22<sup>nd</sup> day of January 2013

Nelson & Co.

Nelson & Co.

Attorneys for the Plaintiff

**THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM** is issued by Nelson & Co., Attorneys-at-Law, attorney for the Plaintiffs, whose address for service is that of his said attorneys at 31 The Strand, P.O. Box 2075, Grand Cayman KY1-1105 Cayman Islands.

**TO:** The Clerk of the Grand Court

**AND TO:** The Defendants

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2013

BETWEEN:

LOOKOUT HOLDINGS LTD

PLAINTIFF

AND:

GARY BERRY

AND:

MELISSA BERRY

DEFENDANTS

**ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intend to contest the proceedings (tick appropriate box)  
 Yes                      No

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3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box)  
 Yes                      No

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Service of the Writ is acknowledged accordingly

Signed .....

Attorney for the Defendant

Address for service:

**Please complete overleaf**

**Notes on address for service**

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by Plaintiffs' Attorney (or by Plaintiffs if suing in person) of his name, address and reference, if any, in the box below.

Nelson & Company  
Attorneys at Law  
PO Box 2075  
31 The Strand  
46 Canal Point Drive  
Grand Cayman KY1-1105  
Attn: C Flanagan

Indorsement by Defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

[Empty box for Defendant's Attorney indorsement]

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

**See over for notes for guidance**

### Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.


THIS AGREEMENT is made the February 17, 2011

BETWEEN: LOOKOUT HOLDINGS LTD. of P.O. Box 290, Grand Cayman KY1-1104 (hereinafter called "the Vendor" which expression shall where the context so admits include the successors in title nominees and assigns of the Vendor) OF THE ONE PART

AND: Gary Berry and Melissa Berry of P.O. Box 141 Grand Cayman KLY1-1601, Cayman Islands, B.W.I. (hereinafter called "the Purchaser" which expression shall where the context so admits include the successors in title nominees and assigns of the Purchaser) OF THE OTHER PART

WHEREAS:

1. The Vendor will sell and the Purchaser will buy the absolute freehold title of all that Apartment in the island of Grand Cayman the same as is comprised within Registration Section Bodden Town Block 43A Parcel 288H described as Griffin Manor Unit #12 (herein after called "the Apartment") together with the furnishings, appliances and contents thereof as set out in the inventory attached hereto as Schedule A (hereinafter called "the Chattels").
2. The total purchase price of the Apartment is C\$225,000.00 of which the sum of C\$5,000.00 (hereinafter called "the First Installment") shall be paid on or before the date hereof to the Vendor (the receipt and payment whereof is hereby acknowledged by the Vendor) and the balance of the said total purchase price shall be paid as follows:-
  - (a) The further sum of C\$220,000.00 representing the balance of the said total purchase price for the Apartment will be payable in manner hereinafter set out by equal monthly payments of C\$ 1,705.66 representing both principal and interest, the first of such monthly payments to be made on the 17th day of February 2011 and thereafter on the 17<sup>th</sup> day of each and every consecutive month and on the 17th day of January, 2031 the Purchaser will pay the balance of the purchase price together with any and all other monies owing to the Vendor. The monthly payments are based on a 20 year amortization as noted on the amortization schedule attached hereto as Schedule B.
  - (b) The rate of interest payable hereunder shall be C\$ Prime + 3% as set by First Caribbean International Bank on the 1<sup>st</sup> day of each month (with a minimum interest rate of 7% per annum) on the outstanding principal balance from time to time of the said total purchase price, PROVIDED THAT the Purchaser shall have the right at any time and without penalty to pre-pay the whole of the outstanding principal balance of the said total purchase price and interest thereon to the date of pre-payment whereupon the date of pre-payment shall be the completion date AND PROVIDED THAT for the avoidance of doubt it is expressly agreed that should the first payment to be made on or before the date hereof to be paid to the Vendor by cheque then none of the rights and obligations created hereby shall have effect until such cheque has been cleared AND PROVIDED FURTHER THAT in the event that the Purchaser does not pay any one or more of the said installments of the said total purchase price at the times

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one or more of the said installments of the said total purchase price at the times and as provided for in (a) above in respect of which payments time shall be of the essence the Vendor shall by giving thirty (30) days written notice to the Purchaser be entitled without prejudice to any other available remedy to forfeit and keep absolutely as liquidated damages all monies paid to the date of the said notice together with any interest earned thereon ( for possession of the Apartment and usage of the chattels) by the date of the said notice whereupon this Agreement shall automatically terminate and the Vendor shall thereupon be entitled to reenter upon the Apartment and repossess the same free from any rights or interest of the Purchaser therein.

3. Upon payment of the purchase price in full the Vendor shall execute and deliver to the Purchaser in triplicate an Instrument of Transfer of the Apartment.
4. Upon payment of the First Installment vacant possession of the Apartment shall be given to the Purchaser.
5.
  - (a) The Apartment is sold in its present condition subject to the By-Laws and amendments thereto affecting the same as referred to in the Register thereof at the Land Registry.
  - (b) The Apartment is sold according to the Strata Plan filed at the Land Registry relating to the above title.
  - (c) The Apartment is believed and shall be taken to be correctly described. No error, omission or misdescription of the Apartment shall invalidate this Contract. The Purchaser hereby declares that no oral representations have been made to him prior to the date hereof by the Vendor or its agents concerning the subject matter of this Agreement which has influenced, induced or persuaded him to enter into this Agreement.
  - (d) The Purchaser acknowledges that the Vendor may expand the Development or the phase of the Development containing the Apartment or construct additional apartments such that there may be further phases thereof which may be in the Development and/or neighbouring parcels of land (including without limitation additional storeys or parking in the Development) and which will not be completed and ready for occupation and/or use at the same time, but which may be included in a Phase Strata Plan, Complete Strata Plan, or Proposed Strata Lot Development Plan filed with the Land Registry in respect thereof, and the Purchaser hereby specifically consents to the amendment of the Strata Plan and registration of a Phase Strata Plan, Proposed Strata Lot Development Plan, and Complete Strata Plan for inclusion therein of such further phases, and will procure, wherever necessary, the written consent of any Purchaser's mortgagee or other party with an interest in the Apartment to the amendment of the Strata Plan and registration of a Phase Strata Plan, Proposed Strata Lot Development Plan, and Complete Strata Plan.

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- (e) The Purchaser acknowledges that the Vendor may determine to register a Phase Strata Plan, Proposed Strata Lot Development Plan, or a Complete Strata Plan (as the case may be) in respect of any one or more phases of the Development and may thereafter register on adjacent parcels of land subsequent and separate Strata Plans (and thereafter construct buildings on such land) which may or may not be a Phase Strata Plan and may or may not form part of the Development.
- (f) The Purchaser shall not be entitled to make any objection or claim for compensation by reason of any alteration in the number, size, location or unit entitlement of any apartments comprised within the Strata Plan or any amendment thereof or in or to the common property of the Strata Plan or in or to the Strata Plan.
- (g) The Purchaser hereby agrees not to make any objection to or claim compensation in relation to the construction of additional apartments, the transportation of building materials on Common Property, the undertaking of all work, the alterations to Common Property, or the Apartment to allow for any structural or other work necessary for construction and such other building work as is usual or necessary for building work of this type, the progressive development of the Development (including the airspace above the Development) nor to the inclusion of additional storey or parking to the improvements upon the development nor to the amendment of the Strata Plan, nor to the registration (at the expense of the Vendor) of any such further Strata Plans, Phase Strata Plans, Proposed Strata Lot Development Plan and Complete Strata Plans as the Vendor deems necessary so as to include such parts of the Development as are not included in the Strata Plan or Phase Strata Plan (as the case may be), as and when such parts are completed.
- (h) At the Vendor's sole discretion, the Vendor may amend, curtail or modify the Development (including any phase containing the Apartment or any building) including without limitation, modifications to the apartment type, apartment mix, apartment height, dimension or location.
- (i) The Purchaser hereby agrees not to object to or claim compensation in relation to any further development of or expansion to the building and/or the Development (including the airspace above the Development) which may include registration of one or more separate Strata Plans, Phase Strata Plans, Proposed Strata Lot Development Plans and/or Complete Strata Plans, (as the case may be) and hereby consents to the use of the power, water, cable and sewage facilities installed in and forming a part of

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the Common Property of the Strata Plan in order than any portion of the land not included in the Strata Plan can be provided with power, water, cable, and sewage services; provided that the Vendor will take measures to assure that any additional costs arising from the use of these facilities for such purpose will be paid for by the Vendor and/or other relevant proprietors.

- (j) The Purchaser shall not raise any objection to or claim compensation in relation to the amendment and/or other modification from time to time of the Strata Plan, any relevant Phase Strata Plan, any relevant Proposed Strata Lot Development Plan, and/or Complete Strata Plan so as to enable the Strata Corporation, and the Development to be combined, consolidated or merged with any parcel strata lot, Common Property, strata plan and/or strata corporation to be filed and incorporated in respect of such further phase, adjacent parcels and/or any part or parts thereof that are connected with the Development.
- (k) The Purchaser shall not be entitled to make any objection or claim for compensation by reason of:
  - (a) Any variations to the Strata Plan, and/or any relevant Phase Strata Plan and/or any relevant Proposed Strata Lot Development Plan, and/or any Complete Strata Plan, as the case may be.
  - (b) Any alteration in the number, size, location and/or unit entitlement of any other parcel or apartment comprised within the Strata Plan, within any relevant Phase Strata Plan, any Proposed Strata Lot Development Plan, and/or any Complete Strata Plan and/or within any amendment thereto and/or to the common property of the Strata Plan, any Phase Strata Plan, any Proposed strata Lot Development Plan and/or Complete Strata Plan;
  - (c) The Vendor constructing new apartments on new storeys on, or adjoining the Development and taking ownership of any apartments created as a result of such work.
- (l) The Purchaser acknowledges that the Vendor may reduce the size of the Development such that the Vendor may sell or otherwise dispose of any portion of the Land, and the Vendor and/or any other relevant proprietor shall be entitled to subdivide the Land and/or any real property subsequently acquired by the Vendor or by an affiliate of the Vendor and/or the property at any time comprising the Development including any relevant phase containing the Apartment, and the Purchaser hereby agrees not to object to or claim compensation in relation to the subdivision of the Land and/or any other such real property now owned (or subsequently acquired) by the Vendor or by any affiliate of the Vendor

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and which becomes a part of the Development.

- (m) For valuable consideration, the Purchaser hereby agrees to execute (and to procure that any relevant third parties will execute) all instruments, deeds, forms and/or documents and/or to do all acts and things necessary (and to give any consent required under the Strata Law) to give full effect to these matters described in this Clause 5, including upon execution of this Agreement, a duly executed irrevocable Power of Attorney (and if required or requested by the Vendor at any time prior to or on completion of this Agreement, a further such irrevocable consent and/or irrevocable Power of Attorney) in form, content and execution satisfactory to the Vendor, whereby the Purchaser effectively consents and agrees to the registration of any such further Strata Plans, Phase Strata Plans, Proposed Strata Lot Development Plans and/or any Complete Strata Plan and/or authorizes the Vendor to execute all necessary consents for registration of any such further Strata Plans, Phase Strata Plans, Proposed Strata Lot Development Plans and/or any Complete Strata Plan and authorizes the Vendor to remove any caution registered by the Purchaser that would prohibit or delay the registration of any such further Strata Plans, Phase Strata Plans, Proposed Strata Lot Development Plans and/or any Complete Strata Plan in respect of any such further phases of development; provided it is hereby agreed that any default by the Purchaser in providing any such instrument, deed, form or document or in doing any act or thing deemed necessary by the Vendor for the purposes hereof shall be considered to be a default of the terms of this Agreement.
- (n) The Purchaser for its part represents and warrants to the Vendor that the Purchaser has:
- (a) Taken such independent legal and/or other professional advice as the Purchaser deemed necessary prior to entering into this Agreement; and
  - (b) Made and been satisfied as to all enquiries as the Purchaser deemed necessary before entering into this Agreement save for those requisitions allowed under Clause 10 hereof.
- (o) The benefit of this Clause 5 shall also extend to any corporate parent or subsidiary of the Vendor undertaking such works or development.
- (p) This Clause 5 shall survive the completion of this Agreement.
- (q) Title to the Chattels shall pass to the Purchaser at the date of completion which, for the avoidance of doubt, will be the date upon which the balance of purchase monies in full is paid to the Vendor. The Vendor warrants to the Purchaser that the Chattels belong to the Vendor absolutely and that


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the same are not and will not at the time of delivery to the Purchaser be subject to any hire purchase or credit sale agreement or any charge, mortgage or incumbrance of any nature whatsoever.

6. Time shall be of the essence to this Agreement.
7. The Vendor is not aware of the existence and shall not be required to give any evidence or information as to the existence or otherwise of any of the matters which are by Section 28 of the Registered Land Law (2004 R.) declared to be overriding interests save those already disclosed or apparent from an inspection of the said Apartment, and the Purchaser shall take the Apartment subject to all such matters (if any) as are now subsisting.
8. At any time after the execution and exchange hereof and pending payment in full of the said total Purchase Price and interest thereon and so long as the Vendor shall not have exercised any rights of termination and forfeiture hereunder the Purchaser shall be entitled to lodge and keep a Caution on the Register relating to the Apartment as Contracting Purchaser and the Vendor shall not raise any objection thereto and the Vendor further agrees on demand to furnish the Purchaser with such consent or consents as may be required by the Purchaser to enable the Purchaser to obtain official searches of the registers relating to the Apartment with Stays and Registration.
9. The Apartment being open for inspection to the Purchaser previously to the date hereof the Purchaser shall be deemed to purchase with full notice of the state and condition thereof in all respects and shall accept the same in the state and condition it is in on the completion date.
10. Should any objection or requisition be insisted on which the Vendor shall be unable or unwilling to satisfy or comply with he may (notwithstanding any attempt to remove or satisfy the same or any negotiation or litigation in respect thereof) by notice in writing to the Purchaser or his Attorneys rescind this Agreement and the Purchaser shall thereupon return to the Vendor all papers belonging to the Vendor in his possession in connection with this Agreement and forthwith procure the cancellation of any entry in any register relating to this Agreement.
11. In addition to any other remedies available to the Vendor in the event that the Purchaser delays in making any payment of any installment when called for on the balance of the purchase price and interest on or before the dates fixed for closing hereunder the Vendor shall be entitled to charge interest on the late installment or the balance of the purchase price unpaid as the case may be until the date of payment at the rate of 10% per annum calculated on a daily basis.
12. For the avoidance of doubt it is hereby expressly agreed and declared that should any installment or any other monies payable hereunder be paid by personal cheque then

none of the rights and obligations created hereby shall have effect until such cheque has been cleared in the Cayman Islands.


13. The Purchaser shall be responsible for the payment of all stamp duty and registration fees upon this Agreement and the subsequent Transfer and the Vendor and the Purchaser shall each bear their own legal fees. In addition the Purchaser shall be responsible for all property taxes and any other taxes or expenses (if any) attributable to the Apartment.
14. The Vendor may at any time transfer and assign the benefit of this contract and the Purchaser may also transfer and assign the benefit of this contract subject to the Vendor's written approval.
15. Any notice or communication under or in connection with this Agreement shall be in writing and shall be delivered personally, by post, or by facsimile: To the Vendor at:  
P.O. Box 290, Grand Cayman KY1-1104,  
Attention: Mr. John V. Broadbent  
Fax: 345-947-2053  
  
To the Purchaser at: P.O. Box 141, Grand Cayman KY1-1601  
  
Fax:  
  
Or such other address as may have been notified to the other party in writing.  
  
(a) Proof of posting, dispatch or transmission shall be deemed to be proof of receipt:  
(1) In the case of a letter, on the seventh day after posting;  
(2) In the case of a facsimile or personal delivery, on the business day immediately following the date of dispatch or transmission.
16. In this Agreement where the context so admits words importing the singular number shall be deemed to include the plural number and words importing the masculine gender shall be deemed to include the feminine and neuter genders.
17. No error, misdescription, mis-statement or omission made or given in respect of the Apartment by the Vendor or by any of his servants or agents shall annul this Agreement nor (save where the error, misdescription, mis-statement or omission is material) shall any damages be payable or compensation allowed by either party in respect thereof.
18. If the Purchaser shall fail to perform or observe any of the terms of this Agreement including, but without limiting the generality hereof, the Purchaser's covenants and agreements referred to in Clause 20 hereof for a period of 30 days from the date upon which the breach occurred the Vendor may serve notice calling for the curing of such breach and if the breach shall not have been cured within such period as set out in the

  
A.H.B

notice then the Vendor shall be entitled to retain all monies paid to the date of the notice of the breach as liquidated damages for, inter alia, the possession of the Apartment and purchase of the Chattels and this Agreement shall forthwith be terminated save that the Purchaser shall also retain the right to forthwith remove or cause to be removed any Caution, Inhibition or Restriction filed at the Land Registry in respect of this Agreement and the Purchaser hereby appoints the Vendor it's attorney for that purpose.

19. In consideration of the covenants and agreements hereinafter contained in Clause 20 hereof and on the part of the Purchaser to be observed and performed the Vendor hereby grants unto the Purchaser for the benefit of itself, its guests and its invitees the right to possession and use from the date hereof of the Apartment for the purposes herein referred to and conferred by law, such licence to occupy to be terminated in the event of a breach as set out in Clauses 2 or 18 hereof. It is hereby agreed between the parties hereto that this particular part of this Agreement in this Clause constitutes a licence and confers no tenancy upon the Purchaser and does not create the relationship of landlord and tenant and that this licence will subsist for as long as the Purchaser shall not be in breach of any of the terms and conditions of this Agreement.
20. During the subsistence of this Agreement the Purchaser covenants and agrees:-
- (a) that the Purchaser shall punctually pay all insurance premiums and/or maintenance charges or other outgoings and expenses attributable to the Apartment and every other sum from time to time payable in respect of the Apartment and shall produce to the Vendor on demand a receipt for all such payments. Where the Purchaser fails to comply with this covenant, the Vendor may spend such money as is necessary to cure the breach and may add the amount so spent to the purchase monies due hereunder;
  - (b) to keep the Apartment in good and substantial repair and condition fair wear and tear excepted and permit the Vendor and it's agent upon giving reasonable notice at all reasonable times and without any further consent to enter into and upon the same and inspect the same and view the state thereof and upon receipt by the Purchaser of notice in writing from the Vendor the Purchaser shall immediately remedy restore repair alter or make good all such defects decays wants of reparation alteration and upkeep of the Apartment as the case may be and if the Purchaser shall neglect to do so the Vendor may enter upon the same with or without workmen or others from time to time in order to repair and keep in repair the same and without thereby becoming liable in possession and that the expenses of so doing shall be repaid by the Purchaser to the Vendor on demand and in the meantime shall be treated as an accretion to the purchase monies due hereunder;
  - (c) that during the subsistence of this Agreement it will perform and observe all the covenants stipulations and restrictions as to the use or enjoyment of the Apartment and will keep the Vendor indemnified from and against all actions proceedings costs damages expenses and claims on account of any breach of any such covenants stipulations or restrictions and the Purchaser hereby acknowledges that all reasonable expenses damages and costs incurred by the

Vendor in relation to any such breach will be treated as an accretion to the purchase monies due hereunder;

- (d) that all erections and improvements fixed or otherwise now or hereafter put upon the Apartment shall in addition to other fixtures thereon be and become fixtures on or to the Apartment;
  - (e) that in the event that the Purchaser shall fail to discharge any monetary obligations in accordance with Clause 2 hereof or in the event that the Purchaser shall be in breach of any of the Purchaser's covenants or obligations herein contained whether expressed or implied or in the event that the Purchaser commits any act of bankruptcy or makes any assignment or composition for the benefit of the Purchaser's creditors or being a company goes into liquidation other than voluntary liquidation for the purposes of a reconstruction only the terms of which have been previously approved in writing by the Vendor (or suffers the appointment of a receiver over any part of the Purchaser's assets then in any such event the whole of the unpaid balance of the purchase monies and any other sums owing hereunder shall become immediately due and payable to the Vendor and the Vendor shall be at liberty to exercise any and all rights available to him pursuant to Clauses 2 and 18 hereof.
21. So long after the date hereinafter fixed for completion as any instalment of purchase money or interest shall remain unpaid the Purchaser shall keep the Apartment in good repair and if there shall be any breach of this provision the Vendor may remedy the same and every sum expended in remedying such breach shall be repayable by the Purchaser on demand and be recoverable forthwith by action.
22. The 6 month Strata Fee waiver commences on February 1, 2011 and expires on the 31<sup>st</sup> day of July, 2011. It is a condition of the contract that if any payment or monies due under the contract are not paid in a timely manner then the Purchaser is immediately liable to pay Strata fees from the date of non payment, for the avoidance of doubt, the waiver will not be reinstated under any circumstances. 
23. This Agreement shall be governed and construed according to the Laws of the Cayman Islands.

SIGNED by the Vendor

in the presence of:-

K. Chabria  
WITNESS

SIGNED by the Purchaser

in the presence of:-

K. Chabria  
WITNESS

SIGNED by the Purchaser

in the presence of:-

K. Chabria  
WITNESS

[Signature]  
LookOut Holdings Ltd.

[Signature]  
Gary Berry

[Signature]  
Melissa Berry

AMB

SCHEDULE A

Range & Microwave oven  
Fridge/Freezer  
Dishwasher  
Washer  
Dryer