

# Vacant Land Listing Agreement



1 This Exclusive Right of Sale Listing Agreement ("Agreement") is between  
2 \* HANS LOLLICK LAND COMPANY, LLLP and Little Hans Lollick Holdings, LLP ("Seller") and  
3 \* ONE SOTHEYB'S INTERNATIONAL REALTY ("Broker").

4 1. **AUTHORITY TO SELL PROPERTY:** Seller gives Broker the EXCLUSIVE RIGHT TO SELL the real and personal  
5 \* property (collectively "Property") described below, at the price and terms described below, beginning the 20TH  
6 \* day of OCTOBER, 2011, and terminating at 11:59 ~~PM~~ on the 20th day of APRIL  
7 \* 2012 ("Termination Date"). ~~Upon full execution of a contract for sale and purchase of the Property, all rights and~~  
8 ~~obligations of this Agreement will automatically extend through the date of the actual closing of the sales contract.~~  
9 Seller and Broker acknowledge that this Agreement does not guarantee a sale. This Property will be offered to any  
10 person without regard to race, color, religion, sex, handicap, familial status, national origin or any other factor  
11 protected by federal, state or local law. Seller certifies and represents that he/she/it is legally entitled to convey the  
12 Property and all improvements.

## 13 2. DESCRIPTION OF PROPERTY:

14 \* (a) Real Property Street Address: Great Hans Lollik Island and  
15 \* Little Hans Lollik Island

16 Legal Description (include plat information, property identification number, deed book and page):  
17 \* NO. 10 Great Northside Quarter, St. Thomas, U.S. Virgin Islands  
18 \*  See Attachment

19 (b) Personal Property, including storage sheds, electrical (including pedestal), plumbing, septic systems, water  
20 tanks, pumps, solar systems/panels, irrigation systems, gates, domestic water systems, gate openers and controls,  
21 fencing, timers, mailbox, utility meters (including gas and water), windmills, cattle guards, existing landscaping,  
22 trees, shrubs and lighting: \_\_\_\_\_  
23 \* \_\_\_\_\_  
24 \*  See Attachment

25 \* (c) Occupancy: Property  is  is not currently occupied by a tenant. If occupied, the lease term expires  
26 \* \_\_\_\_\_

## 27 3. PRICE AND TERMS: The property is offered for sale on the following terms, or on other terms acceptable to 28 Seller:

29 \* (a) Price: \$29,500,000 see addendum no 1  
30 \* (b) Financing Terms:  Cash  Conventional  VA  FHA  USDA  Other

31 \* TBD  
32 \*  Seller Financing: Seller will hold a purchase money mortgage in the amount of \$ TBD  
33 \* with the following terms: TBD

34 \*  Assumption of Existing Mortgage: Buyer may assume existing mortgage for \$ TBD  
35 \* plus an assumption fee of \$ TBD. The mortgage is for a term of TBD years beginning in  
36 \* TBD, at an interest rate of TBD %  fixed  variable (describe) TBD

37 \* Lender approval of assumption  is required  is not required  unknown. Notice to Seller: You may remain  
38 liable for an assumed mortgage for a number of years after the Property is sold. Check with your lender to  
39 determine the extent of your liability. Seller will ensure that all mortgage payments and required escrow deposits  
40 are current at the time of closing and will convey the escrow deposit to the buyer at closing.

41 \* (c) Seller Expenses: Seller will pay mortgage discount or other closing costs not to exceed TBD % of the  
42 purchase price; and any other expenses Seller agrees to pay in connection with a transaction.

43 Seller (Signature) and Broker/Sales Associate (Signature) acknowledge receipt of a copy of this page, which is Page 1 of 4 Pages.

**4. BROKER OBLIGATIONS AND AUTHORITY:** Broker agrees to make diligent and continued efforts to sell the

Property until a sales contract is pending on the Property. Seller authorizes Broker to:

- (a) Advertise the Property as Broker deems advisable including advertising the Property on the Internet unless limited in (4)(a)(i) or (4)(a)(ii) below.
- (b) Place appropriate transaction signs on the Property, including "For Sale" signs and "Sold" signs (once Seller signs a sales contract) and use Seller's name in connection with marketing or advertising the Property.
- (c) Obtain information relating to the present mortgage(s) on the Property.
- (d) Place the Property in a multiple listing service ("MLS"). Seller authorizes Broker to report to the MLS the listing information and price, terms and financing information on any resulting sale for use by authorized Board / Association members, MLS participants and subscribers.
- (e) Provide objective comparative market analysis information to potential buyers.
- (f) (Check if applicable)  Use a lock box system and/or gate code to show and access the Property. A lock box or gate does not ensure the Property's security. Seller is advised to secure or remove valuables. Seller agrees that the lock box or gate is for Seller's benefit and releases Broker, persons working through Broker and Broker's local Realtor Board / Association from all liability and responsibility in connection with any loss or damage that occurs.
- (g) (Check if applicable)  Withhold all offers once Seller accepts a sales contract for the Property.
- (h) Act as a transaction broker of Seller unless a different agency relationship has been established in writing.
- (i) Virtual Office Websites: Some real estate brokers offer real estate brokerage services online. These websites are referred to as Virtual Office Websites ("VOW"). An automated estimate of market value or reviews and comments about a property may be displayed in conjunction with a property on some VOWs. Anyone who registers on a Virtual Office Website may gain access to such automated valuations or comments and reviews about any property displayed on a VOW. Unless limited below, a VOW may display automated valuations or comments/reviews (blogs) about the Property.
- Seller does not authorize an automated estimate of the market value of the listing (or hyperlink to such estimate) to be displayed in immediate conjunction with the listing of the Property.
- Seller does not authorize third parties to write comments or reviews about the listing of the Property (or display a hyperlink to such comments or reviews) in immediate conjunction with the listing of the Property.

**5. SELLER OBLIGATIONS/SELLER REPRESENTATIONS:** In consideration of Broker's obligations, Seller agrees to:

- (a) Cooperate with Broker in carrying out the purpose of the Agreement, including referring immediately to Broker all inquiries regarding the Property's transfer, whether by purchase or any other means of transfer.
- (b) Provide Broker accurate information about the Property of which Seller may be aware including but not limited to utility availability, presence of or access to water supply, sewer or septic system, problems with drainage, grading or soil stability, environmental hazards, commercial or industrial nuisances (noise, odor, smoke etc.), utility or other easements, shared driveways, encroachments from or on adjacent property, zoning, wetland, flood hazard, trenches, cemetery/grave sites, abandoned well, underground storage tanks, presence of protected species or nests of protected species.
- (c) Provide Broker access to the Property and make the Property available for Broker to show during reasonable times, **AT BROKER'S EXPENSE.**
- (d) Inform Broker prior to leasing, marketing or otherwise encumbering the Property.
- (e) Indemnify Broker and hold Broker harmless from loss, damage, costs and expenses of any nature, including attorney's fees, and from liability to any person, that Broker incurs because of (1) Seller's negligent representations, misrepresentations, omissions or actions; (2) the use of a lock box; (3) the omission of undisclosed material facts about the Property; or (4) a court or arbitration decision that a broker who was not compensated in connection with a transaction is entitled to compensation from Broker. This clause will survive Broker's performance and the transfer of title.
- (f) To perform any act reasonably necessary to comply with FIRPTA (Internal Revenue Code Section 1445).
- (g) Make all legally required disclosures, including all facts that materially affect the Property's value and are not readily observable or known by the buyer. Seller certifies and represents that Seller knows of no such material

101 Seller (LLP) and Broker/Realtor Associates \_\_\_\_\_ acknowledge receipt of a copy of this page, which is Page 2 of 4 Pages.

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facts (local government building code violations, unobservable defects, etc.) other than the following:

Seller will immediately inform Broker of any material facts that arise after signing this Agreement (f) - General appropriate professionals for related legal, tax, property condition, environmental, foreign reporting requirements and other specialized advice

(g) - Seller represents that Seller is not aware of any notice of default recorded against the Property; any delinquent amounts due under any loan secured by or other obligation affecting the Property; any bankruptcy, foreclosure, insolvency or similar proceeding affecting the Property; any litigation, arbitration, administrative action, government investigation or other action that effect or may effect the Seller's ability to transfer the Property; any current pending or proposed special assessments affecting the Property; any planned public improvements which may result in special assessments; or any mortgages or market supplements against the Property.

6. COMPENSATION: Seller will compensate Broker as specified below for procuring a buyer who is ready, willing and able to purchase the Property or any interest in the Property on the terms of the Agreement or on any other terms acceptable to Seller. Seller will pay Broker as follows (plus applicable sales tax):

(a)  $\frac{8\%}{100}$  % of the total purchase price plus \$ N/A OR \$ N/A no later than the date of closing specified in the sales contract. However, closing is not a prerequisite for Broker's fee being earned. (b) -  $\frac{1\%}{100}$  (or  $\frac{1\%}{100}$ ) of the consideration paid for an option, at the time an option is created. If the option is exercised, Seller will pay Broker the paragraph (a) fee, less the amount Broker received under the subparagraph.

(c) -  $\frac{1\%}{100}$  (or  $\frac{1\%}{100}$ ) of gross lease value as a leasing fee, on the date Seller enters into a lease or agreement to lease, whichever is sooner. This fee is not due if the Property is or becomes the subject of a contract granting an exclusive right to lease the Property.

(d) - Broker's fee is due in the following circumstances: (1) If any interest in the Property is transferred, whether by sale, lease, assignment, governmental action, bankruptcy or any other means of transfer, regardless of whether the terms stated in the Agreement, default on an executed sales contract or agrees with a buyer to cancel an executed sales contract. (2) If, within        days after Termination Date ("Termination Period"), Seller transfers or contracts to transfer the Property or any interest in the Property to any prospects with whom Seller, Broker or any real estate licensee communicated regarding the Property prior to Termination Date. However, no fee will be due to Seller if the Property is resold within Termination Date and sold through another broker.

(e) - Returned Depositor: No consideration for Broker's services; Broker is entitled to receive        % of all deposits that Seller returns as liquidated damages for a buyer's default in a transaction, not to exceed the paragraph (a) fee.

7. COOPERATION AND COMPENSATION WITH OTHER BROKERS: Broker's office policy is to cooperate with all other brokers except when not in Seller's best interest.  and to offer compensation in the amount of 3 % of the purchase price or interest of Seller in a transaction;  and to offer compensation in the amount of 3 % of the purchase price or interest of Seller in a transaction;  and to offer compensation in the amount of 3 % of the purchase price or interest of Seller in a transaction;  None of the above (if this is checked, the Property cannot be placed in the MLS.)

8. BROKERAGE RELATIONSHIP: Under this Agreement, Broker will be acting as a transaction broker unless a different agency relationship has been established in writing.

9. CONDITIONAL TERMINATION: At Seller's request, Broker may agree to conditionally terminate this Agreement if Broker agrees to conditional termination. Seller must sign a withdrawal agreement, reimburse Broker for all direct expenses incurred in marketing the Property and pay a cancellation fee of \$        plus applicable sales tax. Broker may void the conditional termination and Seller will pay the fee stated in paragraph 9(a) less the cancellation fee if Seller transfers or contracts to transfer the Property or any interest in the Property during the time period from the date of conditional termination to Termination Date and Protection Period, if applicable.

10. DISPUTE RESOLUTION: This Agreement will be construed under Florida law. All controversies, claims and other matters in question between the parties arising out of or relating to this Agreement or the breach thereof will be settled by first attempting mediation under the rules of the American Mediation Association or other mediator agreed upon by the parties. If mediation fails, the prevailing party will be entitled to recover reasonable attorney's fees and costs, unless the parties agree that disputes will be settled by arbitration as follows: Arbitration

11. (b) (7) (C) and Broker/Real Estate Associate (b) (7) (C) acknowledge receipt of a copy of this page, which is Page 3 of 4 Pages.

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156 By willing in the space provided, Seller ( ) and Listing Broker ( ) agree that  
 157 disputes not resolved by mediation will be settled by neutral binding arbitration in the county in which the property is  
 158 located in accordance with the rules of the American Arbitration Association or other arbitrator agreed upon by the  
 159 parties. Each party to any arbitration (or litigation to enforce the arbitration provision of the Agreement or an  
 160 arbitration award) will pay its own fees, costs and expenses, including attorney's fees, and will equally split the  
 161 arbitrator's fees and administrative fees of arbitration.

162 **11. MISCELLANEOUS:** This Agreement is binding on Broker's and Seller's heirs, personal representatives,  
 163 administrators, successors and assigns. Broker may assign this Agreement to another listing office. This Agreement  
 164 is the entire agreement between Broker and Seller. No prior or present agreements or representations shall be  
 165 binding on Broker or Seller unless included in this Agreement. Signatures, initials and modifications communicated  
 166 by facsimile will be considered as originals. The term "buyer" as used in this Agreement includes buyers, tenants,  
 167 exchangers, optionees and other categories of potential or actual transferees.

168 **12. ADDITIONAL TERMS:**

169 **APPENDIX NO. 1 ATTACHED IS PART OF THIS LISTING AGREEMENT.**

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 standardized form should not be used in complex transactions or with extensive riders or additions. This form is available for use by the entire real estate  
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Addendum No. 1 - concerning the Property described as: GREAT HANS LOLLIK ISLAND and Little Hans Lollik Island.

This addendum is part of the Exclusive Right of Sale Vacant Land Listing Agreement between Hans Lollick Land Company, LLLP and Little Hans Lollick Holdings, LLP "Seller" and ONE Sotheby's International Realty "Broker" for the property address above.

- a. This listing will be shared on a 50/50 basis between ONE Sotheby's International Realty and Carlos M. Justo, Broker.
- b. A 20% referral fee on the listing side will be paid to David Jones Real Estate.
- c. Both islands are offered for sale at \$29,500,000. Or \$20,000,000 for Great Hans Lollik and \$9,500,000 for Little Hans Lollik. After 1/21/2012, price will be \$24,500,000 for both islands; \$17,500,000 for Great Hans Lollik; \$7,500,000 for Little Hans Lollik, and as directed by seller from time to time.
- d. William Otto must be present at all showings.
- e. The following buyers are exclusions to this listing agreement: Simon Piggott, LUXSAR SOPARFI SA, EcoLife Developments Limited, Ecolife Development LLC or any other entity affiliated thereto. If these buyers purchase the property(ies) during the first three months after the listing agreement with ONE Sotheby's Intl Realty, ONE Sotheby's/Carlos M. Justo, Broker shall not receive any commission and David Jones Real Estate shall receive a 5% commission pursuant to the Land Listing Agreement approved by the Bankruptcy Court on May 16, 2011. After the 3-month period, if same buyers purchase the property(ies), ONE Sotheby's/Carlos M. Justo, Broker shall receive 1% commission. After 6 months, ONE Sotheby's/Carlos M Justo, Broker are to receive full commission.
- f. If Mirce Curkoski of ONE Sotheby's Intl Realty and Carlos Justo of Carlos M. Justo, Broker terminate work on this listing, Seller shall have the right to approve the substitute broker(s)/agent(s).
- g. Ref. to 4 d - In the event, property is to be listed in MLS, must be listed through David Jones Real Estate in the Virgin Islands, and elsewhere directly through ONE Sotheby's Intl Realty.
- h. Ref. 6 d - ONE Sotheby's Intl Realty's fee is due in the following circumstances: upon the closing of a transaction wherein the property is transferred, regardless of whether the buyer is secured by ONE Sotheby's Intl Realty, Seller or any other person, except as specifically set forth herein.
- i. Ref. 6 e - As consideration for ONE Sotheby's Intl Realty "Broker", Broker is entitled to receive 6% of all deposits retained by the Seller. If buyer makes an adverse claim upon any deposit, then Broker shall not be entitled to receive any part of that deposit if litigation and/or adversarial process ensues in connection therewith.
- j. Ref 7. - Seller may require that ONE Sotheby's Intl Realty cooperate with one or more specific agents/brokers on commercially reasonable terms.
- k. ENTIRE AGREEMENT IS CONTINGENT UPON READY, WILLING, IMMEDIATE AND CONTINUING SERVICES OF CARLOS JUSTO, AND SHALL LAPSE WITHOUT HIS PERSONAL PARTICIPATION IN THE MARKETING AND CLIENT