

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer: Marriott Ownership Resorts, Inc., d/b/a Marriott Vacation Club International
Address: 6649 Westwood Blvd., Suite 500 Orlando, Florida 32821

Project Name(\*): MAUI OCEAN CLUB
Address: 100 Nohea Kai Drive, Lahaina, Maui, Hawaii 96761

Registration No. 4196 (Conversion) Effective date: October 8, 1999 Expiration date: November 8, 2000

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

PRELIMINARY: (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.

X FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission. [X] No prior reports have been issued. [ ] This report supersedes all prior public reports. [ ] This report must be read together with

SUPPLEMENTARY: (pink) This report updates information contained in the: [ ] Preliminary Report dated: [ ] Final Public Report dated: [ ] Supplementary Public Report dated:

And [ ] Supersedes all prior public reports [ ] Must be read together with [ ] This report reactivates the

(\*)Exactly as named in the Declaration

FORM: RECO-30 286/986/189/1190/892/0197/1098

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2644 to submit your request.

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

Required and attached to this report

Not Required - disclosures covered in this report.

**Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all-inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

No prior reports have been issued by the developer.

Changes made are as follows:

**Special Notes**

1. The purpose of this public report is to permit the owner to submit a portion of the units to a timeshare or vacation rental program to sell undivided interests in the apartments to third parties. No sale of whole units is contemplated.

2. The Project is subject to an uninsured retention of two-percent (2%) for windstorm damage, which will be the obligation of the Association if such damage is incurred. Currently, the two-percent (2%) uninsured retention equates to approximately \$2.37 million. This amount, if incurred, will likely result in a special assessment to members by the Association.

3. The Project is subject to an uninsured retention of one-percent (1%) for earthquake damage, which will be the obligation of the Association if such damage is incurred. Currently, the one-percent (1%) uninsured retention equates to approximately \$1.19 million. This amount, if incurred, will likely result in a special assessment to members by the Association.

4. The Project is subject to an uninsured retention for flood damage, which will be the obligation of the Association if such damage is incurred. Currently, the uninsured retention equates to approximately \$250,000.00. This amount, if incurred, will likely result in a special assessment to members by the Association.

5. Marriott Ownership Resorts, Inc., will be developing a timeshare program at the Project and selling timeshare interests consisting of, in part, undivided interests in 154 of the resort apartments of the Project. It will be considered a "Developer" for those purposes under this Public Report. To sell timeshare interests, all applicable requirements of HRS Chapter 514E on Time Sharing Plans must be complied with.

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## **General Information On Condominiums**

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

"Common elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

## **Operation of the Condominium Project**

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: Marriott Ownership Resorts, Inc. Phone (407) 206-6000  
Name\* (Business)  
6649 Westwood Boulevard, Suite 500  
Business Address  
Orlando, Florida 32821-6090

Names of officers or general partners of developer who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):

See Section V, Paragraph C hereof.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker\*: Marriott Kauai Ownership Resorts, Inc. Phone: (808) 667-5572  
Name (Business)  
100 Nohea Kai Drive  
Business Address  
Lahaina, Maui, HI 96761

Escrow: Title Guaranty Escrow Services, Inc Phone: (808) 521-0211  
Name (Business)  
235 Queen St. 1<sup>st</sup> Floor  
Business Address  
Honolulu, Hawaii 96813

General Contractor\*: Not Applicable Phone: \_\_\_\_\_  
Name (Business)  
\_\_\_\_\_  
Business Address  
\_\_\_\_\_

Condominium Managing Agent\*: Marriott Hotel Services, Inc. Phone: (808) 245-5050  
Name (Business)  
3610 Rice Street,  
Business Address  
Lihue, Kauai, Hawaii 96766

Attorney for Developer: Dwyer Imanaka Schraff Kudo Meyer & Fujimoto Phone: (808) 524-8000  
Name (Business)  
900 Fort Street Mall, Ste. 1800  
Business Address  
Honolulu, Hawaii 96813  
Attn: Mitchell A. Imanaka, Esq.

\* For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

**II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

- A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

- Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 2577291

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

- B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

- Proposed  
 Recorded - Bureau of Conveyances Condo Map No. \_\_\_\_\_  
 Filed - Land Court Condo Map No. 1314

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

- C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

- Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 2577292

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

D. **House Rules.** The Board of Directors may adopt House Rules to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirement for keeping pets. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial House Rules are usually adopted by the developer.

The House Rules for this condominium are:

Proposed                       Adopted                       Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents**

Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. **Apartment Owners:** Minimum percentage of common interest which must vote for or give written consent to changes:

|                                | <u>Minimum<br/>Set by Law</u> | <u>This Condominium</u>             |
|--------------------------------|-------------------------------|-------------------------------------|
| Declaration<br>(and Condo Map) | 75%*                          | <u>75%</u>                          |
| Bylaws                         | 65%                           | <u>65%</u>                          |
| House Rules                    | ---                           | <u>65% or by Board of Directors</u> |

\* The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. **Developer:**

No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules: See Exhibit A

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.

Leasehold or Sub-leasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

**Leases for individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.**

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:     Monthly                     Quarterly  
                                  Semi-Annually             Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per:  Month  Year

For Sub-leaseholds:

Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:  
 Canceled     Foreclosed

As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Subleasehold:

**Leases for underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.**

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:     Monthly                     Quarterly  
                                  Semi-Annually             Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per  Month  Year

Other

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

**B. Underlying Land:**

Address: 100 Nohea Kai Drive Tax Map Key (TMK) : (2)4-4-013-001

Lahaina, Maui, Hawaii 96761

Address  TMK is expected to change because Not Applicable

Land Area: 15.942  square feet  acre(s) Zoning: H-2 (Hotel District)

Fee Owner: Marriott Ownership Resorts, Inc.  
 Name  
6649 Westwood Boulevard, Suite 500  
 Address  
Orlando, Florida 32821-6090

Lessor: \_\_\_\_\_  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_

C. **Buildings and Other Improvements:**

1.  New Building(s)  Conversion of Existing Building(s)  Both New Building(s) and Conversion

2. Number of Buildings: See Exhibit "B" Floors Per Building varies (See Exhibit B)

Exhibit B contains further explanations.

3. **Principal Construction Material:**

Concrete  Hollow Tile  Wood

Other Steel and Glass

4. Uses **Permitted by Zoning:**

|  | No. of<br><u>Apts.</u> | Use Permitted<br><u>By Zoning</u>                                   |                                       | No. of<br><u>Apts.</u> | Use Permitted<br><u>By Zoning</u>                        |
|--|------------------------|---|---------------------------------------|------------------------|--|
| <input type="checkbox"/> Residential           | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Ohana        | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input checked="" type="checkbox"/> Commercial | <u>44</u>              | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Industrial   | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Mix Res/Comm          | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Agricultural | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input checked="" type="checkbox"/> Hotel      | <u>391</u>             | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Recreational | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input checked="" type="checkbox"/> Timeshare  | <u>154</u>             | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Other: _____ | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?

Yes  No

5. Special Use Restrictions:

The Declaration and Bylaws may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

[X] Pets: No pets are permitted except that certified seeing eye dogs, signal dogs and service dogs for physically impaired persons are permitted.

[X] Number of Occupants: Occupancy limited to four (4) individuals per one bedroom apartment and six (6) individuals per two bedroom apartment.

[X] Other: Timesharing is permitted

[ ] There are no special restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 11      Stairways: 16      Trash Chutes: 1

| <u>Apt. Type</u>       | <u>Quantity</u> | <u>BR/Bath</u> | <u>Living Area (sf)*</u> | <u>Other Area (sf)</u> | <u>(Identify)</u> |
|------------------------|-----------------|----------------|--------------------------|------------------------|-------------------|
| <u>See Exhibit "E"</u> |                 |                |                          |                        |                   |
|                        |                 |                |                          |                        |                   |
|                        |                 |                |                          |                        |                   |
|                        |                 |                |                          |                        |                   |

Total Number of Apartments: 589

**\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.**

**Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.**

Boundaries of Each Apartment:

see Exhibit "C"

Permitted Alterations to Apartments:

see Exhibit "D"



11. Conformance to Present Zoning Code

- a.  No variances to zoning code have been granted.  
 Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

|            | <u>Conforming</u> | <u>Non-Conforming</u> | <u>Illegal</u> |
|------------|-------------------|-----------------------|----------------|
| Uses       | <u>  X  </u>      | <u>      </u>         | <u>      </u>  |
| Structures | <u>  X  </u>      | <u>      </u>         | <u>      </u>  |
| Lot        | <u>  X  </u>      | <u>      </u>         | <u>      </u>  |

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. Common Elements, Limited Common Elements, Common Interest:

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit   F  .

as follows:

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

There are no limited common elements in this project.

The limited common elements and the apartments which use them, as described in the Declaration, are:

described in Exhibit G\*. Note: The limited common elements shall be the sole responsibility of the owner(s) of the apartments to which such limited common element are appurtenant.

as follows:

\* Note: Land areas referenced herein are not legally subdivided Lots.

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit E.

as follows:

- E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit H describes the encumbrances against the title contained in the title report dated September 27, 1999 and issued by Title Guaranty of Hawaii, Incorporated.

Blanket Liens:

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

There are no blanket liens affecting title to the individual apartments.

There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

Type of Lien

Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance

F. Construction Warranties:

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. Building and Other Improvements:

None

2. Appliances:

None

G. **Status of Construction and Date of Completion or Date of Estimated Completion**

This is a conversion project and therefore, the structures to be converted to condominium status are already in existence. There is a multi-story structure containing three wings which was originally completed in 1981. The structure contains three wings known as the Lanai Wing (Wing A), the Molokai Wing (Wing B) and the Maui Wing (Wing C). There will be renovations to the Molokai Wing and certain other structures in the Project which are estimated to be completed during January 2003.

H. **Project Phases:**

The developer [X] has [ ] has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

Article XX of the Condominium Declaration provides that the Developer will have the right, until December 31, 2020, to add additional land and/or apartments to the Project, and each purchaser consents to such annexation, recalculation of common interest, if necessary, and such other things as necessary or convenient to affect such addition.

IV. CONDOMINIUM MANAGEMENT

A. **Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

**Initial Condominium Management Agent:** When the developer or the developer's affiliate is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report, is:

- not affiliated with the Developer  the Developer or the Developer's affiliate.
- self-managed by the Association of Apartment Owners  other \_\_\_\_\_

B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, your apartment may be liened and sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit I contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

C. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

- None  Electricity ( Common Elements Only \_\_\_\_\_ Common Elements and Apartments)\*
- Gas ( Common Elements Only \_\_\_\_\_ Common Elements and Apartments)\*
- Water  Sewer  Television Cable
- Other Refuse collection

\* See Exhibit "I" footnote (c).

## V. MISCELLANEOUS

### A. Sales Documents Filed With the Real Estate Commission:

Sales documents on file with the Real Estate Commission include but are not limited to:

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit J contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated June 8, 1999  
Exhibit K contains a summary of the pertinent provisions of the escrow agreement.
- Other Apartment Deed. Exhibit L contains a summary of the pertinent provisions of the apartment deed.

### B. Buyer's Right to Cancel Sales Contract:

#### 1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report:

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The Developer delivers to the buyer a copy of:
  - 1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final P Report for which an effective date has been issued by the Real Estate Commission; **AND**
  - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); **AND**
- C) One of the following has occurred:
  - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
  - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**
- B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:
- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
  - B) Declaration of Condominium Property Regime, as amended.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - D) House Rules, if any.
  - E) Condominium Map, as amended.
  - F) Escrow Agreement.
  - G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
  - H) Other: Beach Access Agreement dated December 23, 1986 recorded in said Bureau in Liber 20183 at Page 736

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P.O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 4196 filed with the Real Estate Commission on June 15, 1999.

Reproduction of Report. When reproduced, this report must be on:

YELLOW paper stock

WHITE paper stock

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C. **Additional Information Not Covered Above**

1. Officers and Directors of Developer:

The names and addresses of the officers and directors of Marriott Ownership Resorts, Inc., are as follows:

See Attachment A on Page 20a

2. Buyers should be aware that the Project is situated within a flood zone area.

3. Buyers should be further aware that portions of the Project fall within the shoreline set back area and as such, construction of improvements within such areas may require the approval of the County of Maui and/or other governmental agencies or departments.

## ATTACHMENT A

**MARRIOTT OWNERSHIP RESORTS, INC.**  
**Officer Listing**

| <u>Name</u>  | <u>Office and Interest Held</u>    | <u>Active or Non-Active</u> |
|--|------------------------------------|-----------------------------|
| Stephen P. Weisz<br>11016 Old Coach Road<br>Potomac, MD 20854            | President<br>No interest held      | Active                      |
| David E. Broderick<br>11501 International Drive<br>Orlando, FL 32819     | Vice President<br>No interest held | Active                      |
| M. Lester Pulse, Jr.<br>11202 Farmland Drive<br>Rockville, MD 20852      | Vice President<br>No interest held | Non-Active                  |
| Kevin M. Kimball<br>12508 Shoemaker Way<br>Darnestown, MD 20878          | Vice President<br>No interest held | Active                      |
| Arne M. Sorenson<br>5810 Warwick Place<br>Chevy Chase, MD 20815          | Vice President<br>No interest held | Non-Active                  |
| Michael E. Dearing<br>10108 Weatherwood Road<br>Potomac, MD 20854        | Vice President<br>No interest held | Non-Active                  |
| Myron D. Walker<br>4107 Maryland Avenue<br>Bethesda, MD 20816            | Vice President<br>No interest held | Active                      |
| William R. Tiefel<br>2426 Wyoming Avenue, NW<br>Washington, DC 20008     | Vice President<br>No interest held | Non-Active                  |
| Joseph F. Scalo<br>3414 Cocard Court<br>Windermere, FL 34786             | Vice President<br>No interest held | Active                      |
| Peter J. Watzka<br>8617 Summerville Pl.<br>Orlando, FL 32819             | Vice President<br>No interest held | Active                      |
| Stephen A. Gerrard<br>1200 U.S. Hwy. 98 South<br>Lakeland, Florida 33801 | Vice President<br>No interest held | Active                      |
| William F. Minnock, III<br>9002 Classic Court<br>Orlando, FL 32819       | Vice President<br>No interest held | Active                      |

|   |   |            |
|---|---|------------|
| Karl R. Sweeney<br>5619 Emerald Ridge Blvd<br>Lakeland, FL 33813          | Vice President<br>No interest held      | Active     |
| Linda A. Bartlett<br>9600 Hawk Court<br>Ellicott City, Md 21042           | Vice President<br>No interest held      | Active     |
| C. Stephen Bradley<br>8329 Foxworth Circle<br>Orlando, FL 32819           | Vice President<br>No interest held      | Active     |
| Carl Wilson<br>440 Laurel Chase Court<br>Atlanta, GA 30327                | Vice President<br>No interest held      | Active     |
| G. Cope Stewart, III<br>1841 R. Street NW #5<br>Washington, DC 20009      | Vice President<br>No interest held      | Non-Active |
| Robert A. Miller<br>716 Laurel Lane<br>Lakeland, FL 33802                 | Vice President<br>No interest held      | Active     |
| Ronald E. Eastman<br>935 Farm Haven Drive<br>Rockville, MD 20852          | Vice President<br>No interest held      | Active     |
| W. David Mann<br>2112 Hudiekoper Place, NW<br>Washington, DC 20007        | Secretary<br>No interest held           | Active     |
| Carol A. Bruff<br>13531 Vandalia Drive<br>Rockville, MD 20853             | Assistant Secretary<br>No interest held | Non-Active |
| Jeff B. Stant<br>717 N. Oakland Street<br>Arlington, VA 22203             | Assistant Secretary<br>No interest held | Active     |
| John Cassella.<br>12205 Fairfield House Drive #604<br>Fairfield, VA 22033 | Assistant Secretary                     | Active     |
| M. Lester Pulse, Jr.<br>11202 Farmland Drive<br>Rockville, MD 20852       | Assistant Secretary<br>No interest held | Non-Active |
| Donna J. Hayhurst<br>12500 Carry Back Place<br>Gaithersburg, MD 20878     | Assistant Secretary<br>No interest held | Non-Active |

|  |   |            |
|--|---|------------|
| Nancy L. Benz<br>9132 Willowgate Lane<br>Bethesda, MD 20817                        | Assistant Secretary<br>No interest held | Non-Active |
| George B. Hewes, III<br>5803 Charloma Drive<br>Lakeland, FL 33813                  | Assistant Secretary<br>No Interest Held | Active     |
| Beth P. Cotney<br>3129 Buckingham Ave.<br>Lakeland, FL 33803                       | Assistant Secretary<br>No interest held | Active     |
| James L. Miller<br>7001 Lake Ellenor Drive, Suite 200<br>Orlando, FL 32809-5799    | Assistant Secretary<br>No interest held | Active     |
| John P. Langan<br>100 Shearwater Court #61<br>Jersey City, NJ 07305                | Assistant Secretary<br>No interest held | Active     |
| Joseph F. Scalo<br>3414 Cocard Court<br>Windermere, FL 34786                       | Assistant Secretary<br>No interest held | Active     |
| Patricia B. Dimeler<br>5028 Lancelot<br>Lakeland, FL 33813                         | Assistant Secretary<br>No interest held | Active     |
| Richard A. Meccariello<br>51 S. Forest Beach Drive<br>Hilton Head Island, SC 29928 | Assistant Secretary<br>No interest held | Active     |
| Byron Wiegand<br>7843 Estrel Drive<br>La Jolla, CA 92037                           | Assistant Secretary<br>No interest held | Active     |
| Raymond G. Murphy<br>14604 Carrollton Road<br>Rockville, MD 20853                  | Treasurer<br>No interest held           | Non-Active |
| Carolyn B. Handlon<br>1215 Potomac School Road<br>Rockville, MD 20853              | Assistant Treasurer<br>No interest held | Non-Active |

MARRIOTT OWNERSHIP RESORTS, INC.  
Director Listing

Kevin M. Kimball  
12508 Shoemaker Way  
Darnestown, MD 20878

Director

Myron D. Walker  
4107 Maryland Avenue  
Bethesda, MD 20816

Director

Todd Clist  
9203 Hidden Creek Drive  
Great Falls, VA 22066

Director

Revised 05.28.99 - KcM  
C:\WINWORD\Corporations\ckout\BOOWORLIST.rip

D The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

Marriott Ownership Resorts, Inc.  
Printed Name of Developer

By:   
Duly Authorized Signature

6/8/99  
Date

Distribution:

William F. Minnock, III, Vice President  
Printed Name and Title of Person Signing Above

Department of Finance, County of Maui  
Planning Department, County of Maui

**EXHIBIT "A"**

**RIGHTS RESERVED BY DEVELOPER**

Among other rights, the Developer will have the following reserved rights with respect to the Project which are more particularly set forth in the Declaration.

A. **RESERVED RIGHT TO GRANT EASEMENTS.** This right is set forth at Article XIX of the Condominium Declaration. The Developer will have, among other things, the right Until December 31, 2020, to grant easements over the common elements of the Condominium.

B. **RESERVED RIGHT TO ANNEX ADDITIONAL LAND AND/OR UNITS TO THE CONDOMINIUM.** This right is set forth at Article XX of the Condominium Declaration . The Developer will have the right until December 31, 2020, to annex (or add) additional land and/or Apartment(s) to the Condominium.

C. **RESERVED RIGHT TO SUBDIVIDE AND CONSOLIDATE APARTMENTS.** This right is set forth at Article XXI of the Condominium Declaration. The Developer will have, among other things, the right until December 31, 2020, to change the floor plan of any Apartment which it owns so long as the common interest appurtenant to the Apartment does not change; subdivide any Apartment which it owns at any time to create two or more Apartments so long as the total common interest appurtenant to the newly-created Apartments are equal to the common interest appurtenant to the original Apartment; convert the status of certain portions of an existing Apartment to common element status to facilitate the subdivision so long as the total common interest appurtenant to the newly-created Apartment(s) equal the common interest appurtenant to the original Apartment; and consolidate two or more Apartments which it owns and convert any area between Apartments to Apartment status.

D. **RESERVED RIGHT TO CONVERT LIMITED COMMON ELEMENTS TO APARTMENTS.** This right is set forth at Article XXII of the Condominium Declaration. The Developer will have, among other things, the right until December 31, 2020, to convert the status or nature of a limited common element appurtenant to Apartments owned by the Developer, or any part of them, into a separate Apartment of the Condominium and to change the physical aspects of the limited common element at the Developer's expenses in connection with such a conversion, including building and structures that may be necessary or appropriate.

E. **RESERVED RIGHT TO RECHARACTERIZE LIMITED COMMON ELEMENTS.** This right is set forth at Article XXIII of the Condominium Declaration. The Developer will have, among other things, the right until December 31, 2020, to recharacterize certain Limited Common Elements as may be appurtenant to a Commercial Apartment which the Developer owns as being Common Elements of the Project.

F. **RESERVED RIGHT TO MODIFY PROJECT TO COMPLY WITH LAW.** This right is set forth at Article XXV of the Condominium Declaration. The Developer will have the right until December 31, 2020 to accomplish all modifications to Apartments and common elements in the Condominium to ensure full compliance by the Condominium, any vacation ownership program, the Condominium Association, any vacation owners association and any other association of vacation owners or timeshare owners by the Developer, with laws which, apply to the Condominium or any vacation ownership program, including the Fair Housing Act, as amended, 42 U.S.C. §§3601 *et seq.*, including all rules and regulations adopted under it, and the Americans With Disabilities Act, as amended, 42 U.S.C. §§ 12101 *et seq.*, including all rules and regulations adopted under it.

G. **RESERVED RIGHT TO UTILIZE LIMITED COMMON ELEMENT AREAS.** This right is set forth at Article XXVI of the Condominium Declaration. The Developer will have, among other things, the right to operate lease and/or use all or any part of the limited common elements of the Condominium which are appurtenant to an Apartment owned by the Developer for any purpose permitted by law, including the provision of services and amenities conducive to a first-class hotel and resort destination.

H. **RESERVED RIGHT TO REDESIGNATE LIMITED COMMON ELEMENTS AS APPURTENANT TO OTHER APARTMENTS.** This right is set forth at Article XXVII of the Condominium Declaration. the Developer

will have, among other things, the right until December 31, 2020, to change or amend the Condominium Declaration to designate all or a portion of certain limited common elements appurtenant to an Apartment owned by the Developer, as appurtenances to another Apartment or Apartments owned by the Developer.

**I. RESERVED RIGHT REGARDING SPECIAL MANAGEMENT AREA PERMIT.** This right is set forth at Article XXVIII of the Condominium Declaration. The Developer will have the right until December 31, 2020 to amend the Condominium Declaration, to enter into any agreements and to do all things necessary and convenient to satisfy the requirements of the Special Management Area Permit Application Number SMI 99-0008 pertaining to the project.

**J. RESERVED RIGHT TO SUBDIVIDE, AND/OR TO CONSOLIDATE AND RESUBDIVIDE, WITHDRAW AND CONVEY LAND AND/OR APARTMENTS.** This right is set forth at Article XXIX of the Condominium Declaration. The Developer will have the right until December 31, 2020 to amend the Condominium Declaration, to enter into any agreements and to do all things necessary and convenient to effect the consolidation and resubdivision of apartments and/or all or a portion of the land underlying the Condominium.

**K. RESERVED RIGHT TO CONVEY APARTMENTS AND LIMITED COMMON ELEMENTS TO ASSOCIATION.** This right is set forth at Article XXX of the Condominium Declaration. The Developer will have the right until December 31, 2020 to amend the Condominium Declaration, to enter into any agreements and to do all things necessary and convenient to effect the conveyance of apartments and common elements to the Association.

**L. ASSIGNMENT OF RESERVED RIGHTS.** Pursuant to Article XXXI of the Condominium Declaration, the rights reserved by the Developer are fully assignable.

**M. RECALCULATION OF COMMON INTERESTS.** It may be necessary to recalculate the common interests appurtenant to the Apartments in the Condominium upon the exercise of certain of Developer's reserved rights set forth above. *The method by which the common interests will be recalculated are set forth in Article XXIV of the Condominium Declaration.*

**N. TRADEMARK PROTECTION AND PROJECT NAME.** Article XXX of the Condominium Declaration provides that "Marriott", "Marriott Vacation Club International," and "Marriott Resorts" and designs pertaining thereof are registered service marks and trademarks of Marriott International, Inc. (Marriott International") and no unauthorized use of, or reference to such service or marks or trademarks may be made by the Condominium Association, any Owner or any other party without the prior written consent of the Developer and/or Marriott International. In the event that the Project is no longer managed by the Developer or any affiliate of the Developer, the name of the Project must be immediately changed by the Board of Directors of the Condominium Association, or if it fails to do so, by the Developer, to a name that does not use, or make reference to, the name "Marriott" or any other Marriott registered trademark. In addition, the Developer may not be affiliated with the Project at the time of the name change or may not own any Apartment at that point,

Each and every party acquiring an interest in the Project, by such acquisition, consents to Developer's exercise of its reserved rights and to the execution, delivery and recording (if necessary) of any and all documents necessary to effect these rights, including any amendment or amendments of the Declaration and the Condominium Map; agrees to execute, deliver and record such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Developer and its assigns such party's attorney-in-fact with full power of substitution to execute, deliver and record such documents and instruments and do such other things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of these reserved rights, and shall not be affected by the disability of such party or parties.

## EXHIBIT "B"

### SCHEDULE AND DESCRIPTION OF BUILDINGS

The Project is comprised of one multi-story structure containing three (3) wings designated as the Lanai Wing (Wing A), the Molokai Wing (Wing B), and the Maui Wing (Wing C), all of which are constructed primarily of concrete, steel, wood and glass.:

The Lanai Wing has ten (10) stories designated as the Court Level, Lobby Level and Levels 2 through 9, and contains three hundred sixteen (316) Resort Apartments.

The Molokai Wing has ten (10) stories designated as the Court Level, Lobby Level and Levels 2 through 9, and contains one hundred fifty-four (154) Resort Apartments.

The Maui Wing has four (4) stories designated as the Court Level, Lobby Level and Levels 2 through 3, and contains seventy-five (75) Resort Apartments.

In addition, forty-four (44) Commercial Apartments are located in various structures constructed primarily of concrete, steel, wood and glass and designated as Commercial Apartments on the Condominium Map. None of the Resort Apartments or Commercial Apartments has a basement.

## EXHIBIT "C"

### BOUNDARIES OF EACH APARTMENT

The Apartments consist of spaces within the perimeter and party walls, windows, doors, floors and ceilings of each of the five hundred eighty-nine (589) Apartments of the Project, distributed among the the Lanai Wing, Molokai Wing, and Maui Wing and within other structures constituting the Project. The respective Apartments shall not be deemed to include: (a) the perimeter or party walls or the undecorated or unfinished interior surfaces thereof (except for the storefronts of Commercial Apartments, which are considered a part of such Commercial Apartments), (b) the floors and ceilings surrounding each Apartment or the undecorated or unfinished surfaces thereof, (c) the perimeter doors, door frames, windows and window frames and all hardware associated therewith, or the undecorated or unfinished interior surfaces thereof, (d) the interior load-bearing walls and columns, if any, or the undecorated or unfinished surfaces thereof, or (e) any pipes, shafts, ducts, pumps, conduits, wires or other utility or service lines which are utilized for or serve more than one Apartment, the same being deemed Common Elements as hereinafter provided. Each Apartment shall be deemed to include: (i) all of the walls and partitions which are not load-bearing within its perimeter or party walls, (ii) all pipes, shafts, ducts, pumps, conduits, wires and other utility or service lines running through such Apartment which are utilized for and serve only that Apartment, (iii) the inner decorated or finished surfaces of all walls, floors and ceilings surrounding each Apartment, (iv) the inner decorated or finished surfaces of any doors, door frames, windows or window frames, and (v) all appliances and fixtures installed therein, and replacements therefor.

## EXHIBIT "D"

### PERMITTED ALTERATIONS TO APARTMENTS

A. **GENERAL PROVISIONS.** Except as otherwise expressly provided in the Condominium Declaration to the contrary, restoration or replacement of the Project or any portion thereof or construction of any additional improvement or structural alteration or addition to any improvement, different in any material respect from the Condominium Map of the Project, shall be undertaken by the Association or any Owner only pursuant to an amendment of the Condominium Declaration in accordance with Article XIII thereof, duly executed pursuant to the provisions thereof, accompanied by the written consent of the holders of all mortgage liens affecting any of the Apartments involved, and in accordance with complete plans and specifications therefor first approved in writing by the Board. Promptly upon completion of such restoration, replacement or construction, the Association or Owner, as the case shall be, shall duly record such amendment, together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer.

B. **ADDITIONS OR ALTERATIONS SOLELY WITHIN AN APARTMENT OR LIMITED COMMON ELEMENT.** Notwithstanding anything to the contrary contained in the Condominium Declaration, each Owner of an Apartment shall have the right at any time and from time to time at such Owner's sole cost and expense, and without the necessity of the consent or joinder of any other Owner, to make any of the following alterations solely within the Apartment or Limited Common Element which such Owner controls: to install, maintain, remove and rearrange partitions (including the party wall between two Apartments owned by the same Owner) and other structures from time to time within such Apartment or Limited Common Element, to finish, alter or substitute any plumbing, electrical or other fixtures attached to the ceilings, floors and walls as shall be appropriate for the utilization of such Apartment or Limited Common Element by such Owner or the tenants or lessees thereof, and to tile, finish, re-carpet, and do or cause to be done such work on the floors of any Apartment or Limited Common Element; provided, however, that nothing contained in this paragraph shall authorize any work or alteration which would be inconsistent with a first-class hotel and resort destination, jeopardize the soundness or safety of any part of the Project, reduce the value thereof, materially adversely affect any other Apartment or Limited Common Element, materially alter the uniform external appearance of the Project, materially affect or impair any easement or rights of any of the other Owners or materially interfere with or deprive any non-consenting Owner of the use or enjoyment of any part of the Common Elements subject, however, to the exclusive use of the Limited Common Elements. Further, nothing in this paragraph shall prohibit the Board from effecting such changes within an Apartment or Limited Common Element, or to require same, in order that the buildings of the Property may continue to comply with applicable law, including any fire code requirements.

C. **APARTMENT OWNERS TO EXECUTE AMENDMENT DOCUMENTS IN CERTAIN CASES.** In the event that any change or alteration of an Apartment pursuant to and in compliance with Article XII, Section B of the Condominium Declaration shall alter the depiction of the particular Apartment on the Condominium Map or the description thereof in the Declaration, then the Owner of such Apartment shall amend the Condominium Declaration and/or the Condominium Map to set forth such approved change or alteration, which amendment(s) may be executed by the Owner of the affected Apartment or Apartments and by no other party, and such shall become effective upon the recordation thereof in the Office of the Registrar of the Land Court of the State of Hawaii. The provisions of Article XIII of the Condominium Declaration notwithstanding, such amendment shall not require the consent or joinder of the Owner of any other Apartment or any other person or entity, other than any mortgagee of such Apartment or Apartments which are changed or altered. Every Owner and all holders of liens affecting any of the Apartments of the Project and each and every other party acquiring an interest in the Project or any part thereof, by acquiring such Apartment, lien or other interest, consents to and agrees that he shall, if required by law or by any such Owner who shall have changed or altered an Apartment as aforesaid, join in, consent to, execute, deliver and record all instruments and documents necessary or desirable to effect the amendment of the Condominium Declaration and/or the Condominium Map; and appoints such Owner and his assigns his attorney-in-fact with full power of substitution to execute, deliver and record such documents and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by the disability of any such party.

**EXHIBIT "E"**

| <b>Apartment Type</b> | <b>Quantity</b> | <b>BR/Bath</b> | <b>Approximate Net Square Footage*</b> | <b>Approximate Lanai Square Footage**</b> | <b>Common Interest</b> |
|-----------------------|-----------------|----------------|--|---|------------------------|
| AHR-OV-1ER            | 10              | 0/1            | 395                                    | 54  | 0.08200%               |
| AHR-OV-1ER            | 6               | 0/1            | 395                                    | 91  | 0.08200%               |
| AHR-OV-1              | 12              | 0/1            | 398                                    | 91  | 0.08200%               |
| AHR-OV-1              | 20              | 0/1            | 398                                    | 54  | 0.08200%               |
| AHR-OV-1R             | 20              | 0/1            | 398                                    | 54  | 0.08200%               |
| AHR-OV-1R             | 12              | 0/1            | 398                                    | 91  | 0.08200%               |
| AHR-OV-1E             | 5               | 0/1            | 398                                    | 54  | 0.08200%               |
| AHR-OV-1E             | 3               | 0/1            | 395                                    | 91  | 0.08200%               |
| AHR-OF-3              | 1               | 0/1            | 572                                    | 355                                       | 0.08200%               |
| AHR-OF-2R             | 3               | 0/1            | 482                                    | 199                                       | 0.08200%               |
| AHR-OF-3R             | 1               | 0/1            | 572                                    | 355                                       | 0.08200%               |
| AHR-MGV-1ER           | 15              | 0/1            | 368                                    | 54  | 0.08200%               |
| AHR-MGV-1             | 52              | 0/1            | 371                                    | 54  | 0.08200%               |
| AHR-MGV-1R            | 48              | 0/1            | 371                                    | 54  | 0.08200%               |
| AHR-MGV-2             | 3               | 0/1            | 394                                    | 114                                       | 0.08200%               |
| AHR-MGV-2             | 5               | 0/1            | 394                                    | 176                                       | 0.08200%               |
| AHR-OF-1              | 3               | 0/1            | 398                                    | 91  | 0.08200%               |
| AHR-OF-1              | 5               | 0/1            | 398                                    | 54  | 0.08200%               |
| AHR-OF-1R             | 3               | 0/1            | 398                                    | 91  | 0.08200%               |
| AHR-OF-1R             | 5               | 0/1            | 398                                    | 54  | 0.08200%               |
| AHR-OF-1E             | 2               | 0/1            | 395                                    | 91  | 0.08200%               |
| AHR-OF-1E             | 1               | 0/1            | 395                                    | 54  | 0.08200%               |
| AHR-OF-5              | 1               | 0/1            | 481                                    | 311                                       | 0.08200%               |
| AHR-OF-4R             | 3               | 0/1            | 394                                    | 190                                       | 0.08200%               |
| AHR-OF-4R             | 10              | 0/1            | 394                                    | 69  | 0.08200%               |
| AHR-OF-4R             | 2               | 0/1            | 394                                    | 105                                       | 0.08200%               |
| AHR-OF-5RT            | 1               | 0/1            | 481                                    | 197                                       | 0.08200%               |
| AHR-OF-5RT            | 1               | 0/1            | 481                                    | 311                                       | 0.08200%               |
| AHR-OF-1S             | 1               | 0/1            | 395                                    | 91  | 0.08200%               |
| AHR-OF-1S             | 4               | 0/1            | 395                                    | 54  | 0.08200%               |
| AHR-OF-6              | 1               | 0/1            | 925                                    | 306                                       | 0.16399%               |
| AHR-OF-6              | 2               | 0/1            | 925                                    | 218                                       | 0.16399%               |
| AHR-OF-4              | 3               | 0/1            | 394                                    | 105                                       | 0.08200%               |
| AHR-OF-4              | 2               | 0/1            | 394                                    | 190                                       | 0.08200%               |
| AHR-OF-4              | 11              | 0/1            | 394                                    | 69  | 0.08200%               |
| AHR-OF-6R             | 2               | 0/1            | 925                                    | 218                                       | 0.16399%               |
| AHR-MGV-1S            | 1               | 0/1            | 377                                    | 54  | 0.08200%               |
| AHR-OF-7              | 1               | 0/1            | 930                                    | 218                                       | 0.16399%               |
| AHR-LV-1S             | 2               | 0/1            | 377                                    | 54  | 0.08200%               |
| AHR-LV-1              | 12              | 0/1            | 371                                    | 54  | 0.08200%               |
| AHR-LV-1R             | 8               | 0/1            | 371                                    | 54  | 0.08200%               |
| AHR-LV-1ER            | 6               | 0/1            | 368                                    | 54  | 0.08200%               |
| AHR-OF-9              | 1               | 0/1.5          | 1420                                   | 218                                       | 0.24599%               |
| AHR-OF-10             | 1               | 0/1.5          | 1848                                   | 361                                       | 0.32798%               |
| AHR-OF-2              | 3               | 0/1            | 482                                    | 199                                       | 0.08200%               |
| AHR-OF-5T             | 1               | 0/1            | 481                                    | 147                                       | 0.08200%               |
| AHR-OF-8              | 1               | 0/1            | 481                                    | 147                                       | 0.08200%               |

| Apartment Type | Quantity | BR/Bath | Approximate Net Square Footage* | Approximate Lanai Square Footage** | Common Interest |
|----------------|----------|---------|---------------------------------|------------------------------------|-----------------|
| CHR-MGV-1ER    | 6        | 0/1     | 368                             | 54                                 | 0.08200%        |
| CHR-MGV-1      | 20       | 0/1     | 371                             | 54                                 | 0.08200%        |
| CHR-MGV-1R     | 18       | 0/1     | 371                             | 54                                 | 0.08200%        |
| CHR-MGV-1E     | 2        | 0/1     | 368                             | 54                                 | 0.08200%        |
| CHR-OV-1E      | 2        | 0/1     | 391                             | 94                                 | 0.08200%        |
| CHR-OV-1R      | 12       | 0/1     | 394                             | 94                                 | 0.08200%        |
| CHR-OV-1       | 11       | 0/1     | 394                             | 94                                 | 0.08200%        |
| CHR-OV-2       | 1        | 0/1     | 1116                            | 150                                | 0.16399%        |
| CHR-OV-1ER     | 2        | 0/1     | 391                             | 94                                 | 0.08200%        |
| CHR-OV-3       | 1        | 0/1     | 884                             | 98                                 | 0.16399%        |
| B1-MGV-1       | 1        | 1/2     | 809                             | 125                                | 0.16399%        |
| B2-MGV-1E      | 1        | 2/3     | 1220                            | 166                                | 0.24599%        |
| B2-MGV-1E      | 1        | 2/3     | 1220                            | 186                                | 0.24599%        |
| B1-MGV-2E      | 2        | 1/2     | 808                             | 110                                | 0.16399%        |
| B1-MGV-2E      | 2        | 1/2     | 808                             | 125                                | 0.16399%        |
| B1-MGV-2       | 1        | 1/2     | 810                             | 110                                | 0.16399%        |
| B1-MGV-2       | 1        | 1/2     | 810                             | 125                                | 0.16399%        |
| B2-OF-1        | 1        | 2/3     | 1294                            | 579                                | 0.24599%        |
| B2-OF-1        | 1        | 2/3     | 1294                            | 616                                | 0.24599%        |
| B2-OF-1R       | 1        | 2/3     | 1294                            | 579                                | 0.24599%        |
| B2-OF-1R       | 1        | 2/3     | 1294                            | 616                                | 0.24599%        |
| B1-MGV-3E      | 1        | 1/2     | 753                             | 125                                | 0.16399%        |
| B1-MGV-3       | 1        | 1/2     | 755                             | 125                                | 0.16399%        |
| B1-MGV-3J      | 1        | 1/2     | 754                             | 60                                 | 0.16399%        |
| B1-MGV-4       | 3        | 1/2     | 755                             | 125                                | 0.16399%        |
| B2-MGV-1ER     | 1        | 2/3     | 1220                            | 166                                | 0.24599%        |
| B1-OV-1E       | 3        | 1/2     | 753                             | 110                                | 0.16399%        |
| B1-OV-1        | 4        | 1/2     | 755                             | 110                                | 0.16399%        |
| B1-OV-1J       | 1        | 1/2     | 746                             | 54                                 | 0.16399%        |
| B1-OV-1J       | 3        | 1/2     | 754                             | 54                                 | 0.16399%        |
| B1-OV-2        | 14       | 1/2     | 755                             | 110                                | 0.16399%        |
| B1-OV-2        | 20       | 1/2     | 754                             | 110                                | 0.16399%        |
| B1-OV-2E       | 9        | 1/2     | 752                             | 110                                | 0.16399%        |
| B1-OV-3E       | 3        | 1/2     | 808                             | 190                                | 0.16399%        |
| B1-OV-3E       | 2        | 1/2     | 808                             | 185                                | 0.16399%        |
| B2-OV-1ER      | 1        | 2/3     | 1220                            | 280                                | 0.24599%        |
| B2-OV-1ER      | 5        | 2/3     | 1220                            | 166                                | 0.24599%        |
| B2-OV-1ER      | 2        | 2/3     | 1220                            | 286                                | 0.24599%        |
| B2-OV-1E       | 1        | 2/3     | 1220                            | 286                                | 0.24599%        |
| B2-OV-1E       | 1        | 2/3     | 1220                            | 280                                | 0.24599%        |
| B2-OF-2        | 1        | 2/3     | 1586                            | 678                                | 0.24599%        |
| B2-OF-2R       | 1        | 2/3     | 1586                            | 678                                | 0.24599%        |
| B2-OF-3        | 1        | 2/3     | 1296                            | 696                                | 0.24599%        |
| B2-OF-3R       | 1        | 2/3     | 1296                            | 696                                | 0.24599%        |
| B2-OV-1S       | 1        | 2/3     | 1220                            | 286                                | 0.24599%        |
| B2-OF-4        | 1        | 1/2     | 1339                            | 282                                | 0.24599%        |
| B2-OF-4R       | 1        | 2/3     | 1339                            | 282                                | 0.24599%        |
| B1-OV-4J       | 5        | 1/2     | 800                             | 54                                 | 0.16399%        |
| B1-OV-4        | 15       | 1/2     | 809                             | 110                                | 0.16399%        |

| Apartment Type | Quantity | BR/Bath        | Approximate Net Square Footage* | Approximate Lanai Square Footage** | Common Interest |
|----------------|----------|----------------|---------------------------------|------------------------------------|-----------------|
| B2-OF-5        | 2        | 2/3            | 1348                            | 265                                | 0.24599%        |
| B1-OF-3        | 10       | 1/2            | 801                             | 138                                | 0.16399%        |
| B2-OF-6        | 1        | 2/3            | 1319                            | 265                                | 0.24599%        |
| B1-OV-2EW      | 5        | 1/2            | 753                             | 172                                | 0.16399%        |
| B2-OF-7        | 1        | 2/3            | 1350                            | 265                                | 0.24599%        |
| B2-OF-8        | 2        | 2/3            | 1322                            | 265                                | 0.24599%        |
| B2-OF-9        | 1        | 2/3            | 1394                            | 211                                | 0.24599%        |
| B2-OF-9        | 1        | 2/3            | 1394                            | 265                                | 0.24599%        |
| B2-OF-10       | 2        | 2/3            | 1366                            | 265                                | 0.24599%        |
| B1-OV-3        | 1        | 1/2            | 810                             | 186                                | 0.16399%        |
| B1-OV-3        | 2        | 1/2            | 810                             | 190                                | 0.16399%        |
| B1-OF-1        | 1        | 1/2            | 995                             | 358                                | 0.16399%        |
| B1-OF-2        | 1        | 1/2            | 802                             | 385                                | 0.16399%        |
| B1-OF-2        | 1        | 1/2            | 802                             | 135                                | 0.16399%        |
| B1-OV-1S       | 1        | 1/2            | 762                             | 110                                | 0.16399%        |
| B2-OV-2E       | 5        | 2/3            | 1136                            | 166                                | 0.24599%        |
| Conference     | 1        | Not Applicable | 16,683                          | None                               | 3.39440%        |
| Commercial 1   | 1        | Not Applicable | 3,971                           | None                               | 0.80796%        |
| Commercial 2   | 1        | Not Applicable | 6,739                           | None                               | 1.37115%        |
| Commercial 3   | 1        | Not Applicable | 3,280                           | None                               | 0.66736%        |
| Commercial 4   | 1        | Not Applicable | 40                              | None                               | 0.00814%        |
| Commercial 5   | 1        | Not Applicable | 358                             | None                               | 0.07284%        |
| Commercial 6   | 1        | Not Applicable | 210                             | None                               | 0.04273%        |
| Commercial 7   | 1        | Not Applicable | 3,486                           | None                               | 0.70928%        |
| Commercial 8   | 1        | Not Applicable | 3,067                           | None                               | 0.62403%        |
| Commercial 9   | 1        | Not Applicable | 6,445                           | None                               | 1.3113%         |
| Commercial 10  | 1        | Not Applicable | 34                              | None                               | 0.00692%        |
| Commercial 11  | 1        | Not Applicable | 4,184                           | None                               | 0.85130%        |
| Commercial 12  | 1        | Not Applicable | 3,199                           | None                               | 0.65088%        |
| Commercial 13  | 1        | Not Applicable | 77                              | None                               | 0.01567%        |
| Commercial 14  | 1        | Not Applicable | 3,225                           | None                               | 0.65617%        |
| Commercial 15  | 1        | Not Applicable | 3,463                           | None                               | 0.70460%        |
| Commercial 16  | 1        | Not Applicable | 2,383                           | None                               | 0.48486%        |
| Commercial 17  | 1        | Not Applicable | 4,819                           | None                               | 0.98050%        |
| Commercial 18  | 1        | Not Applicable | 1,888                           | None                               | 0.38414%        |
| Commercial 19  | 1        | Not Applicable | 1,783                           | None                               | 0.36278%        |
| Commercial 20  | 1        | Not Applicable | 2,244                           | None                               | 0.45657%        |
| Commercial 21  | 1        | Not Applicable | 30                              | None                               | 0.00610%        |
| Commercial 22  | 1        | Not Applicable | 1,753                           | None                               | 0.35667%        |
| Commercial 23  | 1        | Not Applicable | 34                              | None                               | 0.00692%        |
| Commercial 24  | 1        | Not Applicable | 40                              | None                               | 0.00814%        |
| Commercial 25  | 1        | Not Applicable | 51                              | None                               | 0.01038%        |
| Commercial 26  | 1        | Not Applicable | 40                              | None                               | 0.00814%        |
| Commercial 27  | 1        | Not Applicable | 51                              | None                               | 0.01038%        |
| Commercial 28  | 1        | Not Applicable | 40                              | None                               | 0.00814%        |
| Commercial 29  | 1        | Not Applicable | 51                              | None                               | 0.01038%        |
| Commercial 30  | 1        | Not Applicable | 40                              | None                               | 0.00814%        |
| Commercial 31  | 1        | Not Applicable | 51                              | None                               | 0.01038%        |

| Apartment Type | Quantity | BR/Bath        | Approximate Net Square Footage* | Approximate Lanai Square Footage** | Common Interest |
|----------------|----------|----------------|---------------------------------|------------------------------------|-----------------|
| Commercial 32  | 1        | Not Applicable | 30                              | None                               | 0.00610%        |
| Commercial 33  | 1        | Not Applicable | 51                              | None                               | 0.01038%        |
| Commercial 34  | 1        | Not Applicable | 40                              | None                               | 0.00814%        |
| Commercial 35  | 1        | Not Applicable | 51                              | None                               | 0.01038%        |
| Commercial 36  | 1        | Not Applicable | 40                              | None                               | 0.00814%        |
| Commercial 37  | 1        | Not Applicable | 51                              | None                               | 0.01038%        |
| Commercial 38  | 1        | Not Applicable | 40                              | None                               | 0.00814%        |
| Commercial 39  | 1        | Not Applicable | 51                              | None                               | 0.01038%        |
| Commercial 40  | 1        | Not Applicable | 111,909                         | None                               | 21.72108%       |
| Commercial 41  | 1        | Not Applicable | 3,959                           | None                               | 0.80552%        |
| Commercial 42  | 1        | Not Applicable | 741                             | None                               | 0.15077%        |
| Commercial 43  | 1        | Not Applicable | 3,258                           | None                               | 0.66289%        |

\* The approximate net square footage of each apartment as set forth above is measured from the interior surface of the apartment perimeter and party walls and includes all of the interior walls, columns, chase spaces and partitions within its perimeter walls. The areas shown are approximate only, and the Developer makes no representations or warranties whatsoever as to the area of any particular apartment.

\*\* These areas for the lanais are computed from the outside surface of the apartment unit walls or exterior glass walls to the outside edge of the lanai structure.

## EXHIBIT "F"

### COMMON ELEMENTS

One freehold estate is hereby designated in all remaining portions of the Project, herein called the "Common Elements", including specifically but not limited to:

1. The Land in fee simple and any appurtenances thereto as described on Exhibit "A" to the Condominium Declaration;
2. All perimeter or party walls and the undecorated or unfinished surfaces thereof (except for the storefronts of Commercial Apartments, which are considered a part of such Commercial Apartments), any load-bearing walls and columns, and the undecorated or unfinished surfaces thereof, all structural components such as foundations, concrete sidewalks and curbs, floor slabs, columns, girders, beams, supports, halls, corridors, elevators, escalators, exterior stairs and stairways, main walls, roofs and ceilings;
3. All perimeter doors, door frames, windows window frames, and all hardware associated therewith, and the undecorated or unfinished interior surfaces thereof; whether at the perimeter of a Building Structure or at the perimeter of an Apartment;
4. All yards, grounds and landscaping, and all trash enclosures within the Project;
5. All roads, driveways, parking Area B and parking Area C as depicted on the Condominium Map, access lanes, paved areas, ramps, loading areas and walkways within the Project;
6. The swimming pool, whirlpool spas, deck area, and all other amenities and improvements, to the extent such areas are not otherwise designated as Commercial Apartments on the Condominium Map;
7. All cables, conduits, ducts, sewer lines, electrical equipment, wiring, pipes, catch basins and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one Apartment for services such as power, light, water, gas, sewer, storm water, refuse, cable television and television signal distribution; provided that the telephone system and all appurtenances thereto not be deemed a Common Element, but shall be owned by MORI;
8. All unimproved areas, maintenance and storage areas and other similar areas which are not part of an Apartment;
9. All other apparatus and installations existing for common use, such as tanks, pumps, motors, fans, air-conditioning units including fan coil equipment located within an Apartment, compressors, ducts, shafts, vents, water heating and distribution equipment, fire suppression equipment and other such installations and apparatus;
10. All interior areas of the Project commonly referred to the hotel industry as "back-of-house" to the extent such areas are not otherwise characterized and defined in the Condominium Declaration as Commercial Apartments;
11. All other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally use; and
12. All other areas on the Condominium Map designated as "General Common Elements", or that are not designated as an Apartment or as a Limited Common Element appurtenant to an apartment.

**EXHIBIT "G"**  
**LIMITED COMMON ELEMENTS**

Certain parts of the Common Elements, herein called the "Limited Common Elements," are hereby designated, set aside and reserved for the exclusive use of certain Apartments, and such Apartments shall have appurtenant thereto exclusive easements for the use of such Limited Common Elements as set forth in the Condominium Declaration. The costs and expenses of every description pertaining to the Limited Common Elements, including, but not limited to, the costs of maintenance, repair, replacement, improvement or additions to the Limited Common Elements, shall be charged to the Owner of the Apartment to which the Limited Common Element shall be appurtenant, and if there is more than one Apartment to which the Limited Common Element shall be appurtenant, then in proportion to the Common Interest appurtenant to each of the respective Apartments, unless a different method is adopted pursuant to Article IX of this Declaration. Limited Common Elements which are appurtenant to more than one Apartment shall be managed and maintained by the Managing Agent on behalf of the Owners of such Apartments. In any event that dispute shall arise between Owners of Apartments to which a particular Limited Common Element shall be appurtenant with respect to the management and/or maintenance thereof, such dispute shall be resolved by the Managing Agent, which shall be the sole arbiter with respect to such matters. All of the Owners of Commercial Apartments to which a Limited Common Element is appurtenant, may build upon/or alter any such Limited Common Element, may change the use of such Limited Common Element, may lease any Limited Common Element area, and, in the event that any revenues are generated from such Limited Common Element or improvements thereon or uses thereof, the Owner or Owners of the Commercial Apartment or Commercial Apartments to which such Limited Common Element is appurtenant shall be entitled to such revenues, and no other Owner shall have any right thereto.

1. **The Timeshare Units.** The Timeshare Units shall have appurtenant thereto, as Limited Common Elements:
  - a. All public areas of each Wing in which a Timeshare Unit shall exist, including hallways, elevators, stairwells, and housekeeping and laundry closets.
  - b. The Building Structure of each Wing in which a Timeshare Unit is located.
  - c. With respect to each Timeshare Unit, all lanai areas, if any, adjacent to such Timeshare Unit, as depicted on the Condominium Map.
  
2. **The Hotel Room Units.** The Hotel Room Units shall have appurtenant thereto, as Limited Common Elements:
  - a. All public areas of each Wing in which a Hotel Room Unit shall exist, including hallways, elevators, stairwells, and housekeeping and laundry closets.
  - b. The Building Structure of each Wing in which a Hotel Room Unit is located.
  - c. With respect to each Hotel Room Unit, all lanai areas, if any, adjacent to such Hotel Room Unit, as depicted on the Condominium Map.
  
3. **Commercial Apartment 2.** Commercial Apartment 2, which is created with the intent that business be conducted in it, shall have appurtenant thereto, as Commercial Limited Common Elements, the following areas and such other areas as may be depicted on the Condominium Map as being appurtenant to Commercial Apartment 2:
  - a. The Building Structure of the Lanai Wing (which is also a Limited Common Element appurtenant to Resort Apartments located in the Lanai Wing).

- b. All food and beverage preparation and service areas, not located within an Apartment, including the Building Structure of such areas.
  - c. All storage areas not otherwise specifically designated as Limited Common Elements appurtenant to other Apartments in the Project.
  - d. The swimming pool, whirlpool spas, deck areas, tennis courts, and all other amenities and improvements, except as otherwise included in another Apartment.
  - e. All landscaped, waterscape and outdoor walkways and paved areas, whether open or covered, identified as Limited Common Elements on the Condominium Map or in the Declaration.
  - f. All public restrooms not located within a Commercial Apartment.
  - g. All interior areas of the Project commonly referred to in the hotel industry as “back-of-house,” to the extent such areas are not otherwise characterized and defined in this Declaration as Commercial Apartments.
  - h. The Luau Area.
  - i. Parking stalls numbered B-18 through B-34 inclusive, B-43 through B-114 inclusive and parking Area C, as depicted on the Condominium Map.
  - j. All roof areas of structures in the Project.
  - k. Any area identified on the Condominium Map as a Commercial Limited Common Element, even if not otherwise described in the foregoing narratives “a” through “j”.
4. **THE CONFERENCE APARTMENT.** The Conference Apartment, which is created with the intent that business be conducted therein, shall have appurtenant thereto, as Limited Common Elements, the Building Structure in which the Conference Apartment is located.
5. **THE COMMERCIAL APARTMENTS 1, 3-43.** Commercial Apartments 1, 3-43, which are created with the intent that business be conducted therein, shall have appurtenant thereto, as Limited Common Elements, the Building Structure in which such Commercial Apartments are located.

**EXHIBIT "H"**

**ENCUMBRANCES AGAINST TITLE**

1. Real Property Taxes which may be due and owing. Reference is made to the Tax Assessment Office, County of Maui.
2. Reservation of all mineral and metallic mines of every description to the Hawaiian Government; except that Company affirmatively insures that neither the State of Hawaii nor persons authorized by it will enter, occupy or use the said land for the exercise of the reserved mineral and mining rights for a period of 75 years from January 1, 1960, as described in that certain instrument dated January 29, 1960, recorded at the Bureau of Conveyances of the State of Hawaii in Book 3822 at Pages 37-40.
3. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and its effect, if any, upon the area of the land described herein.
4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Deed dated April 25, 1969, recorded in the Office of the Registrar of the Land Court of the State of Hawaii as Document No. 476140.

The foregoing includes, but is not limited to, the matter relating to the following:

"Reserving and excepting to the Grantor, its successors and assigns forever, as appurtenant to the lands of the Grantor located in the District of Lahaina now owned and used or hereafter acquired and used by the Grantor in its sugar plantation operations, the perpetual right and easement over and upon the granted premises to discharge, emit, diffuse and inflict noise, smoke, soot, dust, lights, noxious vapors, odors and other minor nuisances of every description created by and resulting from the operations of the Grantor in burning sugar cane and bagasse, milling, generating power, trucking, hauling, and all other activities incidental to the operation of a sugar plantation."

5. Designation of Easements "54" and "55," as shown on Maps Nos. 19 and 36, as set forth by Land Court Order No. 31151, filed on January 13, 1970 in said Office; for utility purposes.
6. Designation of Easement "81," as shown on Map No. 36, as set forth by Land Court Order No. 55161, filed on December 5, 1979 in said Office; for pedestrian purposes.
7. Designation of Easements "106" and "107," as shown on Map No. 43, as set forth by Land Court Order No. 62239, filed on March 15, 1982 in said Office; for parking access purposes.
8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Declaration dated December 23, 1977, recorded in said Office as Document No. 853030, and also recorded at said Bureau in Liber 12641 at Page 179.

Said Declaration was amended by the following instruments:

| <u>DATED</u>     | <u>DOCUMENT NO.</u> | <u>LIBER</u> | <u>PAGE</u> |
|------------------|---------------------|--------------|-------------|
| October 31, 1978 | 906095              | 13244        | 299         |
| June 30, 1981    | 1075081             | 15691        | 351         |

|                 |          |       |     |
|-----------------|----------|-------|-----|
| August 26, 1982 | 1129155A | 16534 | 74  |
| January 2, 1986 | 1344264  | 19217 | 240 |

All rights, responsibilities, obligations, powers and duties arising at any time in, to and under said Deed was assigned to Kaanapali Operations Association, Inc., a Hawaii non-profit corporation, by that certain instrument dated August 1, 1996, recorded in said Office as Document No. 2326855, and also recorded at said Bureau as Document No. 96-110079.

Said Declaration was further amended by that certain instrument dated August 1, 1996, recorded in said Office as Document No. 2326857.

9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Agreement dated July 11, 1979, made by and between the County of Maui, Department of Water Supply and Amfac, Inc., recorded at said Bureau in Liber 13911 at Page 285.

Said Agreement was amended by that certain instrument dated November 5, 1982, recorded at said Bureau in Liber 16732 at Page 736.

(Not noted on the Land Court Certificate of Title referred to herein.)

10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Declaration of Appurtenant Easements dated March 5, 1980, recorded in said Office as Document No. 1000653.
11. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Declaration of Appurtenant Easements dated March 5, 1980, recorded in said Office as Document No. 1000654.
12. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Declaration of Appurtenant Easements dated March 5, 1980, recorded in said Office as Document No. 1000655, and also recorded at said Bureau in Liber 14559 at Page 494.
13. Unrecorded Management Agreement made by and between KBP Limited Partnership, a Hawaii limited partnership, "Owner," and Marriott Corporation, a Delaware corporation, "Management Company," of which a short form is dated March 7, 1980, recorded in said Office as Document No. 1000658, and also recorded at said Bureau in Liber 14559 at Page 505.

The interest of Marriott Corporation was assigned to Marriott Hotels, Inc., a Delaware corporation, by that certain unrecorded Assignment dated January 2, 1982.

Said Management Agreement was amended by that certain unrecorded Restated and Amended Management Agreement for the Kaanapali Beach Marriott Hotel dated December 23, 1986.

Said Management Agreement was restated and amended in its entirety by that certain unrecorded Second Restated and Amended Management Agreement for the Kaanapali Beach Marriott Hotel dated December 31, 1988.

The interest of KBP Limited Partnership, by mesne assignments, was assigned to Marriott Ownership Resorts, Inc., a Delaware corporation, by that certain unrecorded Assignment of Owner's Interest in Management Agreements dated September 28, 1998 and September 25, 1998.

14. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Declaration dated May 15, 1980, recorded in said Office as Document No. 1033041, and also recorded at said Bureau in Liber 15010 at Page 724.
15. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Partial Assignment of Non-Exclusive Easement dated July 12, 1982, recorded in said Office as Document No. 1125492.
16. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Partial Assignment of Non-Exclusive Easement dated August 10, 1982, recorded in said Office as Document No. 1128129.
17. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Warranty Deed dated August 26, 1982, recorded in said Office as Document No. 1129155, and also recorded at said Bureau in Liber 16534 at Page 74.

Said Deed was amended by that certain instrument dated January 2, 1986, recorded in said Office as Document No. 1344264, and also recorded at said Bureau in Liber 19217 at Page 240.

18. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Warranty Deed dated January 2, 1986, recorded in said Office as Document No. 1344265, and also recorded at said Bureau in Liber 19691 at Page 1.

All rights, responsibilities, obligations, powers and duties arising at any time in, to and under said Deed was assigned to Kaanapali Operations Association, Inc., a Hawaii non-profit corporation, by that certain instrument dated August 1, 1996, recorded in said Office as Document No. 2326855, and also recorded at said Bureau as Document No. 96-110079.

19. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Affirmative Covenants Agreement dated January 2, 1986, made by and between Amfac Property Investment Corp., and Kaanapali Beach Partners II, recorded in said Office as Document No. 1344267, and also recorded at said Bureau in Liber 19200 at Page 728.

All rights, responsibilities, obligations, powers and duties arising at any time in, to and under said Agreement was assigned to Kaanapali Operations Association, Inc., a Hawaii non-profit corporation, by that certain instrument dated August 1, 1996, recorded in said Office as Document No. 2326855, and also recorded at said Bureau as Document No. 96-110079.

20. Unrecorded Grant of Easements and Consents, date unknown, made by and between Kaanapali Beach Partners, in favor of the County of Maui, a body politic and corporate of the State of Hawaii; granting a non-exclusive easement for pedestrian access over Easement "81" and vehicular access easements over Easements "106" and "107"; as described in that certain Exhibit A-2 attached to that certain Deed recorded in said Office as Document No. 1425978, and also recorded at said Bureau in Liber 20184 at Page 52.
21. Letter dated January 2, 1986; re: withdrawal of Kaanapali Beach Partners of its objections to the rezoning of approximately 22 acres of the "green belt area" from a zoning classification of R-3 to B-R Resort Commercial District. Said withdrawal was based upon the agreement of Kaanapali Beach Partners and Mr. Yokouchi to enter into an agreement for the development, construction and operation of the tourist attraction tentatively referred to as the "Hawaiian Sea Village" for a portion of such green belt area; as described in that certain

Exhibit A-2 attached to that certain Deed recorded in said Office as Document No. 1425978, and also recorded at said Bureau in Liber 20184 at Page 52.

22. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Beach Access Agreement dated December 23, 1986, made by and between Kaanapali Beach Partners, a Hawaii general partnership, and Azabu Buildings Co., Ltd., a Japan corporation, recorded at said Bureau in Liber 20183 at Page 736. (Not noted on the Land Court Certificate of Title referred to herein.)
23. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Private Water System Agreement dated July 24, 1997, made by and between Marriott Hotels, Inc., a Delaware corporation, Kaanapali Water Corporation, a Hawaii corporation, and the Department of Water Supply of the County of Maui, recorded at said Bureau as Document No. 97-137256. (Not noted on the Land Court Certificate of Title referred to herein.)
24. The following matters as shown on that certain survey map dated September 16, 1998, prepared by Bruce R. Lee, Land Surveyor with Newcomer - Lee Land Surveyors, Inc.:
  - a. Encroachment of certain sprinklers and trees into the 40-foot shoreline setback area established under the rules and regulations of the Planning Commission of the County of Maui, as shown on that certain Certification Map for "Maui Marriott Resort" dated November 19, 1986, prepared by George F. Newcomer, Land Surveyor.
  - b. There are two concrete ramps along the Southeasterly boundary of the subject parcel which lie on Lot 72 (Beach Access Lot) that appear to be serving Lot 71.

-NOTE:- There is hereby omitted from any covenants, conditions and reservations contained herein any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin, unless and only to the extent that said covenant (i) is exempt under Chapter 42, Section 3607 of the United States Code or (ii) relates to handicap but does not discriminate against handicapped persons.

**END OF EXHIBIT "H"**

EXHIBIT "I"

1999 ASSESSMENT BUDGET (a)  
ASSOCIATION OF APARTMENT OWNERS OF MAUI OCEAN CLUB  
CONDOMINIUM BUDGET

Maintenance Fee Schedule

|                                       | Annual<br>Budget   | Resort<br>Apartments | Commercial<br>Apartments |
|---------------------------------------|--------------------|----------------------|--------------------------|
| <b>REVENUE</b>                        |                    |                      |                          |
| Assessments                           | \$4,748,744        | \$1,424,625          | \$3,324,119              |
| <b>Total Revenue</b>                  | <b>\$4,748,744</b> | <b>\$1,424,625</b>   | <b>\$3,324,119</b>       |
| <b>EXPENSES</b>                       |                    |                      |                          |
| Electricity (c)                       | 150,418            | 45,126               | 105,292                  |
| Water & Sewer (c)                     | 63,676             | 19,103               | 44,573                   |
| Gas Propane (c)                       | 92,163             | 27,649               | 64,514                   |
| Insurance                             | 344,487            | 103,347              | 241,140                  |
| Landscaping and Grounds Maintenance   | 806,752            | 242,025              | 564,727                  |
| Refuse Collection                     | 98,870             | 29,661               | 69,209                   |
| Annual Audit                          | 7,500              | 2,250                | 5,250                    |
| Board of Directors' Expenses          | 12,000             | 3,600                | 8,400                    |
| Accounting and Administration:        |                    |                      |                          |
| Accounting                            | 68,187             | 20,456               | 47,731                   |
| Site Administration                   | 94,866             | 28,460               | 66,406                   |
| Housekeeping/Major Clean              | 365,406            | 109,622              | 255,784                  |
| Maintenance                           | 443,994            | 133,198              | 310,796                  |
| Loss Prevention/Security Provisions   | 664,684            | 199,405              | 465,279                  |
| Replacement Reserve Expenses (b)      | 269,430            | 80,829               | 188,601                  |
| Professional Dues                     | 100,000            | 30,000               | 70,000                   |
| Common Area Charge                    | 250,000            | 75,000               | 175,000                  |
| Irrevocable Parking License Agreement | 412,850            | 123,855              | 288,995                  |
| Property Taxes                        | 71,757             | 21,528               | 50,229                   |
| Management Fee                        | <del>431,709</del> | <del>129,511</del>   | <del>302,193</del>       |
| <b>Total Expenses</b>                 | <b>\$4,748,744</b> | <b>\$1,424,625</b>   | <b>\$3,324,119</b>       |

- (a) This budget has been prepared on an accrual basis.
- (b) Since this is the first Budget for the Association, the total cash reserves of the Association as of the date of this Budget is zero. However, the total amount of estimated cash reserves, and the total amount to fund such reserves is \$269,430. The estimated cash reserves are being calculated on a cash flow basis by identifying each reserve components estimated replacement cost and dividing it by its estimated useful life.
- (c) Utility costs are for the General Common Elements only. The non Vacation Ownership Apartments will be billed separately for their utilities.

2000 ASSESSMENT BUDGET (a)  
 ASSOCIATION OF APARTMENT OWNERS OF MAUI OCEAN CLUB  
 CONDOMINIUM BUDGET

|                                       | Annual<br>Budget   | Resort<br>Apartments | Commercial<br>Apartments |
|---------------------------------------|--------------------|----------------------|--------------------------|
| <b>REVENUE</b>                        |                    |                      |                          |
| Assessments                           | \$4,862,713        | \$1,458,811          | \$3,403,902              |
| Total Revenue                         | <u>\$4,862,713</u> | <u>\$1,458,811</u>   | <u>\$3,403,902</u>       |
| <b>EXPENSES</b>                       |                    |                      |                          |
| Electricity (c)                       | 154,028            | 46,208               | 107,820                  |
| Water & Sewer (c)                     | 65,204             | 19,561               | 45,643                   |
| Gas Propane (c)                       | 94,375             | 28,312               | 66,063                   |
| Insurance                             | 352,755            | 105,826              | 246,929                  |
| Landscaping and Grounds Maintenance   | 826,114            | 247,834              | 578,280                  |
| Refuse Collection                     | 101,243            | 30,372               | 70,871                   |
| Annual Audit                          | 7,680              | 2,304                | 5,376                    |
| Board of Directors' Expenses          | 12,288             | 3,687                | 8,601                    |
| Accounting and Administration:        |                    |                      |                          |
| Accounting                            | 69,823             | 20,947               | 48,876                   |
| Site Administration                   | 97,143             | 29,143               | 68,000                   |
| Housekeeping/Major Clean Maintenance  | 374,176            | 112,253              | 261,923                  |
| Loss Prevention/Security Provisions   | 454,650            | 136,395              | 318,255                  |
| Replacement Reserve Expenses (b)      | 680,636            | 204,191              | 476,445                  |
| Professional Dues                     | 275,896            | 82,769               | 193,127                  |
| Common Area Charge                    | 102,400            | 30,720               | 71,680                   |
| Common Area Charge                    | 256,000            | 76,800               | 179,200                  |
| Irrevocable Parking License Agreement | 422,758            | 126,627              | 295,931                  |
| Property Taxes                        | 73,479             | 22,043               | 51,436                   |
| Management Fee                        | <u>442,065</u>     | <u>137,619</u>       | <u>309,446</u>           |
| Total Expenses                        | <u>\$4,862,713</u> | <u>\$1,458,811</u>   | <u>\$3,403,902</u>       |

- (a) This budget has been prepared on an accrual basis.
- (b) Since this is the first Budget for the Association, the total cash reserves of the Association as of the date of this Budget is zero. However, the total amount of estimated cash reserves, and the total amount to fund such reserves is \$275,896. The estimated cash reserves are being calculated on a cash flow basis by identifying each reserve components estimated replacement cost and dividing it by its estimated useful life.
- (c) Utility costs are for the General Common Elements only. The non Vacation Ownership Apartments will be billed separately for their utilities.

## EXHIBIT "J"

### SUMMARY OF PURCHASE AGREEMENT

The Developer intends to sell undivided fee simple interests in Apartments in the Project pursuant to timeshare sales contracts and timeshare deed instruments, and does not intend to sell whole Apartments to third parties. The conveyance of timeshare interests will be by way of the specimen Maui Ocean Club Vacation Ownership Program Purchase Agreement ("Purchase Agreement") filed with the Commission. The Purchase Agreement provides for, among other things, a description of the interest to be sold, the purchase price, the time, manner and the Purchaser's obligations regarding financing, if any. The Developer will be using two forms of Purchase Agreements, one for the sale of every year Ownership Interests and one for the sale of every other year Ownership Interests (either Odd Year or Even Year Ownership Interests). The provisions summarized below are common to both forms of Purchase Agreements. Among other provisions, the specimen Purchase Agreements provide:

**A. WHEN AND HOW THE CLOSING WILL OCCUR.** The Seller (Developer) will schedule the Closing date with the Escrow Agent as soon as possible after the time specified in Paragraph 5 of the Purchase Agreement. Closing may occur prior to completion of renovations to the Unit in which a Purchaser's Ownership Interest is situated. The Seller and Escrow Agent are not required to notify the Purchaser of the date scheduled. The Escrow Agent must close on or as soon after that date as possible as long as the conditions stated in Paragraph 7 of the Purchase Agreement are satisfied. The Escrow Agent must then: (a) record Purchaser's Deed and Mortgage, if any; and (b) disburse the rest of Purchaser's Funds as the Seller directs.

**B. CLOSING CONDITIONS; TITLE INSURANCE.** Closing may not occur until: (a) all cancellation rights Purchaser may have under the Purchase Agreement have expired; (b) there are no Blanket Liens affecting Purchaser's Ownership Interest(s) or protection against any such lien has been provided pursuant to the Act and approved by the Department of Commerce and Consumer Affairs; (c) there are no other Encumbrances affecting Purchaser's Ownership Interest, except those stated in the Timeshare Disclosure Statement and (d) Purchaser has signed the Condominium Receipt for Public Report(s) and Notice of Right to Cancel (the "Receipt and Notice") and waived Purchaser's right to cancel; provided that Purchaser will be deemed to have given up Purchaser's right to cancel if this Public Report is delivered to Purchaser and either (i) Purchaser fails to sign and return the Receipt and Notice within thirty (30) days after the Public Report is delivered to Purchaser or (ii) Closing occurs within thirty (30) days after that without Purchaser canceling prior to Closing. In the event the Seller conveys the Ownership Interest prior to completion of renovations to the Unit in which the Ownership Interest is situated, Seller will continue to deposit and maintain with the Escrow Agent one hundred percent (100%) of all funds or other consideration which is received from or on behalf of the Purchaser until a certificate of occupancy has been issued for such Unit. In lieu of the Seller depositing and maintaining such funds or other consideration with the Escrow Agent, the Escrow Agent may accept a surety bond issued by a company authorized and licensed to do business in the State of Hawaii as surety in an amount not less than one hundred ten percent of the funds which would otherwise be placed in the escrow account pursuant to this Agreement. Note that it is likely that Closing will occur within the thirty (30) day period, and that if Purchaser wishes to cancel, Purchaser must act to cancel within the 7-day period specified in Paragraph E below. The Escrow Agent also must commit itself, or have received a written commitment from another title company licensed in Hawaii, to issue a title insurance policy to Purchaser after Closing insuring that there are no Blanket Liens, or that they are provided for as stated above. Purchaser is free to choose any title company Purchaser desires that is licensed in Hawaii to issue the policy, at Purchaser's expense. Unless Purchaser instructs the Escrow Agent in writing differently, however, the Escrow Agent will either issue the policy to Purchaser itself, or on its own make other arrangements for Purchasers. If Purchaser's estimated closing statement has to be adjusted, the Escrow Agent may nonetheless close and subsequently advise Purchaser of these changes as long as any added amount Purchaser must pay does not exceed \$10.00.

C. **THE SELLER HAS ALL THE RIGHTS OF OWNERSHIP UNTIL CLOSING.** The Seller now owns the Ownership Interest(s) Purchaser is purchasing. Until the Closing, Seller possesses the sole ownership rights and privileges of ownership, including use rights and membership in the Association.

D. **PURCHASER IS FINANCIALLY ABLE TO PAY.** Purchaser promises the Seller that Purchaser possesses the financial ability to purchase the Ownership Interest(s) either in cash or in installments, or, if Purchaser desires, Purchaser may obtain a loan from any other lender to pay the Seller. The Seller is not arranging for Purchaser to obtain financing from any such other lender. If Purchaser desires to obtain a loan from another lender to pay for the Ownership Interest(s), Purchaser must obtain the loan on his or her own.

E. **CANCELLATION RIGHTS. UNDER HAWAII LAW BOTH PURCHASER AND SELLER HAVE A RIGHT TO CANCEL WITHIN SEVEN (7) DAYS AFTER THE PURCHASE AGREEMENT IS SIGNED OR AFTER PURCHASER RECEIVES THE TIMESHARE DISCLOSURE STATEMENT, WHICHEVER HAPPENS LATER, BY EXECUTING AND SENDING THE NOTICE OF MUTUAL RIGHT OF CANCELLATION FURNISHED TO PURCHASER BY SELLER IN THE MANNER INDICATED ON THAT NOTICE AND IN PARAGRAPH 15 OF THE PURCHASE AGREEMENT. THIS SEVEN-DAY PERIOD IS CALLED THE "MUTUAL RESCISSION PERIOD." THIS MUTUAL RIGHT TO CANCEL APPLIES EVEN IF THIS SALE IS MADE OUTSIDE OF THE STATE OF HAWAII.**

F. **REFUND OF PURCHASER'S FUNDS IF THE AGREEMENT IS CANCELLED; CANCELLATION CHARGES; HANDLING OF DOCUMENTS UPON CANCELLATION.** All Funds Purchaser pays (less cancellation and other charges referred to in this paragraph, if applicable) will be promptly refunded to Purchaser by the Escrow Agent if and only if any one of the following occurs:

1. The Seller notifies the Escrow Agent in writing that it or Purchaser have exercised any right to cancel stated or given in the Purchase Agreement; provided, however, that if the Seller cancels because Purchaser has defaulted under the Purchase Agreement, Purchaser's Funds will be handled as stated in Paragraph 14 of the Purchase Agreement; or

2. Purchaser notifies the Escrow Agent in writing that Purchaser has exercised any right which Purchaser has to cancel stated or given in this Agreement; provided that Purchaser has exercised such right properly within the Mutual Rescission Period.

If Purchaser cancels (except pursuant to Paragraph 11 of the Purchase Agreement) or is in default, the Escrow Agent will charge Purchaser the cancellation fees and charges stated in the Escrow Agreement, if any. If the Seller cancels because Purchaser did not fulfill all of Purchaser's promises, Purchaser will also have to pay these fees and charges. Purchaser promises to return all materials Purchaser received in good condition, except for reasonable wear and tear, if this Agreement is cancelled for any reason by Purchaser or the Seller. If Purchaser breaks this promise, the Escrow Agent will also withhold \$25.00 from Purchaser's Funds and pay it to the Seller.

Upon any cancellation, the Escrow Agent will mark "cancelled" on Purchaser's drafts and other documents. Those which contain Purchaser's original signature will be returned to Purchaser, with a copy to the Seller. All other documents will be returned to Seller. In the event that any dispute arises between Purchaser and the Seller, including a dispute over a claimed cancellation, then, without canceling this Agreement, the Seller may advise the Escrow Agent that Purchaser is in default. In such a circumstance, and continuing until Purchaser and the Seller settle or a court settles the matter, without marking them, the Escrow Agent will continue to hold Purchaser's Funds and drafts (or the Escrow Agent may interplead as stated in the Escrow Agreement). The Escrow Agent then will handle Purchaser's Funds and drafts in accordance with the settlement (or the interpleader).

G. **WHAT THE SELLER CAN DO IF PURCHASER DEFAULTS.** If Purchaser defaults, the Seller may: (a) cancel this Agreement; (b) force Purchaser to pay and keep Purchaser's other promises; or (c) exercise all other

rights against Purchaser that the Purchase Agreement or the law allows. If Purchaser defaults, Purchaser also will pay: (1) the Seller's costs and attorney's fees incurred as a result of Purchaser's default; (2) all amounts the Seller advances to pay the obligations Purchaser would have paid if Purchaser had closed on time (this includes, but is not limited to, any payments made by the Seller to the Association); and (3) interest on the amounts that the Seller advances and that the Seller would have received if Purchaser had closed on time. Interest will be imposed at the rate of twelve percent (12%) per annum, or the maximum rate permitted by law, whichever is lower, starting from the date scheduled for Closing. The Seller may also: (d) keep all amounts Purchaser has paid to compensate it for the damages caused by Purchaser's default. These kinds of damages may be uncertain in nature and amount. They may also be difficult, expensive and time-consuming to fix or prove. To avoid problems later, Purchaser and the Seller agree to fix or "liquidate" these damages in the amount stated in the Purchase Agreement. This is not to penalize Purchaser. Purchaser instructs the Escrow Agent that if the Seller cancels because of Purchaser's default, the Escrow Agent must treat Purchaser's payments as if they belonged to the Seller. Purchaser promises not to revoke this instruction. Purchaser also agrees that Purchaser does not have the power or the right to do so. If Purchaser breaks this promise and tries to revoke it, the Escrow Agent must ignore Purchaser and treat Purchaser's Funds as belonging to the Seller.

It is incumbent on the Purchaser to read the full text of the Purchase Agreement which is used in the purchase of the Ownership Interest.

## EXHIBIT "K"

### SUMMARY OF ESCROW AGREEMENT

The Developer intends to sell undivided fee simple interests in Apartments in the Project pursuant to timeshare sales contracts and timeshare deed instruments, and does not intend to sell whole Apartments to third parties. In light of the foregoing, there is no Escrow Agreement for whole Apartments for this Project. Accordingly, Developer has entered into that certain Maui Ocean Club Escrow Agreement dated June 8, 1999 with Title Guaranty Escrow Services, Inc. ("Escrow Agreement"). The Escrow Agreement provides for certain understandings and agreements with respect to the handling of Purchasers' Funds and the closing of sales of Ownership Interests in the Project. Specifically, the Escrow Agreement provides in part that:

**A. PAYMENT OF FUNDS TO ESCROW.** When Seller (Developer) enters into a Purchase Agreement for the sale of an Ownership Interest, it shall promptly deposit with Escrow all Purchasers' Funds received before closing from Purchasers or prospective Purchasers in connection with the purchase of an Ownership Interest, and shall deliver an executed copy of the Purchase Agreement to Escrow together with the address of the Purchaser.

Notwithstanding the foregoing, Seller or Seller's sales agent may hold, until the expiration of the seven-day cancellation period provided by HRS Section 514E-8 and Hawaii Administrative Rules ("HAR") Section 16-106-20, or any longer cancellation period provided in the Purchase Agreement, any negotiable instrument or purchase money contract made by a Purchaser: (1) for which subsequent holders cannot claim holder-in-due course status within the meaning of Article 3 of HRS Chapter 490; or (2) where the payee is Escrow or the trustee of a lien payment trust established pursuant to HRS Section 514E-19.

**B. RECEIPT OF FUNDS BY ESCROW.** Escrow shall receive, deposit and hold in separate escrow accounts and disburse in the manner provided in the Escrow Agreement, all Purchasers' Funds received by it before closing. Escrow shall not at any time commingle or permit the commingling of the Purchasers' Funds of a particular Purchaser with funds belonging to or held for the benefit of Seller or any other Purchaser. All Purchasers' Funds and instruments received from Purchasers or prospective Purchasers shall be held by Escrow in accordance with the provisions contained in the Act.

**C. RELEASE OF PURCHASERS' FUNDS WITHOUT A CLOSING.** Purchasers' Funds may be released from Escrow without a closing under the following circumstances:

1. If a Purchaser or the Seller delivers to Escrow a valid notice of cancellation of the Purchase Agreement pursuant to HRS Section 514E-8, all of the Purchasers' Funds made by such Purchaser shall be returned to the Purchaser within fifteen (15) days after the notice of cancellation is received.

2. If a Purchaser delivers to Escrow a valid notice of cancellation of the Sales Contract pursuant to HRS Section 514A-62, all of the Purchasers' Funds made by such Purchaser shall be returned to the Purchaser within fifteen (15) days after the notice of cancellation is received.

3. If a Purchaser or the Seller properly terminates the Purchase Agreement pursuant to its terms, all of the Purchasers' Funds made by the Purchaser or prospective Purchaser shall be delivered in accordance with the Purchase Agreement.

4. If the Purchaser defaults in the performance of the Purchaser's obligations under the Purchase Agreement, all of the Purchasers' Funds made by such Purchaser under the Purchase Agreement shall be delivered in accordance with the Purchase Agreement.

Upon the return of Purchasers' Funds to the Purchaser as aforesaid, Escrow shall return to Seller such Purchaser's Purchase Agreement and any conveyancing documents theretofore delivered to Escrow pursuant to such Purchase Agreement; and thereupon the Purchaser shall no longer be obligated under the Purchase Agreement. All

other documents delivered to Escrow relating to the sale of the Ownership Interest identified in such Purchase Agreement will be returned to the person from whom or the entity from which they were received.

Upon the cancellation of any Purchase Agreement as specified above, Escrow may be entitled to a fee commensurate with the amount of work performed, but in no event more than the normal escrow fee.

**D. RELEASE OF PURCHASERS' FUNDS UPON CLOSING.** Upon the closing of the escrow for the sale of an Ownership Interest, the Purchasers' Funds paid or made by the Purchaser shall be delivered by Escrow to the Seller after the requirements of HRS Section 514E-19 for protecting Purchasers from blanket liens have been satisfied. The parties to the Escrow Agreement acknowledge and agree that it is the Seller's intention to convey each Ownership Interest in the Program to each respective Purchaser free and clear of any blanket liens. Accordingly, the provisions of HRS Section 514E-19(a)(1) are the provisions which will be followed to protect Purchasers from blanket liens, and Purchasers' Funds shall be delivered by Escrow to Seller at closing upon the satisfaction of those provisions.

In the event the Seller conveys an Ownership Interest in the Project to a Purchaser prior to substantial completion of renovations to the Unit in which the Ownership Interest is situated, Seller shall continue to deposit and maintain with Escrow one hundred percent (100%) of all funds or other consideration which is received from or on behalf of the Purchaser until a certificate of occupancy has been issued for such Unit. In lieu of depositing and maintaining such funds or other consideration with Escrow, Escrow may accept a surety bond issued by a company authorized and licensed to do business in the State of Hawaii as surety in an amount not less than one hundred ten percent of the funds which would otherwise be placed in the escrow account pursuant to the Purchase Agreement.

**E. PURCHASER'S DEFAULT.** If the Purchaser fails to make any payment on or before the due date thereof or otherwise defaults under the Purchase Agreement, Seller shall promptly give to such Purchaser and to Escrow written notice of default. If Purchaser has failed to cure the default after the delivery of notice by Seller and such default continues after the expiration of any grace period, Seller shall so advise Escrow. If Seller shall thereafter certify in writing to Escrow (i) that Seller has elected to terminate the Purchase Agreement and has notified the Purchaser, or (ii) that the Purchaser is otherwise in default, then, and in either event, Escrow, subject to the provisions relating to dispute and conflicting demands set forth in paragraph 13 of the Escrow Agreement, shall thereafter treat all funds of the Purchaser paid under such Purchase Agreement as funds of Seller and not of the Purchaser. Thereafter, such funds shall be held free of the escrow established by the Escrow Agreement and shall be held by Escrow for the account of Seller. Upon written request by Seller, Escrow shall pay such funds to Seller and shall return to Seller the Purchase Agreement of such Purchaser, and any other documents previously delivered to Escrow in connection with the purchase of the Ownership Interest specified in such Purchase Agreement.

It is incumbent upon a prospective Purchaser to read the executed Escrow Agreement with care.

## EXHIBIT "L"

### SUMMARY OF DEED FORMS

The Developer intends to convey undivided fee simple interests in Apartments in the Project pursuant to timeshare deed instruments, and does not intend to sell whole Apartments to third parties. The timeshare interests will be conveyed by way of the Maui Ocean Club Vacation Ownership Program Deed with Encumbrances and Reservations ("Deed"). Among other provisions, this specimen Deed provides that:

A. Grantor (Marriott Ownership Resorts, Inc.) is the record owner of all Ownership Interests in the Program; and except for the Ownership Interest(s) conveyed to Purchaser by the Deed, Grantor (and others who have and will receive transfers of other Ownership Interests) has and may exercise all rights and privileges of such ownership. These rights include, but are not limited to, membership and voting rights in the Vacation Owners Association; rights to use during all Use Periods, except Purchasers' reserved, confirmed and used Use Period(s) and except for Service Periods which are to be used by the Program Operator to maintain and repair the Apartments and prepare them for the next person's use; and rights to transfer these Ownership Interests to others.

B. There are other Ownership Interests in the Apartment in which Purchaser has an Ownership Share, each of which includes an undivided 1/52 or 1/104 ownership share in the Apartment. By the Deed document, the Grantor does not give Purchaser, and Purchaser does not receive, any right or interest in these other Ownership Interests. Except during the Use Period Purchaser reserves, Purchaser will not have any right to use an Apartment in the Condominium, and, unless Purchaser is a guest, and except during Purchaser's Use Period, Purchaser must stay off the Condominium property.

C. The Program Documents and Condominium Documents are encumbrances against Purchaser's Ownership Interest. Every person (including Purchaser) with an interest in an Apartment and the Program and every interest such person possesses are governed by the Program Documents and Condominium Documents. The Grantor has recommended that Purchaser read all of the Program Documents and Condominium Documents. Purchaser acknowledges that Purchaser has read as much of the Program Documents and Condominium Documents as Purchaser desired, and that Purchaser approves and accepts the Program Documents and Condominium Documents.

The Program Documents and Condominium Documents also provide benefits to Purchaser's Ownership Interest. As the Owner, Purchaser will receive those benefits.

D. No matter what else is said in any other part of the Deed, (except to the extent prohibited by law), the Grantor reserves for itself and its successors and assigns certain rights (which means that the Grantor is not giving Purchaser these rights and that the Grantor can exercise these rights without Purchaser's consent, approval or knowledge), some of which are summarized in Exhibit A attached to this Public Report. All of these rights are more fully set forth in the Condominium Declaration and Program Declaration.

By signing the Deed document and acquiring his or her Ownership Interest, Purchaser agrees and consents to the exercise by Grantor of any of its reserved rights under the Condominium Declaration and Program Declaration, including those listed in said Exhibit A, and Purchaser agrees to sign such documents and do such things as may be required to permit Grantor to exercise those reserved rights, including signing, delivery and recording of all documents which may be necessary, and Purchaser appoints Grantor as Purchaser's "attorney-in-fact" which means that Grantor can act for Purchaser or on Purchaser's behalf, with "full power of substitution," which means that someone else may take Grantor's place, to sign, deliver and record all documents and to do all things on Purchaser's behalf, which grant of authority, being coupled with an interest, which means that the Grantor has an interest beyond just in the power Purchaser is giving, cannot be revoked by Purchaser for the term of the reserved rights, and will not be affected by Purchaser's disability, and which means that the grant of such power will be binding upon any person or entity transferred the Ownership Interest and will be considered automatically

granted anew by any such person or entity upon such transfer or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

E. If Purchaser desires to sell, convey, lease (or enter into other agreements relating to the use of a Unit if not designated as a "lease") for a term of three (3) years or more in the aggregate (and whether or not consecutive), or otherwise transfer ownership of Purchaser's Ownership Interest and Purchaser receives an offer to purchase or lease, as applicable, such Ownership Interest which Purchaser desires to accept, prior to accepting such offer, Purchaser shall notify Grantor and provide Grantor with a copy or summary of the offer received. Grantor shall then have the right and option to purchase or lease, as applicable, the Ownership Interest at the same price or at the rental rate, as applicable, and on the same terms as set forth in the offer. If Grantor elects to purchase or lease, as applicable, the Ownership Interest, such election shall be made by written notice, sent to Purchaser within thirty (30) days following receipt by Grantor of Purchaser's notice. Such notice from Grantor shall be deemed to create a binding contract between the Grantor and Purchaser to purchase or lease, as applicable, the Ownership Interest in accordance with the terms and provisions of the offer. If Grantor does not notify Purchaser of its election to purchase or lease, as applicable, the Ownership Interest within such thirty (30) day period, Purchaser shall then be free to sell or lease the Ownership Interest to the person or entity submitting the offer in accordance with the terms and provisions of the offer. Should, however, such transaction not be consummated within four (4) months after the date the offer is transmitted to the Grantor at the price and terms equal to or more favorable to Purchaser, the terms of this paragraph shall again be imposed on any sale of the Ownership Interest or on any lease of the Ownership Interest for a period of three (3) years or more, as described above, by Purchaser.

## **EXHIBIT "M"**

### **PROJECT PARKING**

A total of 655 parking stalls will be available for the Project as described below. 182 parking stalls are covered, 473 parking stalls are uncovered, 536 are compact sized, 84 are standard sized and 7 are handicap stalls. A total of 589 stalls will be initially made available on a non-exclusive basis to the Association for use by its members, which number is anticipated to decrease. The remaining stalls are reserved for the use of the Developer.

All Apartments in the Project shall have the non-exclusive right to utilize parking pursuant to the Irrevocable Parking License Agreement ("Parking Agreement") entered into by and between the Developer and the Association of Apartment Owners of Maui Ocean Club ("Association"). A copy has been submitted to the Commission and is available for inspection. Pursuant to the Parking Agreement, the Association and its members will have an irrevocable, non-exclusive license to use one (1) unreserved parking stall (not to exceed an aggregate of parking stalls for each Apartment in the Project) in the parking facilities located within the Project.

In addition, approximately 25 parking stalls numbered B-1 through B-15, inclusive, and B-35 through 42, inclusive, are Project Common Elements and will be made available to the County of Maui for public parking purposes in connection with public access to the beach. These parking stalls will not be available for general use by the Owners. Three (3) stalls are unavailable due to the current parking stall striping.