

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer: Marriott Ownership Resorts, Inc.
Address: 6649 Westwood Boulevard, Suite 500, Orlando, Florida 32821-6090
Project Name(*): WAIOHAI BEACH CLUB - Increment I
Address: 2249 Poipu Road, Koloa, Hawaii 96756

Registration No. 4521

Effective date: October 25, 2001
Expiration date: November 25, 2002

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.
CONTINGENT FINAL: (green) The developer has legally created a condominium and has filed information with the Commission for this report which EXPIRES NINE (9) MONTHS after the above effective date.
X FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission.
SUPPLEMENTARY: (pink) This report updates information contained in the:
And [] Supersedes all prior public reports.

(*)Exactly as named in the Declaration
This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at (808) 586-2644 to submit your request
FORM: RECO-30 1297/0298/0800

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:

1. The net interior square footage of all Resort Apartments in the Project have increased, except for Apartment 2402 which has decreased by 3 square feet. The changes to the square footages of the Resort Apartments has not resulted in a change to the common interests appurtenant to any Apartment in the Project. Exhibit "E" attached hereto, has been revised to reflect these changes and the Developer has also recorded an amendment to the Condominium Declaration ("First Amendment") and Condominium Map to effect these revisions. Page 6 of this Public Report sets forth the recording information for such First Amendment.

2. The Apartment Type designations for Resort Apartments in the Project have also been revised to more accurately reflect the depiction of such Apartments on the Condominium Map. The revised apartment types are also reflected in Exhibit "E" attached hereto.

3. The State of California Department of Real Estate has required certain additional revisions to the Condominium Declaration which are reflected in the First Amendment. Specifically Section IV.F pertaining to the Developer's Easement for Sales Activities was amended to include an express date on which such easement right would terminate (December 31, 2001); Article XXIX pertaining to the Developer's right to withdraw portions of the property from the Condominium was amended to clarify that Apartments in which Ownership Interests have been sold or portions of the Condominium that are amenities may not be withdrawn by way of the Developer's exercise of its reserved rights; and Article XXXV relating to the arbitration of disputes was modified to accommodate California law.

4. Article XIX relating to the Developer's right to grant easements over the Common Elements of the Condominium was amended to clarify that easements for cellular telephone towers or other antennae or dishes are permissible under this provision.

5. Finally, the number of parking stalls has increased from 344 stalls to 345 stalls and the mix of compact, standard and accessible stalls has also changed. These changes are reflected at page 12 and in Exhibit "M" of this public report.

SPECIAL NOTES

1. 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 \$1.3 million. This amount, if incurred, will likely result in a special assessment to members by the Association.

2. 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 \$650,000.00. 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 for flood damage, which will be the obligation of the Association if such damage is incurred. Currently, the uninsured retention equates to approximately \$500,000.00. This amount, if incurred, will likely result in a special assessment to members by the Association.

4. The purpose of this Public Report is to permit the Developer to submit a portion of the units to a timeshare or vacation ownership program to sell undivided interests in the units to third parties. To sell timeshare interests, all applicable requirements of HRS Chapter 514E on Time Sharing Plans must be complied with. No sale of whole units is contemplated by the Developer.

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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 Marriott Kauai Ownership Resorts, Inc. Phone: (808) 245-5050
Broker*: Name (Business)
3610 Rice Street
Business Address
Lihue, Kauai, Hawaii 96766

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

General Unlimited/Maryl JV Phone: (808)245-7843
Contractor*: Name (Business)
4176 Hoala Street
Business Address
Lihue, Kauai, Hawaii 96766

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

Attorney for Imanaka Kudo & Fujimoto Phone: (808) 521-9500
Developer: Name (Business)
745 Fort Street Mall, 17th Floor
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:

<input type="checkbox"/>	Proposed				
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No. _____		
			Book _____	Page _____	
<input checked="" type="checkbox"/>	Filed -	Land Court:	Document No. <u>2692942</u>		

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

First Amendment to Declaration of Condominium Property Regime of Waiohai Beach Club dated October 9, 2001, recorded in the Office of the Registrar of the Land Court of the State of Hawaii as Document No. 2747125.

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:

<input type="checkbox"/>	Proposed				
<input type="checkbox"/>	Recorded -	Bureau of Conveyances	Condo Map No. _____		
<input checked="" type="checkbox"/>	Filed -	Land Court	Condo Map No. <u>1404</u>		

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

First Amendment to Declaration of Condominium Property Regime of Waiohai Beach Club dated October 9, 2001, recorded in the Office of the Registrar of the Land Court of the State of Hawaii as Document No. 2747125.

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:

<input type="checkbox"/>	Proposed				
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No. _____		
			Book _____	Page _____	
<input checked="" type="checkbox"/>	Filed -	Land Court:	Document No. <u>2692943</u>		

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 Set by Law</u>	<u>This Condominium</u>
Declaration (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 attached Exhibit A

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

[X] 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: 2249 Poipu Road Tax Map Key (TMK) : (4) 2-8-17:12; 07; 20; 08
Koloa, Hawaii 96756

Address TMK is expected to change because Lots are to be consolidated

Land Area: Approx. 11.727 square feet acre(s) Zoning: RR-20 and Open

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:**

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input type="checkbox"/> Residential	—	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Commercial	<u>3</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	—	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Hotel	<u>7</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Timeshare	<u>87</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	—	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	—	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	—	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	—	<input 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 (8) individuals per two bedroom apartment.

[X] Other: Timesharing is permitted

[] There are no special restrictions.

6. Interior (fill in appropriate numbers): See Exhibit "E"

Elevators: 7 Stairways: 8 Trash Chutes: 0

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

Total Number of Apartments: 97

***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"

Apartments Designated for Owner-Occupants Only: **NOT APPLICABLE TO THIS PROJECT.** Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has NA elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls:	<u>345</u>						
	<u>Regular</u>		<u>Compact</u>		<u>Accessible</u>		<u>TOTAL</u>
	Covered	Open	Covered	Open	Covered	Open	
Assigned (for each unit)	_____	_____	_____	_____	_____	_____	_____
Guest	_____	_____	_____	_____	_____	_____	_____
<u>Unassigned</u>	<u>186</u>	<u>59</u>	<u>87</u>	<u>1</u>	<u>12</u>	_____	<u>345</u>
Extra Purchase	_____	_____	_____	_____	_____	_____	_____
Other:	_____						_____
Total Covered & Open	<u>245</u>		<u>88</u>		<u>12</u>		<u>345</u>

Each apartment will have the non-exclusive use of at least one parking stall(s).
Buyers are encouraged to find out which stall(s) will be available for their use.

- Commercial parking garage permitted in condominium project.
- Exhibit M contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

- There are no recreational or common facilities.
- Swimming Pool Storage Area Recreation Area
- Laundry Areas Tennis Court Trash Chute/Enclosure(s)
- Other: _____

9. Compliance With Building Code and Municipal Regulations; Cost to Cure Violations

- There are no violations. Violations will not be cured.
- Violations and cost to cure are listed below: Violations will be cured by _____
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations
(For conversions of residential apartments in existence for at least five years):

Not Applicable

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 referred to 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 October 24, 2001, and issued by Title Guaranty of Hawaii, Inc.

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

Note (as to 1 and 2 above): Except as provided above, Developer disclaims any implied warranty of habitability, any implied warranty of merchantability, any implied warranty of fitness for a particular purpose or use, any implied warranty of workmanship and any other express or implied warranties, with respect to the apartments, the project, the common elements thereof, or as to any appliances and furnishings contained within the apartments or the project.

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

The Construction of the Project has not yet commenced. The Developer estimates that Buildings 1000, 2000, 3000 and the Operations Building will be completed by January 1, 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):

The land underlying the Project and originally submitted to the condominium property regime by the Declaration was comprised of multiple lots. The Developer is in the process of consolidating these lots to create one lot. The Developer may, amend the Declaration to reflect the new property description of the consolidated lot which, except for the legal description of the land underlying the Project, will not change the property subject to the Declaration. The Developer anticipates developing the Project in several phases or increments, with the first phase to contain 97 Apartments. As additional Apartments are constructed in later phases (currently two additional phases are contemplated), the Developer has reserved the right to add such Apartments to the Project which will result in the common interests appurtenant to existing Apartments to be reduced based on the ratio that the net interior square footage of an Apartment bears to the total net interior square footage of all Apartments then-existing in the Project. The initial common interests of the initial Apartments in the Project are set forth in Exhibit "E" attached hereto. The Developer has also set forth in said Exhibit "E", the common interests that are anticipated to be appurtenant to the Apartments as new Apartments are created in later phases of the Project. This recalculation of the common interests appurtenant to Apartments in the Project may occur one or more times in the future. By executing their respective deeds, buyers agree to the Developer's exercise of its reserved right to effect the recalculation of the common interests appurtenant to existing Apartments in the Project as additional Apartments are created in the Project and to the Developer's execution and delivery of any necessary amendments to the Declaration and Condominium Map, or the execution and delivery of any other instruments to effect such recalculation of the common interests, including, without limitation, any land court petition to note the recalculated common interest on the Transfer Certificate of Title of each buyer in the Land Court, and the buyers grant to the Developer in their respective deeds, such buyers' power-of-attorney to act on such buyers' behalf to effect such recalculation of the common interests. The Developer has also reserved the right to subdivide and withdraw portions of the land underlying the Project from the condominium property regime in the future. By executing their respective deeds, buyers also accept and agree to the Developer's exercise of its reserved right to subdivide and withdraw portions of the land from the Project and to any amendments to the Declaration necessary to effect such reserved right, and grant to the Developer in their respective deeds, such buyers' power-of-attorney to act on such buyers' behalf to effect such subdivision and withdrawal. Notwithstanding the foregoing, the Developer cannot guaranty, however, and makes no representation or warranty whatsoever that the additional phases or Apartments will be created in the Project or that such phases will contain the number of Apartments indicated in Exhibit "E" hereto, or that any part of land underlying the Project will be subdivided and withdrawn from the purview of the Declaration. The foregoing reserved rights of the Developer as well as other rights that the Developer has reserved to itself in the Declaration are summarized in Exhibit "A" attached hereto.

The common facilities of all phases and Apartments of the Project shall be administered by one association of Apartment Owners. It is anticipated that the majority of the site work will be undertaken at the onset of construction of the Project, specifically, the underground parking and mass grading will be completed in the first phase of construction. The Developer bears the expense of developing all future phases of the Project and has reserved the right to add, delete, reconfigure or redesign future phases and Apartments until December 31, 2021.

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).

A RESERVE STUDY HAS BEEN UNDERTAKEN BY THE DEVELOPER AS MAY BE REQUIRED BY LAW.

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

*Wastewater services for the Project are presently being provided by the Poipu Water Reclamation Facility, a wastewater collection and treatment facility jointly owned by the Developer, Obayashi Hawaii Corporation, CTF Corporation, and HOH Utilities, LLC, ("HOH")(PWRF"). HOH is a regulated public utility which is authorized to use its share of PWRF's capacity to provide wastewater service to the Poipu area of Kauai. Such services are provided pursuant to a Certificate of Public Convenience and Necessity issued by the Public Utilities Commission of the State of Hawaii ("PUC") to Poipu Wastewater Corporation ("PWC") in PUC Docket 7265 (the "CPCN"). HOH is the successor-in-interest to PWC in the CPCN, the transfer of which to HOH was approved by the PUC in Docket 99-0343.

In concert with the development of the Project, the Developer has agreed to transfer its interest in PWRF to HOH as a contribution in aid of construction, which transfer was completed on February 15, 2001, and, simultaneously with such transfer, HOH has issued a "Will Serve" letter to the Developer detailing HOH's right, obligation and ability to provide wastewater services to the Project on a going forward basis at the regulated rates specified in HOH's current tariff ("Tariff No. 1"). Tariff No. 1 provides that, once the units in the Project are available for occupancy, such units will be assessed \$25.50 per month each for wastewater services.

Buyers should be aware that charges imposed on the Project for wastewater services may increase in the future and that the Developer can make no assurances whatsoever that the wastewater charges will remain static over time. However, any change in rate would have to be approved by the PUC.

In order to assure the availability of services for the Project, the Developer has agreed to provide a subsidy to PWRF from and after the transfer of the Developer's interest in PWRF to HOH until the issuance of the final Certificate of Occupancy for the Project. Such subsidy shall be in the amount of \$8,415.00 per month, less the amount collected by HOH under Tariff No. 1 on account of wastewater services provided by HOH to units in the Project, and any amount collected from new customers of HOH on account of wastewater services provided and/or committed to such new customers.

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 September 28, 2001.
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:

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

- A) The Developer delivers to the buyer a copy of:
 - 1) Either the Contingent Final Public Report **OR** the Supplementary Public Report which has superseded the Contingent Final Public 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.

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 Public 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: _____

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. 4521 filed with the Real Estate Commission on November 2, 2000.

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

YELLOW paper stock WHITE paper stock PINK paper stock GREEN paper stock

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 Kauai and/or other governmental agencies or departments.

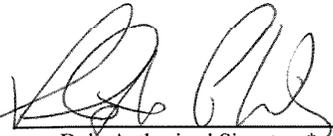
ATTACHMENT "A"

DIRECTORS/OFFICERS

<u>Title</u>	<u>Name</u>
President	Weisz, Stephen P.
Vice President	Bradley, C. Stephen
Vice President	Davis, Thomas, Jr.
Vice President	Eastman, Ronald Edwin
Vice President	Eisemann, Joel
Vice President	Gerrard, Stephen A.
Vice President	Hooker, John J.
Vice President	Kimball, Kevin M.
Vice President	Menker, David R.
Vice President	Miller, Robert A.
Vice President	Phillips, William T.
Vice President	Pulse, M. Lester, Jr.
Vice President	Ryan, John Joseph
Vice President	Scalo, Joseph F.
Vice President	Sikora, Vincent T.
Vice President	Sorenson, Arne Morris
Vice President	Stewart, George Cope, III
Vice President	Sweeney, Karl R.
Vice President	Tiefel, William R.
Vice President	Watzka, Peter J.
Vice President	Wilson, Carl
Treasurer	Handlon, Carolyn Burris
Director	Kimball, Kevin M.
Director	Petty, William T.
Director	Stewart, George Cope, III
Secretary	Ingalls, Dorothy M.
Assistant Treasurer	Zanini, Daniel B.
Assistant Secretary	Benz, Nancy L.
Assistant Secretary	Breneman, Margery
Assistant Secretary	Cooper, Ward
Assistant Secretary	Kapustin, Eleanor L.
Assistant Secretary	Kuhl, Aaron E.
Assistant Secretary	Langan, John P.
Assistant Secretary	Lindsay, Lawrence L.
Assistant Secretary	Meccariello, Richard A.
Assistant Secretary	Miller, James L.
Assistant Secretary	Mincey, Kathryn C.
Assistant Secretary	Moore, Robert L.
Assistant Secretary	Pulse, M. Lester, Jr.
Assistant Secretary	Scalo, Joseph F.
Assistant Secretary	Stant, Jefferson B.
Assistant Secretary	Weigand, Byron
Assistant Secretary	Zanini, Daniel B.

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. 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 Signatory*

10/17/01
Date

Stephen P. Weisz
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai
Planning Department, County of Kauai

****Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.***

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 Condominium 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, 2021, to grant easements over the common elements of the Condominium.

B. **RESERVED RIGHT TO DEVELOP, CONSTRUCT AND ANNEX ADDITIONAL LAND AND/OR APARTMENTS TO THE PROJECT.** This right is set forth at Article XX of the Condominium Declaration. The Developer will have, among other things, the right until December 31, 2021, to annex (or add) additional land and/or Apartment(s) to the Project.

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, 2021, 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 shall equal 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, 2021, 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 Project 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 REHARACTERIZE 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, 2021, to recharacterize and redesignate certain limited common elements as may be appurtenant to a Commercial Apartment owned by the Developer to be common elements of the Project.

F. **RESERVED RIGHT TO MODIFY PROJECT.** This right is set forth at Article XXV of the Condominium Declaration. The Developer will have, among other things, the right until December 31, 2021 to accomplish all modifications to Apartments and common elements in the Project as may be necessary or required by Developer in its sole discretion, or to ensure full compliance by the Project, any vacation ownership program, the Condominium Association, any vacation owners association and any other association of vacation owners or timeshare owners or 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 Project 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, 2021, 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 USE PERMIT AND OTHER PERMITS. This right is set forth at Article XXVIII of the Condominium Declaration. The Developer will have, among other things, the right until December 31, 2021 to amend the Condominium Declaration, to enter into any agreements and to do all things necessary and convenient to satisfy the requirements of Special Management Area Use Permit SMA(U)-2000-3, Project Development Use Permit U-2000-16, Shoreline Setback Variance SSV-2000-21, and any other permit or entitlement required for the construction and development of 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, among other things, the right until December 31, 2021 to amend the Condominium Declaration, to enter into any agreements and to do all things necessary and convenient to effect the subdivision, and/or consolidation and resubdivision and the withdrawal and conveyance of Apartments and/or all or a portion of the land and/or Apartments of the Project.

K. RESERVED RIGHT TO CONVEY APARTMENTS AND LIMITED COMMON ELEMENTS TO ASSOCIATION. This right is set forth in Article XXX of the Condominium Declaration. The Developer will have, among other things, the right until December 31, 2021, to convey Apartments owned by the Developer to the Association and to redesignate limited common elements appurtenant to Apartments owned by the Developer to Apartments owned by the Association, and to the extent necessary or convenient, to amend the Condominium Declaration and the Condominium Map to effect such changes.

L. RESERVED RIGHT REGARDING WASTEWATER TREATMENT. This right is set forth at Article XXXI of the Condominium Declaration. The Developer will have, among other things, the right until December 31, 2021, to amend the Condominium Declaration, to enter into any agreements and to do all things necessary and convenient to provide the Project with wastewater services.

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

N. 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.

O. TRADEMARK PROTECTION AND PROJECT NAME. Article XXXIII 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 "A"
(Page 2 of 2)

EXHIBIT "B"

SCHEDULE AND DESCRIPTION OF BUILDINGS

The Project is presently comprised of four (4) buildings designated as Building 1000, 2000, 3000 and the Operations Building, all of which are constructed primarily of concrete, steel, wood and glass. Building 1000 has four (4) floors consisting of 53 Resort Apartments, Building 2000 has four (4) floors consisting of 32 Resort Apartments, Building 3000 has three (3) floors consisting of 9 Resort Apartments and the Operations Building has three (3) floors containing no Apartments. All of the Buildings have a basement, except for the Operations Building. In addition, two (2) Commercial Apartments are located in Building 2000 and one (1) Commercial Apartment is located near the pool area. All Commercial Apartments are constructed primarily of concrete, steel, wood and glass and designated as Commercial Apartments on the Condominium Map.

The Developer has the right, but is not obligated, to construct up to 231 Resort Apartments in the Project in the areas designated for future phases on the Condominium Map.

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 ninety-seven (97) Apartments of the Project, distributed among Buildings 1000, 2000 and 3000 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, window 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 any doors, door frames, windows or window frames, and (v) all appliances and fixtures installed therein, and replacements therefor.

EXHIBIT "C"

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 "D"

EXHIBIT "E"

Apartment Number, Apartment Type, Number of Bedrooms and Bathrooms, Building Designation,
Approximate Net Square Footage, Approximate Balcony Area, Common Interests, Votes

Apartment Number	Apartment Type	Number of Bedrooms/ Bathrooms	Building Designation	Apprx. Net * Square Footage	Apprx. Balcony Area	Common Interests**	Votes
1101	A4 (1000A)	1/1	1000	443	97	0.37564%	39
1102	A3 (1000A)	1/1	1000	442	97	0.41262%	43
1103	B1 (1000B-OV)	2/2	1000	1041	116	1.00528%	104
1104	B1 (1000B-IV)	2/2	1000	1041	116	1.00528%	104
1105	B2 (1000B-OV)	2/2	1000	1041	116	1.00528%	104
1106	B2 (1000B-IV)	2/2	1000	1041	116	1.00528%	104
1107	B1 (1000B-OV)	2/2	1000	1041	116	1.00528%	104
1108	B1 (1000B-IV)	2/2	1000	1041	116	1.00528%	104
1109	B2 (1000B-OV)	2/2	1000	1041	116	1.00528%	104
1110	B1 (1000B-OV)	2/2	1000	1041	116	1.00528%	104
1111	B2 (1000B-OV)	2/2	1000	1041	116	1.00528%	104
1112	B1 (1000B-OV)	2/2	1000	1041	116	1.00528%	104
1113	B2 (1000B-OV)	2/2	1000	1041	116	1.00528%	104
1114	B1 (1000B-OV)	2/2	1000	1041	116	1.00528%	104
1201	A2 (1000A)	1/1	1000	405	N/A	0.37564%	39
1202	A4 (1000A)	1/1	1000	443	97	0.37564%	39
1203	A3 (1000A)	1/1	1000	442	97	0.41262%	43
1204	B1 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1205	B1 (1000B-IV)	2/2	1000	1041	108	1.00528%	140
1206	B2 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1207	B2 (1000B-IV)	2/2	1000	1041	108	1.00528%	104
1208	B1 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1209	B1 (1000B-IV)	2/2	1000	1041	108	1.00528%	104
1210	B2 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1211	B1 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1212	B2 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1213	B1 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1214	B2 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1215	B1 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1301	A2 (1000A)	1/1	1000	405	N/A	0.37564%	39
1302	B1 (1000B-IV)	2/2	1000	1041	108	1.00528%	104
1303	B1 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1304	B1 (1000B-IV)	2/2	1000	1041	108	1.00528%	104
1305	B2 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1306	B2 (1000B-IV)	2/2	1000	1041	108	1.00528%	104
1307	B1 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1308	B1 (1000B-IV)	2/2	1000	1041	108	1.00528%	104
1309	B2 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1310	C1 (1000C-OV)	2/2	1000	1036	108	1.00528%	104
1311	B2 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
1312	B1 (1000B-OV)	2/2	1000	1041	108	1.00528%	104
Subtotal				38547		37.51260%	

Apartment Number	Apartment Type	Number of Bedrooms/ Bathrooms	Building Designation	Apprx. Net * Square Footage	Apprx. Balcony Arca	Common Interests**	Votes
1401	A2 (1000A)	1/1	1000	405	N/A	0.37564%	39
1402	B1 (1000B-IV)	2/2	1000	1041	96	1.00528%	104
1403	B1 (1000B-OV)	2/2	1000	1041	96	1.00528%	104
1404	B1 (1000B-IV)	2/2	1000	1041	96	1.00528%	104
1405	B2 (1000B-OV)	2/2	1000	1041	96	1.00528%	104
1406	B2 (1000B-IV)	2/2	1000	1041	96	1.00528%	104
1407	C1 (1000C-OV)	2/2	1000	1036	96	1.00528%	104
1408	B1 (1000B-IV)	2/2	1000	1041	96	1.00528%	104
1409	B2 (1000B-OV)	2/2	1000	1041	96	1.00528%	104
1410	B1 (1000B-OV)	2/2	1000	1041	96	1.00528%	104
1411	B2 (1000B-OV)	2/2	1000	1041	96	1.00528%	104
1412	B1 (1000B-OV)	2/2	1000	1041	96	1.00528%	104
2101	B1 (2000B-OV)	2/2	2000	1041	108	1.00528%	104
2102	B2 (2000B-OV)	2/2	2000	1041	108	1.00528%	104
2103	B1 (2000B-IV)	2/2	2000	1041	116	1.00528%	104
2104	B2 (2000B-IV)	2/2	2000	1041	116	1.00528%	104
2105	B1 (2000B-IV)	2/2	2000	1041	116	1.00528%	104
2106	B1 (2000B-IV)	2/2	2000	1041	116	1.00528%	104
2107	B2 (2000B-IV)	2/2	2000	1041	116	1.00528%	104
2201	B1 (2000B-IV)	2/2	2000	1041	108	1.00528%	104
2202	B2 (2000B-OV)	2/2	2000	1041	108	1.00528%	104
2203	B1 (2000B-OV)	2/2	2000	1041	108	1.00528%	104
2204	B1 (2000B-OV)	2/2	2000	1041	108	1.00528%	104
2205	B1 (2000B-IV)	2/2	2000	1041	108	1.00528%	104
2206	B2 (2000B-IV)	2/2	2000	1041	108	1.00528%	104
2207	B1 (2000B-IV)	2/2	2000	1041	108	1.00528%	104
2208	C1 (2000C-IV)	2/2	2000	1036	108	1.00528%	104
2209	B2 (2000B-IV)	2/2	2000	1041	108	1.00528%	104
2301	B1 (2000B-IV)	2/2	2000	1041	108	1.00528%	104
2302	B2 (2000B-OV)	2/2	2000	1041	96	1.00528%	104
2303	B1 (2000B-OV)	2/2	2000	1041	96	1.00528%	104
2304	B1 (2000B-OV)	2/2	2000	1041	96	1.00528%	104
2305	B1 (2000B-OV)	2/2	2000	1041	108	1.00528%	104
2306	B1 (2000B-IV)	2/2	2000	1041	108	1.00528%	104
2307	B2 (2000B-IV)	2/2	2000	1041	108	1.00528%	104
2308	B1 (2000B-IV)	2/2	2000	1041	96	1.00528%	104
2401	B1 (2000B-IV)	2/2	2000	1041	96	1.00528%	104
2402	C2 (2000C-OV)	2/2	2000	1028	96	1.00528%	104
2403	B2 (2000B-OV)	2/2	2000	1041	96	1.00528%	104
2404	B1 (2000B-OV)	2/2	2000	1041	96	1.00528%	104
2405	B1 (2000B-OV)	2/2	2000	1041	96	1.00528%	104
2406	B1 (2000B-IV)	2/2	2000	1041	96	1.00528%	104
2407	B2 (2000B-IV)	2/2	2000	1041	96	1.00528%	104
2408	B1 (2000B-IV)	2/2	2000	1041	96	1.00528%	104
				44805		43.60268%	

EXHIBIT "E"
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Apartment Number	Apartment Type	Number of Bedrooms/Bathrooms	Building Designation	Apprx. Net * Square Footage	Apprx. Balcony Area	Common Interests**	Votes
3101	B1 (3000B-IV)	2/2	3000	1041	116	1.00528%	104
3102	B1 (3000B-IV)	2/2	3000	1041	116	1.00528%	104
3103	B1 (3000B-IV)	2/2	3000	1041	116	1.00528%	104
3201	B1 (3000B-IV)	2/2	3000	1041	108	1.00528%	104
3202	B1 (3000B-IV)	2/2	3000	1041	108	1.00528%	104
3203	C1 (3000C-IV)	2/2	3000	1036	108	1.00528%	104
3301	B1 (3000B-IV)	2/2	3000	1041	96	1.00528%	104
3302	B1 (3000B-IV)	2/2	3000	1041	96	1.00528%	104
3303	B1 (3000B-IV)	2/2	3000	1041	96	1.00528%	104
Commercial A	N/A	N/A	2000	796	N/A	1.06659%	110
Commercial B	N/A	N/A	2000	8891	N/A	8.55165%	885
Commercial C	N/A	N/A	N/A	408	N/A	0.21896%	23
Subtotal				19405		18.88472%	
Total				102757		100%	

* 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. The areas for the balconies are computed from the outside surface of the apartment unit walls or exterior glass walls to the outside edge of the balcony structure.

** The Common Interest for each Apartment was assigned by the Developer generally taking into account the net interior square footage ("net area") that each Apartment bears to the aggregate net area of all Apartments in the Project; however, there are deviations from this general rule to permit the total of the Common Interests to equal 100%. The Common Interest for each Apartment will be proportionately reduced as Apartments are added to the Project. By way of illustration, in the second phase of the Project, the Developer currently anticipates (but can make no warranty or guaranty) that an additional 76 Resort Apartments will be created, 74 of which are scheduled to have a net area of 1,041 square feet, and 2 of which are scheduled to have a net area of 1036 square feet. This is equivalent to an additional net area for the Project of 79,106 square feet (1,041 square feet x 74 Apartments) + (1036 square feet x 2 Apartments) bringing the total aggregate net area of Apartments in the Project to 181,863 square feet (first phase aggregate net area of 102,757 square feet + second phase aggregate net area of 79,106). In order to recalculate the Common Interest of each Apartment then-existing in the Project, the Developer intends to make the following calculations: (i) for Resort Apartments 1101, 1102, 1201, 1202, 1203, 1301 and 1401 ("Hotel Apartments") the average net area of these Hotel Apartments will be divided by the aggregate net area of all Apartments then-existing in the Project; (ii) for the other Resort Apartments, the average net area of such Apartments will be divided by the aggregate net area of all Apartments then-existing in the Project; and (iii) for the Commercial Apartments, the actual net areas of these Apartments will be divided by the aggregate net area of all Apartments then-existing in the Project. The Developer further anticipates modifying the Common Interest for Commercial Apartment B to permit the total of the Common Interests in the Project to equal 100%. The Developer anticipates making similar calculations when the Resort Apartments in the third phase of the Project are created. These calculations will be based upon the assumption that the third phase is scheduled to have 68 additional Resort Apartments, 60 of which are scheduled to have a net area of 1,041 square feet and 8 of which are scheduled to have a net area of 1036 square feet, that will increase the aggregate net area of all Apartments in the Project by 70,748 square feet (1,041 square feet x 60 Apartments) + (1036 square feet x 8 Apartments) bringing the total net area of all Apartments then-existing in the Project to 252,611 square feet (first and second phase aggregate net area of 181,863 square feet + third phase net area of 70,748 square feet). Based on the foregoing calculations, the Common Interests for the Apartments in the Project upon the creation of the additional Resort Apartments in the second and third phases of the Project will be as follows:

EXHIBIT "E"
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**Common Interest of Apartments Upon
Creation of Second Phase Apartments**

Apartment Numbers	Approx. Net Sq. Footage	Common Int. Per Unit	Votes
1201, 1301, 1401	405 each	.23447% each	104 each
1102, 1203	442 each	.23447% each	104 each
1101, 1202	443 each	.23447% each	104 each
All Other Resort Apts. (163)	1,041 each (156 Apts.) 1,036 each (6 Apts.) 1,028 – Apt 2402	.57226% each	104 each
Commercial A	1,096	.60265%	110
Commercial B	8,787	4.35397%	885
Commercial C	225	.12371%	23
Total	181,863	100%	18,698

**Common Interest of Apartments Upon
Creation of Third Phase Apartments**

Apartment Numbers	Approx. Net Sq. Footage	Common Int. Per Unit	Votes
1201, 1301, 1401	405 each	.1688% each	104 each
1102, 1203	442 each	.1688% each	104 each
1101, 1202	443 each	.1688% each	104 each
All Other Resort Apts. (231)	1,041 each (216 Apts.) 1,036 each (14 Apts.) 1,028 – Apt 2402	.41195% each	104 each
Commercial A	1,096	.43386%	110
Commercial B	8,787	3.13449%	885
Commercial C	225	.08960%	23
Total	252,611	100%	25,770

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, as applicable, 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 areas as shown on the Condominium Map, access lanes, paved areas, ramps, loading areas and walkways within the Project;
6. All swimming pools, whirlpool spas, deck area, the Pool Cabana 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 shall not be deemed a Common Element, but shall be owned by MORI;
8. All unimproved areas, including, without limitation, the Land underlying the Future Building areas depicted on the Condominium Map, the lawn area depicted on the Condominium Map adjacent to Building 1000, the Operations Building, 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 in 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 in common 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 "F"

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 the Condominium 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.

THE TIMESHARE UNITS. The Timeshare Units shall have appurtenant thereto, as Limited Common Elements:

- a. All public areas of each Building in which a Timeshare Unit shall exist, including hallways, stairwells, and housekeeping and laundry closets.
- b. The Building Structure of each Building in which a Timeshare Unit is located.
- c. With respect to each Timeshare Unit, all balcony areas, if any, adjacent to such Timeshare Unit, as depicted on the Condominium Map.
- d. The Operations Building.
- e. Parking stalls 1-151, inclusive, situated in the Underground Parking structure; Parking stalls 1-24, inclusive, situated in the surface parking area adjacent to Building 2000; and Parking stalls 1-12, inclusive, and 23-170, inclusive, situated in the Existing Parking Structure adjacent to the Operations Building.

Any area identified on the Condominium Map as a "Resort Apartment Limited Common Element" or a "Timeshare Limited Common Element" even if not otherwise described in the foregoing narratives "a" through "e".

THE HOTEL ROOM UNITS. The Hotel Room Units shall have appurtenant thereto, as Limited Common Elements:

- a. All public areas of Building 1000 including hallways, stairwells, elevators and housekeeping and laundry closets.
- b. The Building Structure of Building 1000.
- c. With respect to each Hotel Room Unit, all balcony areas, if any, adjacent to such Hotel Room Unit, as depicted on the Condominium Map.

d. Parking stalls 1-151, inclusive, situated in the Underground Parking structure; Parking stalls 1-24, inclusive, situated in the surface parking area adjacent to Building 2000; and Parking stalls 1-12, inclusive, and 23-170, inclusive, situated in the Existing Parking Structure adjacent to the Operations Building.

Any area identified on the Condominium Map as "Resort Apartment Limited Common Element" or "Hotel Room Limited Common Element" even if not otherwise described in the foregoing narratives "a" through "d".

COMMERCIAL APARTMENT A. Commercial Apartment A, which is created with the intent that business be conducted therein, shall have appurtenant thereto, as a Limited Common Element, the Building Structure in which such Commercial Apartment A is situated.

COMMERCIAL APARTMENT B. Commercial Apartment B, which is created with the intent that business be conducted in it, shall have appurtenant thereto, as Limited Common Elements, the following areas and such other areas as may be depicted on the Condominium Map as being "Commercial Apartment Limited Common Elements."

a. The Building Structure of Building 2000 (which is also a Limited Common Element appurtenant to Resort Apartments located in Building 2000).

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. All swimming pools, whirlpool spas, Pool Bar, deck areas, Pool Cabana, tennis courts, and all other Project amenities and Improvements, except as otherwise included in another Apartment.

e. All landscaped, waterscaped 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 the Condominium Declaration as Commercial Apartments.

h. All roof areas of structures in the Project.

i. The Land underlying the Future Building areas of the Project and the lawn area identified on the Condominium Map.

Any area identified on the Condominium Map as a Commercial Apartment Limited Common Element, even if not otherwise described in the foregoing narratives "a" through "i."

COMMERCIAL APARTMENT C. Commercial Apartment C, which is created with the intent that business be conducted therein, shall have no Limited Common Elements appurtenant to it.

EXHIBIT "H"

ENCUMBRANCES AGAINST TITLE

1. Real property taxes which may be due and owing, reference is made to the Tax Assessor's Office, County of Kauai.
2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Agreement dated May 12, 1931, recorded at said Bureau in Book 1119 at Page 127; re: building setback line. (Not noted on the Land Court Certificate of Title noted herein.)
4. The claims of Grove Farm Co. Ltd. to water or water rights with respect to a portion of Lot 1, which claims have been heretofore made by said Grove Farm Co. Ltd. in its answer filed in Land Court Application No. 1801.
5. Designation of Easement A, as shown on Map No. 1, as set forth by Land Court Order No. 43143, filed on October 30, 1975 in the Office of the Registrar of the Land Court of the State of Hawaii.
6. Grant in favor of Bishop Trust Company, Limited, as Trustee under that certain Deed of Trust dated December 22, 1924, recorded at said Bureau in Liber 759 at Page 399, as amended, etals [sic], dated June 6, 1979, recorded in said Office as Document No. 961677; granting a perpetual non-exclusive easement over said Easement A for private pedestrian, driveway and underground utility purposes, appurtenant to Lots 3, 1-B, 1-A, 9-A-2, 175, 176, 177 and 173.
7. Designation of Easement B, as shown on Map No. 2, as set forth by Land Court Order No. 60287, filed on July 10, 1981 in said Office.
8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Relocation of Sewer Easement dated April 26, 1982, recorded in said Office as Document No. 1124392, whereby (1) that certain easement reserved in that certain Deed recorded in said Office as Document No. 961678 was relocated across Easement B affecting Lot 1 and Easements M and N affecting Lot 5 and (2) said Easements B, M and N were granted to Valdemar L'Orange Knudsen and First Hawaiian Bank, a Hawaii corporation, as Trustees under that certain Deed of Trust made by Eric A. Knudsen dated April 30, 1922, recorded in said Office as Document No. 27057, as amended, and also recorded at the Bureau of Conveyances of the State of Hawaii in Book 639 at Page 326, and Bishop Trust Company, Limited, a Hawaii corporation, as Trustee under that certain Deed of Trust made by Augustus F. Knudsen dated December 22, 1924, recorded at said Bureau in Book 759 at Page 399, as amended; for sewer purposes.
9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Partial Relocation of Water Pipeline Easement dated February 8, 1982, recorded in said Office as Document No. 1124394, whereby (1) that certain easement reserved in that certain Grant recorded in said Office as Document No. 292520 was relocated across the Northerly 15 feet and the Easterly 10 feet in width of Easement B affecting Lot 1 and the Southeasterly 10 feet in width of Easement M affecting Lot 5, and (2) said Easements B and M were granted to the County of Kauai, for underground water pipeline purposes.
10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Partial Relocation of Easements dated February 8, 1982, recorded in said Office as Document No. 1124396, whereby (1) that certain easement reserved in that certain Grant recorded in said Office as Document No. 464369 was relocated across Easement B affecting Lot 1 and Easements M and N affecting Lot 5, and (2) said Easements B, M and N were granted to Citizens Utilities Company and Verizon Hawaii Inc., for utility purposes.

11. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Warranty Deed dated August 25, 1987, recorded in said Office as Document No. 1489788.

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

"As of the date hereof, Grantor is not aware of any materials, adverse soil condition of the Property that renders it unsuitable for hotel purposes. The foregoing notwithstanding, Grantee acknowledges and agrees that Grantor has not made and does not make any representations or warranties whatsoever as to the soils condition of the Property or any thereof or its suitability for any future development.

The terms, covenants and conditions set forth herein shall run with the land and inure to the benefit of and be binding upon Grantor and Grantee, and their respective successors and assigns, from the date this Warranty Deed is filed with the Office of the Assistant Registrar of the Land Court of the State of Hawaii and/or recorded in the Bureau of Conveyances of the State of Hawaii."

12. The right of the State of Hawaii to institute appropriate proceedings for a re-establishment of the makai boundary (Course No. 3) of Lot 2 in conformance with any adjudication hereafter made by the Supreme Court of the State of Hawaii that a seashore boundary along high water mark is to be located by some method establishing the same at a location other than at the intersection of the shore and the horizontal plane of mean high water, the applicant having agreed that this decree shall not estop, bar or otherwise preclude such proceedings.
13. Designation of Easement A, as shown on Map No. 3, as set forth by Land Court Order No. 62225, filed on March 11, 1982 in said Office.
14. Designation of Easement B, as shown on Map No. 3, as set forth by Land Court Order No. 62225, filed on March 11, 1982 in said Office.
15. Grant in favor of the County of Kauai dated April 22, 1982, recorded in said Office as Document No. 1127098; granting a non-exclusive easement for public pedestrian access for recreational purposes, and not for motorized, wheeled or vehicular traffic of any kind, over and across said Easements A and B.
16. Designation of Easements M and N, as shown on Map No. 3, as set forth by Land Court Order No. 60286, filed on July 10, 1981 in said Office.
17. Designation of Easement P, as shown on Map No. 4, as set forth by Land Court Order No. 62224, filed on March 11, 1982 in said Office.
18. Grant in favor of the County of Kauai dated April 22, 1982, recorded in said Office as Document No. 1127098; granting a non-exclusive easement for public pedestrian access for recreational purposes, and not for motorized, wheeled or other vehicular traffic of any kind, over and across said Easement P.
19. 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 the effect, if any, upon the area of the land described herein.
20. Setback (65 feet from the highwater mark, more or less), as shown on Map No. 20, as set forth by Land Court Order No. 11583, filed on November 14, 1952 in said Office; for building purposes.
21. Designation of Easement 38, as shown on Map No. 74, as set forth by Land Court Order No. 61609, filed on December 21, 1981 in said Office.

22. Grant in favor of Citizens Utilities Company dated August 20, 1987, recorded in said Office as Document No. 1489787, and also recorded at said Bureau in Liber 21055 at Page 458; granting an easement for utility purposes over said Easement 38.
23. Designation of Easement 43, as shown on Map No. 77, as set forth by Land Court Order No. 62241, filed on March 15, 1982 in said Office.
24. Grant in favor of the County of Kauai, dated April 22, 1982 recorded in said office as Document No. 1127098; granting a nonexclusive easement for public pedestrian access for recreational purposes, and not for motorized, wheeled or other vehicular traffic of any kind, over and across said Easement 43.
25. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Grant of Easement dated May 17, 1982, recorded in said Office as Document No. 1125185.
26. Designation of Easement 42, as shown on Map No. 77, as set forth by Land Court Order No. 62241, filed on March 15, 1982 in said Office.
27. Grant in favor of the County of Kauai dated April 22, 1982, recorded in said Office as Document No. 1127098; granting a non-exclusive easement for public pedestrian access for recreational purposes, and not for motorized, wheeled or other vehicular traffic of any kind, over and across said Easement 42.
28. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Trustees' Limited Warranty Deed dated February 20, 1989, recorded in said Office as Document No. 1669614.

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

"As of the date hereof, Grantor is not aware of any materials, adverse soil condition of the Property that renders it unsuitable for hotel purposes. The foregoing notwithstanding, Grantee acknowledges and agrees that Grantor has not made and does not make any representations or warranties whatsoever as to the soils condition of the Property or any part thereof or its suitability for any future development.

The terms, covenants and conditions set forth herein shall run with the land and inure to the benefit of and be binding upon Grantor and Grantee, and their respective successors and assigns, from the date this Warranty Deed is filed with the Office of the Assistant Registrar of the Land Court of the State of Hawaii and/or recorded in the Bureau of Conveyances of the State of Hawaii."

29. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Joint Development Agreement dated June 22, 1979, made by and between Island Holidays, Ltd., a Hawaii corporation, and Bishop Trust Company, Limited and Karen Aaser Latham, as Trustees under that certain Trust Agreement made by Hazel Niidy Knudsen Toulon and Anne Knudsen Baldwin, recorded in said Office as Document No. 969713; re: development of a 459-room hotel.

Said Agreement shall be effective from the date thereof (June 22, 1979) and shall terminate on September 30, 2024 and shall affect Lot 2, Land Court Application No. 1801, Lot 174, Land Court Application No. 956, Lot 5, Land Court Consolidation No. 125 and Lot 1, Land Court Consolidation No. 135.

30. Terms, provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Right of Entry dated January 24, 2001, recorded at said Bureau as Document No. 2001-014143. (Not noted on the Land Court Certificate of Title noted herein.)
31. Any unrecorded leases and matters arising from or affecting the same.

32. Encroachments or any other matters as shown on that certain survey map dated October 26, 1999, prepared by Alden S. Kajioka, Land Surveyor with Control Point Surveying, Inc.
33. Terms and provisions, including the failure to comply with any covenants, conditions and reservations contained in that certain Declaration of Condominium Property Regime for Waiohai Beach Club Condominium Project dated September 29, 2000, recorded in said Office as Document No. 2692942, as shown on Map No. 1404 and any amendments thereto.
34. Terms and provisions, including the failure to comply with any covenants and conditions contained in that certain By-Laws of the Association of Apartment Owners of Waiohai Beach Club dated March 19, 2001, recorded in said Office as Document No. 2692943.
35. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Waiohai Beach Club Vacation Ownership Program Declaration of Covenants, Conditions and Restrictions dated March 14, 2001, recorded in said Office as Document No. 2692944 and any amendments thereto.

-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.

**2002 ASSESSMENT BUDGET (a)
ASSOCIATION OF APARTMENT OWNERS OF WAIHAI BEACH CLUB
CONDOMINIUM BUDGET**

	Annual Total	Resort Timeshare Apartments 72.38016%	Resort Sales Apartments 15.07920%	Hotel Apartments 2.70344%	Commercial Apartment A 1.09659%	Commercial Apartment B 8.55165%	Commercial Apartment C 0.21896%
<u>Expenses</u>							
Heat, Light & Power	\$682,375	\$493,904	\$102,897	\$18,448	\$7,278	\$58,354	\$1,494
Insurance	141,481	102,404	21,334	3,825	1,509	12,099	310
Landscaping and Grounds Maintenance	73,057	52,879	11,016	1,975	779	6,248	160
Refuse Collection	19,294	13,965	2,909	522	206	1,650	42
Annual Audit	15,698	11,364	2,367	424	167	1,342	34
Board of Directors' Expenses	12,558	9,090	1,894	339	134	1,074	27
Postage, Printing and Handling	15,716	11,375	2,370	425	168	1,344	34
Site Administration	274,153	195,432	41,340	7,412	2,924	23,445	600
Site Accounting	226,296	163,793	34,124	6,118	2,414	19,352	495
Housekeeping/Major Clean Maintenance	57,376	41,528	8,652	1,551	612	4,907	126
Loss Prevention/Security Provisions	78,792	57,030	11,881	2,130	840	6,738	173
Replacement Reserve Expenses (b)	117,448	85,009	17,710	3,175	1,253	10,044	257
Management Fee	85,260	61,711	12,857	2,305	909	7,291	187
Total Condominium Assessment	<u>\$1,979,454</u>	<u>\$1,432,732</u>	<u>\$298,486</u>	<u>\$53,514</u>	<u>\$21,112</u>	<u>\$169,277</u>	<u>\$4,333</u>

EXHIBIT "I"

(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 such reserves is \$85,260. 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.

EXHIBIT "I"

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 sale of timeshare interests will be by way of the specimen Waiohai Beach Club 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 Purchase Agreement also discusses the transfer to Purchasers, of Common Furnishings Interest for Common Furnishings ("Subject Common Furnishings") of the Unit in which the Ownership Interest is being purchased. 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 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; and (c) there are no other Encumbrances affecting Purchaser's Ownership Interest, except those stated in the Timeshare Disclosure Statement. If the Purchaser wishes to cancel, it would be prudent to act to cancel within the 7-day period specified in Paragraph 11 below. In the event the Seller conveys the Ownership Interest prior to completion of construction at 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 (110%) of the funds which would otherwise be placed in the escrow account pursuant to this Agreement for the purchase of the Ownership Interest(s) and the corresponding Subject Common Furnishings. 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 the Purchase 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

EXHIBIT "J"
(Page 2 of 3)

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 Waiohai Beach Club Escrow Agreement dated March 16, 2001 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 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.

3. 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 Waiohai Beach 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 345 parking stalls will be available for the Project as described below. 234 parking stalls are covered, 111 parking stalls are uncovered, 88 are compact sized, 245 are standard sized and 12 are accessible stalls. All Apartments in the Project shall have the non-exclusive right to utilize at least one parking stall.

Further, ten (10) parking stalls numbered 13 through 22, inclusive, located on the first floor of the parking structure adjacent to the Operations Building, are General Common Elements but will be made available to the County of Kauai 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.