

CONDOMINIUM PUBLIC REPORT

Prepared &

Issued by:

Developer KOHALA-WOODVALE ASSOCIATES, LLC

Address 10940 Wilshire Boulevard, Suite 1240, Los Angeles, California 90024

Project Name (*): Hali`a Hale at Kauna`oa

Address: Pending

Registration No. 5199

Effective date: October 31, 2003

Expiration date: December 1, 2004

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:

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

 FINAL: The developer has legally created a condominium and has filed complete information with the Commission.
(white)

- No prior reports have been issued.
- This report supersedes all prior public reports.
- This report must be read together with _____

 SUPPLEMENTARY: This report updates information contained in the:
(pink)

- Preliminary Public Report dated: _____
- Final Public Report dated: _____
- Supplementary Public Report dated: _____

And

- Supersedes all prior public reports.
- Must be read together with _____
- This report reactivates the _____ public report(s) which expired on _____

(*) Exactly as named in the Declaration

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

FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203

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:

TABLE OF CONTENTS

	Page
Preparation of this Report	1
Expiration Date of Reports	1
Type of Report	1
Disclosure Abstract	2
Summary of Changes from Earlier Public Reports	2
Table of Contents	3
General Information on Condominiums	4
Operation of the Condominium Project	4
I. PERSONS CONNECTED WITH THE PROJECT	5
Developer	
Attorney for Developer	
General Contractor	
Real Estate Broker	
Escrow Company	
Condominium Managing Agent	
II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS	
A. Declaration	6
B. Condominium Map (File Plan)	6
C. Bylaws	6
D. House Rules	7
E. Changes to Condominium Documents	7
III. THE CONDOMINIUM PROJECT	
A. Interest to be Conveyed to Buyer	8
B. Underlying Land	9
C. Buildings and Other Improvements	10
D. Common Elements, Limited Common Elements, Common Interest	13
E. Encumbrances Against Title	14
F. Construction Warranties	15
G. Status of Construction	16
H. Project Phases	16
IV. CONDOMINIUM MANAGEMENT	
A. Management of the Common Elements	17
B. Estimate of Initial Maintenance Fees	17
C. Utility Charges for Apartments	17
V. MISCELLANEOUS	
A. Sales Documents Filed with the Real Estate Commission	18
B. Buyer's Right to Cancel Sales Contract	18
C. Additional Information Not Covered Above	20
D. Signature of Developer	21
EXHIBIT A: Developer's Reserved Rights and Future Development Plans	
EXHIBIT B: Special Use Restrictions	
EXHIBIT C: Boundaries of Each Apartment	
EXHIBIT D: Permitted Alterations to Apartments	
EXHIBIT E: Description of Common Elements	
EXHIBIT F: Description of Limited Common Elements	
EXHIBIT G: Common Interests of Apartments	
EXHIBIT H: Encumbrances Against Title	
EXHIBIT I: Estimated Maintenance Fees and Disbursements	
EXHIBIT J: Summary of Pertinent Provisions of Sales Contract	
EXHIBIT K: Summary of Pertinent Provisions of Escrow Agreement	
EXHIBIT L: Summary of Covenants, Conditions and Restrictions to Which the Project is Subject	

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 apartment 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: KOHALA-WOODVALE ASSOCIATES, LLC Phone: 310-824-2200
 Name* (Business)
10940 Wilshire Boulevard, Suite 1240
 Business Address
Los Angeles, California 90024

Names of officers and directors of developers 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 Schedule A

Real Estate Broker*: Kauna`oa Realty, L.L.C. Phone: 808-882-7250
 Name (Business)
65-1227 Opelo Road
 Business Address
Kamuela, Hawaii 96743

Escrow Title Guaranty Escrow Services, Inc, Phone: 808-521-0211
 Name (Business)
235 Queen Street
 Business Address
Honolulu, Hawaii 96813

General Contractor*: Pending Phone: _____
 Name (Business)
 Business Address

Condominium Managing Agent*: Pending Phone: _____
 Name (Business)
 Business Address

Attorney for Developer: Clifford J. Miller
Nancy N. Grekin Phone: 808-529-7300
McCorrison Miller Mukai MacKinnon (Business)
 Name
P.O. Box 2800
 Business Address
Honolulu, Hawaii 96803-2800

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

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

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

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

The Declaration for this condominium is:

Proposed
 Recorded - Bureau of Conveyances: Document No. _____
Book _____ Page _____
 Filed - Land Court: Document No. _____

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

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

The Condominium Map for this condominium project is:

Proposed
 Recorded - Bureau of Conveyances Condo Map No. _____
 Filed - Land Court Condo Map No. _____

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

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

The Bylaws for this condominium are:

Proposed
 Recorded - Bureau of Conveyances: Document No. _____
Book _____ Page _____
 Filed - Land Court: Document No. _____

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 requirements 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>By the Board of Directors of the Association</u>

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

2. **Developer:**

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

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

[] 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: Pending Tax Map Key (TMK): (3) 6-2-002:018 (Por.)

[X] Address [X] TMK is expected to change because property will be subdivided

Land Area: 12.7 * [] square feet [X] acre(s) Zoning: Multi-Family Residential (RM-20)

* The land area submitted to the condominium property regime will be approximately 12.7 acres to be subdivided out of the 51.631 acres comprising this tax map key number.

Fee Owner: KOHALA-WOODVALE ASSOCIATES, LLC
 Name
10940 Wilshire Boulevard, Suite 1240
 Address
Los Angeles, California 90024

Lessor: N/A
 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: 10 Floors Per Building: 2

Exhibit _____ contains further explanations.

3. Principal Construction Material:

Concrete Hollow Tile Wood

Other _____

4. Uses Permitted by Zoning:

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>20</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Hotel	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Timeshare	_____	<input 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:

Pets: See Exhibit B

Number of Occupants: _____

Other: See Exhibit B

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: _____ Stairways: _____ Trash Chutes: _____

<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>A</u>	<u>11</u>	<u>4/3.5</u>	<u>3,101</u>	<u>597</u>	<u>Garage</u>
				<u>1,520</u>	<u>Lanais</u>
				<u>49</u>	<u>Mech. Rooms</u>
<u>B</u>	<u>12</u>	<u>4/4.5/Den</u>	<u>3,604</u>	<u>597</u>	<u>Garage</u>
				<u>1,854</u>	<u>Lanais</u>
				<u>46</u>	<u>Mech. Rooms</u>

Total Number of Apartments: 20

*** 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:

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 elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls:	<u>40</u>						
	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>TOTAL</u>
Assigned (for each unit)	_____	_____	_____	_____	_____	_____	_____
Guest	_____	_____	_____	_____	_____	_____	_____
Unassigned	_____	_____	_____	_____	_____	_____	_____
Extra for Purchase	_____	_____	_____	_____	_____	_____	_____
Other: <u>Garage</u>	<u>40</u>	_____	_____	_____	_____	_____	_____
Total Covered & Open:	<u>40</u>	_____	<u>0</u>	_____	<u>0</u>	_____	<u>40</u>

Each apartment will have the exclusive use of at least 2 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 _____ 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 Area Tennis Court Trash Chute/Enclosure(s)
- Other: Owners of apartments are entitled to use a 3-hole golf facility; canoe *hale*, swimming pool and recreation area located outside the boundaries of the Project, but within the Kauna'oa subdivision where the Project is located but not within the common areas of the Project.

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): N/A

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 E .

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 F.

as follows:

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 G.

as follows:

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

Exhibit H describes the encumbrances against the title contained in the title report dated September 4, 2003 * and issued by Title Guaranty of Hawaii Incorporated.

* The property is being subdivided but final subdivision approval has not been granted. The title search covers the property to be submitted to the CPR, and other property. A map attached to the title search depicts the area to be submitted to the CPR.

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. *

[X] 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 but Buyer's deposit will be refunded less any escrow cancellation fee.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
Mortgage	The lien is superior to the interests of the Buyers of Apartments, and foreclosure of the lien would foreclose Buyer's interest. If Buyer's interest is foreclosed, Buyer's deposit will be returned, less any escrow cancellation fee.

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:

Developer will assign all construction warranties for the buildings and other improvements given by the contractor. The nature and extent of such warranties are not yet known.

2. Appliances:

Developer will assign all appliance warranties given by the supplier. The nature and extent of such warranties are not yet known.

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

Construction will commence in the second quarter of 2004 and will be completed in the third quarter of 2005.

H. **Project Phases:**

The developer 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):

Developer may construct additional phases of the Project and will administratively merge those phases into the Project pursuant to a Declaration of Merger to be recorded concurrently with the Declaration of Condominium Property Regime. See Exhibit A for additional details on Developer's reserved rights to develop the Project in phases.

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 I contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated September 5, 2003
Exhibit J contains a summary of the pertinent provisions of the escrow agreement.
- Other _____

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: Same as for Preliminary Report.

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

- A) The Developer delivers to the buyer a copy of:
 - 1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final 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 issued 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
 - 1. Declaration of Protective Covenants, Conditions and Restrictions for Hapuna Resort dated October 15, 1993 recorded in the Bureau of Conveyances of the State of Hawaii as Document No. No. 94-032238, as amended by Annexing Declaration Hapuna Resort dated February 10, 2000, recorded in said Bureau as Document No. 2000-020042.
 - 2. Declaration of Protective Covenants, Conditions and Restrictions For Kauna`oa at Mauna Kea to be recorded prior to the Declaration.

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. 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. 5199 filed with the Real Estate Commission on September 24, 2003.

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C. **Additional Information Not Covered Above**

1. **Continuing Construction Activity.** Construction activity by Developer and/or the owners of other lots in the Subdivision may continue after the Apartments have been conveyed to buyers, and such activity may result in noise, dust or other annoyances to buyers and may limit Buyer's access to portions of the Subdivision.

2. **Continuing Sales Activities.** Under the terms of the Declaration, Developer and its representatives, licensees, and invitees have the right and an easement to conduct extensive sales activities on the Common Elements (including, but not limited to, the Limited Common Elements) and from any Apartment owned or leased by Developer. This right includes, but it is not limited to, the right:

(a) to permit purchasers and prospective purchasers and their family members and guests, to come onto the Condominium Project through the Common Elements intended for access to and from any nearby roads, streets or highways;

(b) to permit purchasers and prospective purchasers to park motor vehicles in any unassigned parking stalls;

(c) to show the Condominium Project (including, but not limited to, model apartments) to purchasers and prospective purchasers (who will have a right of ingress and egress for these purposes);

(d) to use Apartments owned or leased by Developer as model apartments, sales, management, and/or administrative offices; and

(e) to use banners, signs or other extensive sales displays and activities at the Condominium Project. This easement applies to activities conducted in connection with the initial sale of any Apartment in the Condominium Project, and any Apartment in any new condominium project constructed by Developer on adjacent land and which Developer may merge into the Project. Buyer waives, releases and discharges any rights, claims or actions Buyer may have, against Developer and its representatives, licensees, invitees, successors and assigns and arising from or with respect to the exercise of this easement.

3. **Developer's Easement for Noise, Dust, Etc.** Under the terms of the Declaration, Developer and its representatives, licensees, and invitees, have the right and an easement over, under and upon the Condominium Project and all of its parts, to create and cause noise, dust, soot, smoke, odors, surface water runoff, vibrations, and other nuisances or hazards in connection with the following:

(a) the exercise of the rights and easements reserved to Developer under the Declaration;

(b) the development, construction and/or sale of any new apartments in the Condominium Project and/or on an Adjacent Parcel as provided in the Declaration;

(c) the right to convert the use of Common Elements and to designate Limited Common Elements; and

(d) the exercise of Developer's Reserved Rights or any other rights of Developer as described in the Declaration.

Buyers are deemed to:

(a) understand, acknowledge and accept that these activities may result in noise, dust, soot, smoke, odors, surface water runoff, vibrations and other nuisances and hazards;

(b) consent to such activities;

(c) waive, release and discharge any rights, claims or actions that Buyer may have, now or in the future, against Developer and/or its representatives, licensees, invitees, successors and assigns; and

(d) assume the risk of any property damage, personal injury or loss in property value which may arise out of or from these activities.

4. **Developer's Easements for Access Under the CPR.** Under the Declaration, Developer and its representatives, licensees, invitees (including, without limitation, any governmental officials that Developer may invite), successors and assigns, have reserved under the Declaration an easement over, under and upon the Condominium Project, including, without limitation, the Common Elements, Limited Common Elements, and any Apartment, as may be reasonably necessary or convenient to complete any improvements and to correct any defects and other punch list items in the Common Elements or any Apartment or to the

exercise of any of the other Developer's Reserved Rights under the Declaration. The easement to complete Improvements or correct defects or punch list items ends, as to any particular phase or increment of the Condominium Project, sixty (60) months after the later to occur of the following:

(a) the recording of the first Apartment Deed for an Apartment in that increment or phase of the Condominium Project; or

(b) the "date of completion" (as such quoted term is used in Chapter 507, Part II, Hawaii Revised Statutes) of the condominium apartments to be completed or corrected.

5. Developer's Reserved Right to Utilize Common Elements. Under the Declaration, Developer reserves the right, for itself, its representatives, licensees and invitees, to utilize the Common Elements for the exercise of any of Developer's Reserved Rights under the Declaration, for access to parking spaces and model apartments within the Condominium Project, and in order to show the Common Elements to prospective purchasers.

6. Developer's Reserved Right to Grant Easements Under the CPR Declaration.

(a) Developer reserves the right to grant to any public or governmental authority rights-of-way and other easements which are for the sole benefit of the Condominium Project, or which do not materially and adversely interfere with the use, nor materially and adversely impair the value, of the Condominium Project or any Apartment, over, across, under and through the common elements for lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage and other public services and utilities, and rights to enter for the purpose of installing, repairing, altering and removing such lines and facilities and of trimming any trees in the way thereof.

(b) Developer reserves the right to grant an easement to owners of other lots in the Subdivision to use the roadway within the Project for ingress and egress.

(c) Developer reserves the right to grant an easement over the Project to the Kauna'oa Community Association to landscape the limited common elements appurtenant to the Apartments.

7. Number of Owners. Ownership of or title to an Apartment may be shared or held by up to four persons or entities

8. Golf Course. The Condominium Project is located in the vicinity of a golf course currently known as the Mauna Kea Golf Course (the "Golf Course"). In addition, a new golf facility (the "Kauna'oa Golf Facility") for use by owners of Apartments in the Condominium Project and owners of lots in the Subdivision will be constructed by Developer in connection with the development of the Subdivision. Each Apartment is subject to an easement permitting the owners and operators of the Golf Course and the Kauna'oa Golf Facility, and persons permitted by such owners and operators to use the Golf Course or Kauna'oa Golf Facility (collectively, "Golfers"), to conduct golf-related activities, including, without limitation, golf play, golf tournaments, and other events on and in the vicinity of the Golf Course and Kauna'oa Golf Facility, and in connection therewith to subject such Apartment to all nuisances, effects and consequences incidental thereto. The owners and operators of the Golf Course and of the Kauna'oa Golf Facility and Golfers shall be permitted to cause golf balls unintentionally to land within the Condominium Project; and Golfers shall be permitted at reasonable times and in a reasonable manner to enter the Condominium Project to seek and retrieve errant golf balls, except that Golfers may only enter walled or fenced areas of the Condominium Project with the permission of the owner thereof, or if the owner shall not be present, the occupant thereof.

9. Private Golf Carts.

(a) The Hapuna CC&Rs prohibit the use of golf carts in the Hapuna Resort where the Project is located. Notwithstanding such fact, the operator of hotels in the Hapuna Resort (Mauna Kea Development Corp.) has granted to Developer the right to allow owners of lots located in The Bluffs at Mauna Kea Subdivision and owners of lots in the Subdivision to use private golf carts within the boundaries of the Subdivision. The Hapuna Community Association, a Hawaii non-profit corporation, established pursuant to the Hapuna CC&Rs, or its successors and assigns, is the only party with the authority to consent to or otherwise agree to such use of golf carts, and therefore if and when such consent or agreement has been given or is deemed to have been given, owners of lots in the Subdivision and owners of Apartments shall be permitted to use golf carts as aforesaid. Otherwise no golf carts, unlicensed vehicles or any similar types of motorized vehicles may be used or operated on any common areas of the Subdivision or the Condominium Project which are not designated as roadways or cart paths.

(b) Buyer shall:

(i) be deemed to know that the location of the Apartment with respect to the Golf Course may result in nuisances, disturbances or hazards to Persons and property in the Condominium Project, including, without limitation, the Apartment, as a result of the Golf Course, the Kauna'oa Golf Facility, and resort operations thereon, and to have determined that the benefits to the Owner outweigh the risks associated therewith;

(ii) assume all risks arising from the proximity of the Apartment to the Golf Course and the Kauna'oa Golf Facility, including, without limitation, the risk of property damage, bodily injury or death arising out of or in connection with the use of golf carts, stray golf balls, or other activities incidental to the Golf Course, the Kauna'oa Golf Facility, and resort operations thereon; and

(iii) indemnify and hold harmless Developer and its Affiliates, and MKD and its Affiliates, including, without limitation, the owner and operator of the Golf Course, and their respective officers, directors, employees, agents, successors and assigns, from any actions, liabilities, claims, losses, damages, costs and expenses, including, without limitation, attorneys' fees, arising out of any claims made by, through or under Buyer in connection with the maintenance, operation and/or use of the Golf Course and the Kauna'oa Golf Facility.

10. Continuing Resort Activities. The Condominium Project is a part of the Hapuna Resort area. Resort-related activities, such as golf tournaments, luaus, concerts and other outdoor music performances or broadcasts, outdoor cocktail parties Future Development. Other parts of the Hapuna Resort may be developed in the future. As a result, persons and property on or about the Condominium Project may be exposed to noise, dust, traffic, odors, vibrations and other construction-related nuisances or disturbances.

11. Zoning. The Condominium Project is located near hotels within the Hapuna Resort. Hotel related activities, including, without limitation, vehicular and pedestrian traffic and noise, may result in nuisances to persons or property on or about the Condominium Project.

EXHIBIT A
Developer's Reserved Rights and Developer's Future Development Plans

The Developer has reserved the following rights under the Declaration. All capitalized terms have the meaning assigned to such terms in the Declaration:

1. Developer's Reserved Right To Create New Apartments. The Developer reserves the right to create one or more New Apartments in the Project and to designate Limited Common Elements appurtenant to any New Apartment at any time and from time to time before the Development Period ends. The Developer's Reserved Right regarding the foregoing includes the right to:

(a) do anything necessary or convenient to create the New Apartments or to designate or convert the use of Common Elements or Limited Common Elements, including, without limitation, the right:

(i) to sign, acknowledge and record one or more amendments to the Declaration and to the Condominium Map meeting the requirements of the Declaration; and

(ii) to amend any previously Recorded deed or other document conveying or encumbering any Apartment so that it conforms with the Declaration, as it may be amended, and/or to record a new deed or conveyance document for such purpose.

(b) use any of the other Developer's Reserved Rights as may be necessary or convenient to create New Apartments or to designate or convert the use of Common Elements or Limited Common Elements, including, without limitation, signing, acknowledging, recording, and delivering documents, and doing other things in its own right and/or using its special power of attorney provided for in the Declaration.

2. Developer's Reserved Right to Design, Develop, Build, Add To, and Complete New Improvements on the Land. The Developer reserves the exclusive right during the pendency of the Development Period, and from time to time, to design, develop, build, add, and complete New Improvements on the Land. The Developer's Reserved Right regarding the foregoing include the exclusive right to do anything necessary or convenient to design, develop, build, add, and complete New Improvements on the Land, including, without limitation, the exclusive right:

(a) to convert the use of Common Elements to another purpose or use;

(b) to build and install New Improvements that the Developer intends to designate as New Apartments, Common Elements or Limited Common Elements pursuant to the Declaration; and

(c) to have the exclusive right to control, manage, and conduct the design, development construction, addition and completion of the New Improvements on the Land, even after the Developer conveys its interest in all Apartments to others.

3. Developer's Reserved Right to Subdivide and Consolidate the Land. The Developer reserves the right at any time and from time to time before the expiration of the Development Period to subdivide the Land, and/or to consolidate the Land with any Adjacent Parcel in connection with the exercise of Developer's Reserved Rights under the Declaration. The Developer's Reserved Right regarding the foregoing includes the right to do anything necessary or convenient to subdivide and/or consolidate the Land with any Adjacent Parcel, including, without limitation, the right:

(a) to file one or more applications to subdivide the Land, and to process such application(s) to final approval;

(b) to file one or more applications to consolidate the Land with any Adjacent Parcel, and to process such application(s) to final approval;

(c) to file, register or Record any document required to effect any subdivision or consolidation described hereinabove;

(d) to make any improvements necessary or convenient to obtain any necessary approvals or to complete any subdivision or consolidation;

(e) to seek and obtain any variance or other zoning change necessary or convenient to accomplish any subdivision or consolidation, or for the benefit of any parcel to be deleted pursuant to the Declaration;

(f) to amend the Declaration or Bylaws to change the description of the Land;

(g) to amend the Condominium Map, if the Developer deems it necessary or useful to reflect the subdivision and/or consolidation thereon;

(h) to amend any previously recorded deed or other document conveying or encumbering an Apartment for the purpose of conforming it with the revised Declaration, and/or to record a new deed or conveyance document for that purpose; and

(i) to use any of the other Developer's Reserved Rights as may be necessary or convenient to consolidate the Land with any Adjacent Parcel.

4. Developer's Reserved Right to Withdraw Undeveloped Land Area from Project. The Developer reserves the right at any time and from time to time during the Development Period to withdraw and delete from the Project, and from the condominium property regime established by the Declaration, all or any part of the Undeveloped Land Area. The Developer's Reserved Right regarding the foregoing includes the right to do anything necessary or convenient to delete all or any part of the Undeveloped Land Area, including, without limitation, the right:

(a) to amend the Declaration and the Bylaws to change the description of the Land;

(b) to amend the Condominium Map, if necessary or useful, to reflect the deletion of all or any portion of the Undeveloped Land Area;

(c) to record an amendment to the Declaration and Bylaws at least containing an amended description of the Land and, if necessary, an amendment to the Condominium Map to reflect the same;

(d) to amend any previously recorded deed or other document conveying or encumbering an Apartment so that it conforms with the revised Declaration and/or to record a new deed or conveyance document for that purpose;

(e) to sign, acknowledge, and record one or more deeds, releases, or other documents or instruments as the Developer deems necessary or convenient to effect the deletion of all or any part of the Undeveloped Land Area and to delete the same from the condominium property regime or to vest title to the same in the Developer free of all claims, liens, or interests of anyone else; provided, however, that the deleted Land, will be subject to any Declaration of Merger, the Hapuna CC&Rs and Kauna'oa Community Association Documents, and to any Mortgage made by the Developer encumbering the Undeveloped Land Area; and

(f) to use any of the other Developer's Reserved Rights as may be necessary or convenient to delete all or any part of any Undeveloped Land Area as provided in the Declaration.

5. Developer's Reserved Right to Annex Land and Improvements. The Developer reserves the right to change the Project at any time and from time to time during the Development Period by annexing any or all interests in an Adjacent Parcel and any Improvements located on such Adjacent Parcel into the Project and the condominium property regime established by the Declaration. Developer's Reserved Right regarding the foregoing includes the right:

(a) to amend the Declaration or the Bylaws so that the description of the Land includes the Adjacent Parcel that has been annexed to the Project;

(b) to amend the Declaration to describe any improvements on the Adjacent Parcel;

(c) to amend the Condominium Map if the Developer deems it necessary or useful to reflect the annexation of the Adjacent Parcel or any Improvements on it;

(d) to create New Apartments and to designate or convert the use of Common or Limited Common Elements for the New Apartments pursuant to the Declaration;

(e) to designate all or any part of the Adjacent Parcel and any improvements on it as Limited Common Elements appurtenant to one or more existing Apartments; provided, however, that the Developer shall not assign Limited Common Elements to any Apartment not owned by the Developer unless the Owner of such Apartment consents in writing to such assignment.

(f) to amend any previously recorded deeds or other document conveying or encumbering any Apartment for the purpose of conforming it with the revised Declaration and/or to record a new deed or conveyance document for that purpose;

(g) to sign, acknowledge, and record one or more deeds, or other documents or instruments that the Developer deems necessary or convenient to make any Adjacent Parcel and the Improvements located thereon subject to this Declaration and the Bylaws, and a part of the condominium property regime established by the Declaration; and

(h) to use any of the other Developer's Reserved Rights as may be necessary or convenient to annex any Adjacent Parcel and any Improvements located thereon as provided in the Declaration.

6. Developer's Reserved Right to Build Adjacent Condominium Projects and to Merge Them with the Project. The Developer reserves the right at any time and from time to time during the Development Period to develop one or more Adjacent Condominium Projects on any Adjacent Parcel and to merge any Adjacent Condominium Project with the Project pursuant to a Declaration of Merger. The Developer's Reserved Right regarding the foregoing includes the right to:

(a) do anything necessary or convenient to develop one or more Adjacent Condominiums on any Adjacent Parcel and/or to merge any Adjacent Condominium Project with the Project;

(b) to enter upon the Project and to authorize others to enter upon the Project as may be necessary or convenient to design, develop, construct, add, and complete the Adjacent Condominium Project, or to sell interests in the Adjacent Condominium Project;

(c) to create noise and dust in connection with the construction of the Adjacent Condominium Project in the manner described in the Declaration, whether the activities that give rise to such noise or dust take place on the Project or on the Adjacent Parcel;

(d) to connect the Adjacent Condominium Project to utilities of the Project provided that either (i) there are separate meters for the Adjacent Condominium Project, or (ii) the Adjacent Condominium Project will be merged with the Project;

(e) to record a Certificate of Merger as provided in the Declaration of Merger;

(f) to amend any previously recorded deed or other document conveying or encumbering any Apartment so that it conforms with the revised Declaration and/or to record a new deed or conveyance document for that purpose; and

(g) to use any of the other Developer's reserved rights as may be necessary or convenient to develop one or more Adjacent Condominium Projects on any Adjacent Parcel and to merge any such Adjacent Condominium Project with the Project pursuant to the Declaration of Merger.

7. Developer's Reserved Right to Change the Project to Comply With Law. The Developer reserves the right, at any time and from time to time, to change the Apartments, the Common Elements, the Limited Common Elements, and/or to amend the Condominium Documents as required to comply with any laws that apply to the Project, the AOA, or the Developer, including the federal Fair Housing Act, 42 U.S.C. § 3601 et seq. and the Americans With Disabilities Act 42 U.S.C. § 12101 et seq., (the "ADA"), and any rules and regulations adopted with respect to either of them. The Developer may utilize such right:

(a) to re-stripe or reconfigure parking stalls to comply with the ADA, or

(b) to change the slope of a ramp for wheelchairs to comply with the ADA.

8. Developer's Reserved Right and Easement for Sales Activities. The Developer and its representatives, licensees, and invitees have the reserved right and easement to conduct extensive sales activities on the Common Elements (including, but not limited to, the Limited Common Elements) and from any Apartment owned and/or leased by Developer. The Developer's Reserved Right regarding the foregoing includes the right:

(a) to permit purchasers and prospective purchasers and their family members and guests to come onto the Project through the Common Elements intended for access to and from any nearby roads, streets or highways;

(b) to permit purchasers and prospective purchasers to park motor vehicles in any unassigned parking stalls;

(c) to show the Project (including, but not limited to, model Apartments) to purchasers and prospective purchasers (who will have a right of ingress and egress for these purposes);

(d) to use Apartments owned by the Developer as model Apartments, sales, management, and/or administrative offices; and

(e) to use banners, signs or other extensive sales displays and activities at the Project. This easement applies to activities conducted in connection with the initial sale of any Apartment in the Project, and any Apartment in any Adjacent Condominium Project.

9. General Provisions Applicable to Developer's Reserved Rights

(a) The Developer has the right, but not the obligation, to exercise any of the Developer's Reserved Rights separately or in one or more combinations and at one or more times.

(b) The Developer may exercise the Developer's Reserved Rights without providing notice to or obtaining the approval, consent, or joinder of any other party, including, but not limited to, the AOAO, any Apartment Owner, any Lender, or any other Interested Person.

(c) Any amendment to the Condominium Documents made in connection with the exercise of the Developer's Reserved Rights, and any other action taken by the Developer in the exercise of the Developer's Reserved Rights, shall require the vote or written consent of only the Developer and not any Owner or other Interested Person; provided, however, that to the extent the vote or written consent of any Owner or other Interested Person is required, the Developer may use the special power of attorney to cast such vote or give such consent on behalf of such Owner or other Interested Person.

10. Recalculation of Common Interests

(a) If new Apartments are created, the Developer has the right to reallocate the Common Interests among the existing Apartments and the new Apartments in accordance with the Declaration of Merger.

(b) In order to ensure that the Common Interests total 100%, the Developer shall have the right and option to round the Common Interest for any Apartment up or down to the nearest ten thousandth of one percent (0.0001%) and/or to adjust the Common Interests for one or more Apartments up or down to the nearest one-thousandth of a percent (0.001%) if necessary to achieve a total of one hundred percent (100%) for all Apartments in the Project

END OF EXHIBIT A

EXHIBIT B
Special Use Restrictions

1. Pets. No livestock, poultry, or other animals whatsoever shall be allowed or kept in any part of the Project, except as follows:

(a) Subject to the conditions and restrictions of the Bylaws, dogs, cats, or other typical household pets (each a "pet"), such as guinea pigs, rabbits, fishes, or birds, may be kept by occupants within their respective Apartments or Limited Common Elements.

(b) Pets may enter upon Common Elements not constituting part of any Owner's Limited Common Element for purposes of ingress to and egress from the Apartments and Limited Common Elements in which they are kept; provided, however, that all such pets while upon such Common Elements shall be accompanied by its owner or keeper and shall be kept in a cage or on a leash.

(c) Except for fishes and birds, no more than two (2) pets per Apartment shall be allowed without the express consent of the Board, which consent shall not be unreasonably withheld.

(d) No animal described as pests under H.R.S. §150A-2 or prohibited from importation under H.R.S. §141-2, §150A-5, or §150A-6 shall be kept in the Project.

(e) No animals shall be kept, bred, or used in any Apartments or Limited Common Elements for any commercial purpose.

2. Limitations on Business, Trade or Professional Use. Except for such home office use as may allowed or permitted under the applicable zoning ordinance, and subject to the provisions of the Declaration which permits the Developer to do otherwise:

(a) The Apartments and their Limited Common Elements shall not be used to carry on any business, trade or profession;

(b) The Apartments and their Limited Common Elements shall not be used for sales of any articles or goods; and

(c) No Apartment Owner, lessee, tenant or other occupant of an Apartment shall bring clients, customers or other business invitees onto the Property on a regular basis for business purposes.

3. Restrictions on Right to Sell, Lease or Rent.

(a) Owners may rent their respective Apartments either directly for their own account or as part of a rental pool; provided, however, that any such rental pool shall be operated on a basis consistent with the operational practices of any rental pool consisting of "Dwelling Units" located in "The Villas", "The Bluffs", "South Fairways" or "North Fairways", as the foregoing quoted terms are defined in the Kauna'oa CC&Rs.

(b) Apartment rentals shall be subject to the provisions of the Condominium Documents, Kauna'oa Community Association Documents, Hapuna Association Documents, and applicable law. Any lease or rental agreement of an Apartment shall provide that it shall be subject in all respects to the provisions of those documents, and that the failure of the lessee or tenant to comply with the terms thereof shall constitute a default under such lease or rental agreement.

4. Landscaping of Limited Common Elements.

(a) The Developer reserves an exclusive easement over, under, and above the Limited Common Element Land Areas appurtenant to the Apartments for the installation and maintenance of landscaping, including grasses, trees, shrubs, other vegetation, and natural and artificial landscaping elements and materials, and also reserves the right to grant an easement over the Limited Common Element Land Areas to the Kauna'oa Community Association over, under, and above the Limited Common Elements for any or all of the same purposes.

(b) No Owner shall install or maintain any landscaping, grasses, trees, shrubs, other vegetation, or natural or artificial landscaping elements or materials of any kind in the Limited Common Element Land Areas except in compliance with the Design Requirements, Design Guidelines and/or any landscaping guidelines adopted by Developer, and provided that no such installation or maintenance shall materially interfere with installation or maintenance of landscaping in the Limited Common Element Land Areas undertaken by the Kauna'oa Community Association.

5. Prohibition Against Time Share Use. No Apartment Owner, lessee, tenant, occupant, or other Interested Person can use the Project or any part of it for the promotion or sale of time share or interval ownership interests, or interests in any fractional ownership plan, directly or indirectly, or for the operation of a tour or activity desk or any other business that directly or indirectly promotes the sale of time share or interval ownership interests, or interests in a fractional ownership plan.

END OF EXHIBIT B

EXHIBIT C
Boundaries of Apartments

The boundaries of each Apartment consist of the following:

1. the interior unfinished surfaces of the perimeter and party walls, doors, floors, and ceilings of an apartment;
2. all windows and window frames, louvers (if any), and shutters (if any);
3. the spaces bounded by the elements described in Section 5.1.2(A) of the Declaration;
4. each apartment's garage;
5. all walls and partitions which are not load-bearing and which are within the perimeter or party walls of the apartment;
6. all movable lanai doors and their door frames;
7. the lanais shown on the Condominium Map to the inner decorated or finished surfaces of the exterior perimeter walls of such lanais, and to the interior edge of the exterior fence or other boundaries of such lanais; and
8. all fixtures originally installed in the apartment.

END OF EXHIBIT C

EXHIBIT D
Permitted Alterations to Apartments

1. Alterations Without Board or AOAO Approval. Each Owner shall have the right, without Board or AOAO approval or consent, to make any alteration, addition, change or improvement solely within an Apartment owned by such Owner (or in the case of the Developer, by the Developer), provided that no such alteration, addition, change or improvement adversely affects the structural integrity of such Apartment. This right includes, but is not limited to the following:

(a) Installing, maintaining, removing and rearranging partitions and other walls from time to time within such Owner's Apartment;

(b) Finishing, changing or substituting any plumbing, electrical or other fixtures attached to the ceilings, floors or walls of such Owner's Apartment;

(c) Decorating, painting, repainting, wallpapering or otherwise changing the appearance of the walls, floors and ceilings of such Owner's Apartment;

(d) Tiling, finishing, carpeting, re-carpeting, and installing, changing, or removing other flooring in such Owner's Apartment; and

(e) Making such changes, additions and improvements to such Owner's Apartment or Limited Common Elements to facilitate handicapped accessibility within such Owner's Apartment or Limited Common Element.

2. Changes Subject to Board Approval. The following changes, additions, and improvements may be made by any Owner subject only to the approval of the Board of Directors, which approval shall not be unreasonably withheld or delayed:

(a) The Owner of any two Apartments separated by a Common Element wall, floor, or ceiling, or whose Limited Common Elements are separated from each other or from such Apartments by a Common Element fence, hedge, or similar landscaping element, may change or remove all or part of the intervening Common Element, and install doors, stairways and other improvements in such opening or openings in the intervening Common Element, to seal hallways or other openings, and make other reasonable changes or additions; provided, however, that any such change or removal shall not adversely affect the structural integrity of the other Apartments or Limited Common Elements of the building in which such Apartment is situated. Before the Developer or any other Owner terminates its common ownership of any two Apartments, the Developer or such Owner shall restore the Common Element wall, floor, ceiling, hallway and/or other openings to substantially the same condition as before any change thereto or removal thereof, unless the new Owner thereof agrees in writing to accept such change or removal in writing and to assume full responsibility for like restoration upon the termination of the common ownership of any two Apartments in the future.

(b) Any Owner who owns any two adjacent Apartments may

(i) consolidate such Apartments into a single Apartment; and

(ii) make any Common Element walls, floors or ceilings between such Apartments part of such Apartments or their Limited Common Elements. The Common Interest of the newly created Apartment will be equal to the sum of the Common Interests of the Apartments which were consolidated.

(iii) change the designation of the Limited Common Elements appurtenant to such Apartments so that one or more Limited Common Elements appurtenant to one Apartment shall be appurtenant to the other Apartment or to both of the Apartments; subject, however, to the prior written consent of each Lender holding a recorded mortgage encumbering either Apartment.

END OF EXHIBIT D

EXHIBIT E
Description of Common Elements

The Common Elements consist of the following:

1. The Land in fee simple;
2. All roadways, including shoulders, rights of way and landscaping in roadway areas, and driveways;
3. All yards, grounds, trees, gardens, landscaping and refuse facilities not located within an Apartment;
4. All foundations, floor slabs, columns, girders, beams, supports, perimeter, party and load-bearing walls and partitions (excluding the finishes thereon), roofs and stairways (excluding any private stairway located within and serving only a single Apartment);
5. All vents, shafts, sewer lines, water lines, pipes, cables, conduits, ducts, electrical equipment, wiring and other central and appurtenant transmission facilities and installations on, above, over, under and across the Project to the point of their respective connections to Improvements comprising a part of the Apartments or the Limited Common Elements appurtenant thereto, including, without limitation, those providing electricity, light, gas (if any), water, air conditioning, sewer, refuse, drainage, irrigation, telephone, and radio and television signal distribution (if any) to more than one Apartment;
6. Any and all other apparatus and installations existing for common use by more than one (1) Apartment, and any and all other parts of the Project necessary or convenient to its existence, maintenance or safety, or normally in common use.

END OF EXHIBIT E

EXHIBIT F
Description of Limited Common Elements

The Limited Common Elements consist of the Limited Common Element Land Area identified on the Condominium Map by the same number as the Apartment to which it is appurtenant on the Condominium Map, including without limitation the following:

1. The pool located within the Limited Common Element Land Area of such Apartment, including, without limitation, all pumps, filters, pipes, and other equipment connected to or relating to the pool.
2. The driveway leading to the garage of any such Apartment;
3. The entry pond located in the Limited Common Element Land Area of such Apartment;
4. Such Apartment's trash enclosure;
5. Such Apartment's enclosed courtyard, as shown on the Condominium Map; and
6. An exclusive easement for the use of one (1) mailbox located on Kauna'oa Community Association Property, bearing the same number as such Apartment. No Owner shall construct or install a mailbox at the Apartment or arrange for mail delivery at any location other than the mailbox located on such Kauna'oa Community Association Property.

END OF EXHIBIT F

EXHIBIT G
Common Interests of Apartments

Apartment	Common Interest
1	5.3751%
2	4.6249%
3	4.6249%
4	5.3751%
5	5.3751%
6	4.6249%
7	4.6249%
8	5.3751%
9	5.3751%
10	4.6249%
11	4.6249%
12	5.3751%
13	5.3751%
14	4.6249%
15	4.6249%
16	5.3751%
17	5.3751%
18	4.6249%
19	4.6249%
20	5.3751%
	100.00%

END OF EXHIBIT G

EXHIBIT H
Encumbrances Against Title

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Reservation in favor of the State of Hawaii in perpetuity, of all water rights, as reserved in Land Patent Grant Number 12,546.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Deed dated May 18, 1978 recorded in the Bureau of Conveyances of the State of Hawaii in Liber 12905, Page 532, including, but is not limited to, matters relating to reservation of minerals, water and prehistoric and historic remains.
4. Easement "D-9" for drainage purposes, as shown on the survey map prepared by Robert W. Cunningham, Registered Professional Land Surveyor, with Belt Collins & Associates, dated December 9, 1992, revised August 24, 1993.
5. Grant to SOUTH KOHALA WASTEWATER CORP., a Hawaii corporation dated December 18, 1996 recorded in said Bureau as Document No. 96-179333, granting a non-exclusive easement to construct, reconstruct, install, maintain, operate, repair and remove an underground sewer pipeline or pipelines, etc., as part of a sewer system, through, under and across a portion of said Lot, being easement 36 (10 feet wide) for sanitary sewer purposes, being more particularly described as follows:

Beginning at the southwest corner of this parcel of land, on the westerly end of Kauna'oa Drive, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 8,024.54 feet north and 1,956.84 feet east, thence running by azimuths measured clockwise from true south:

1. 211° 22' 150.01 feet along the remainders of Lot 12 and Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa;
2. 225° 21' 173.97 feet along same;
3. Thence along same, on a curve to the left with a radius of 225.00 feet, the chord azimuth and distance being:
204° 37' 159.31 feet;
4. 183° 53' 283.00 feet along same;
5. 185° 42' 276.83 feet along same;
6. Thence along same, on a curve to the left with a radius of 433.00 feet, the chord azimuth and distance being:
165° 12' 14" 303.22 feet;
7. Thence along same, on a curve to the left with a radius of 315.00 feet, the chord azimuth and distance being:
130° 22' 04" 87.33 feet;
8. 232° 21' 10" 4.27 feet along Lot B-2-A-2, along the remainder of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa;
9. 251° 05' 7.59 feet along Lot 11-A, along the remainder of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa;
10. Thence along the remainders of Lot 12 and Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa, on a curve to the right with a radius of 325.00 feet, the chord azimuth and distance being:

- 310° 57' 49" 84.51 feet;
11. Thence along same, on a curve to the right with a radius of 443.00 feet, the chord azimuth and distance being:
- 345° 10' 05" 310.75 feet;
12. 5° 42' 276.67 feet along same;
13. 3° 53' 282.84 feet along same;
14. Thence along same, on a curve to the right with a radius of 235.00 feet, the chord azimuth and distance being:
- 24° 37' 166.39 feet;
15. 45° 21' 172.74 feet along same;
16. 31° 22' 146.86 feet along same;
17. Thence along the westerly end of Kauna'oa Drive, on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:
- 110° 28' 58" 10.18 feet to the point of beginning and containing an area of 14,481 square feet, more or less.

7. Grant to THE BLUFFS AT MAUNA KEA COMMUNITY ASSOCIATION, a Hawaii nonprofit corporation dated July 8, 1998 recorded in said Bureau as Document No. 98-105949 granting a perpetual non-exclusive easement for roadway access purposes, limited, however, to use by motorized carts, over and across Easement GC-2, being more particularly described as follows:

Easement GC-2, (15 feet wide), For Golf Cart Access Purposes, being a portion of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa (Certificate of Boundaries No. 63) Being, also, a portion of Lot 12 (County Subdivision No. 6232), situated at Ouli, Waimea, South Kohala, Island of Hawaii, Hawaii, being a strip of land fifteen (15.00) feet wide, and extending seven and one-half (7.50) feet to each side of the following described centerline:

Beginning at the south end of this strip of land, on the northwesterly end of Kauna'oa Drive, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 8,024.00 feet north and 1,958.81 feet east, thence running by azimuths measured clockwise from true South:

1. 196° 34' 42" 29.17 feet along the remainder of Lot 12 (County Subdivision No. 6232);
2. Thence along same, on a curve to the right with a radius of 250.00 feet, the chord azimuth and distance being: 213° 59' 21" 149.61 feet;
3. 231° 24' 118.00 feet along same;
4. Thence along same, on a curve to the left with a radius of 225.00 feet, the chord azimuth and distance being: 207° 51' 179.80 feet;
5. 184° 18' 215.00 feet along same;
6. 181° 48' 183.24 feet along same;
7. 187° 50' 179.21 feet along same;
8. Thence along same, on a curve to the left with a radius of 350.00 feet, the chord azimuth and distance being:

- 171° 14' 30" 199.88 feet;
9. 154° 39' 33.71 feet along same;
10. Thence along same, on a curve to the left with a radius of 250.00 feet, the chord azimuth and distance being: 136° 44' 37" 153.73 feet to the east end of Easement GC-3, on the easterly boundary of Lot B-2-A-2 (County Subdivision No 5188) and containing an area of 21,813 square feet, more or less, as per survey of Robert W. Cunningham, Licensed Professional Land Surveyor, with Belt Collins Hawaii Ltd, dated April 30, 1998.

8. Easement "GC-2" (50 feet wide, containing an area of 5,090 square feet) for access and golf cart path crossing purposes, as shown on survey map prepared by Robert W. Cunningham, Registered Professional Land Surveyor, with Belt Collins & Associates, dated December 9, 1992, revised August 24, 1993.

9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Grant of Easement Rights and Boundary Realignment Agreement dated February 10, 2000 recorded in said Bureau as Document No. 2000-020041 by and between MAUNA KEA DEVELOPMENT CORP., a Hawaii corporation, "Grantor", and MAUNA KEA BEACH HOTEL CORP., a Hawaii corporation, "Grantee" regarding consolidation and resubdivision to realign boundaries and granting Easement "A" more particularly described as follows:

Easement "A", being a portion of Lot 12 being, also, a portion of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to Kanehoa (Certificate of Boundaries No. 63), situated at Ouli, Waimea, South Kohala, Island of Hawaii, Hawaii and more particularly described as follows:

Beginning at the southwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 9,008.58 feet north and 1,963.79 feet east, thence running by azimuths measured clockwise from true South:

- | | | | | | |
|----|------|-----|--------|--------|--|
| 1. | 191° | 59' | 40" | 135.00 | feet along Lot 13, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Apana 1 to Kanehoa; |
| 2. | 267° | 06' | 30" | 119.42 | feet along Lot 13, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Apana 1 to Kanehoa; |
| 3. | 207° | 55' | 35.00 | | feet along Lot 13, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Apana 1 to Kanehoa; |
| 4. | 117° | 55' | 130.00 | | feet along Lot 13, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Apana 1 to Kanehoa; |
| 5. | 232° | 21' | 10" | 35.00 | feet along Lot B-2-A-2, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Apana 1 to Kanehoa; |
| 6. | 307° | 07' | 30" | 173.73 | feet along the remainders of Lot 12 and R.P. 2237, L.C. Aw. 8518-B, Apana 1 to Kanehoa; |
| 7. | 349° | 45' | 95.00 | | feet along the remainders of Lot 12 and R.P. 2237, L.C. Aw. 8518-B, Apana 1 to Kanehoa; |
| 8. | 36° | 40' | 110.00 | | feet along the remainders of Lot 12 and R.P. 2237, L.C. Aw. 8518-B, Apana 1 to Kanehoa; |
| 9. | 101° | 59' | 40" | 170.00 | feet along the remainders of Lot 12 and R.P. 2237, L.C. Aw. 8518-B, Apana 1 to Kanehoa to the point of beginning and containing an area of 35,819 square feet, more or less. |

10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

FOR HAPUNA RESORT October 15, 1993 recorded in said Bureau as Document No. 94-032238, as amended by ANNEXING DECLARATION HAPUNA RESORT dated February 10, 2000, recorded in said Bureau as Document No. 2000-020042.

11. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Limited Warranty Deed dated February 10, 2000 recorded in said Bureau as Document No. 2000-020043, relating to water reservation.

12. Mortgage, Security Agreement and Financing Statement made by KOHALA-WOODVALE ASSOCIATES, LLC, a Delaware limited liability company in favor of GOLD MOUNTAIN FINANCIAL INSTITUTION, INC., a California corporation dated February 9, 2000 recorded in said Bureau as Document No. 2000-020045.

13. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in The Estates at Mauna Kea Memorandum of Agreement dated January 11, 2002 recorded in said Bureau as Document No. 2002-085014 by and between MAUNA KEA COMMUNITY ASSOCIATION, INC., a Hawaii non-profit corporation, and KOHALA WOODVALE ASSOCIATES, LLC., a Delaware limited liability company.

14. Survey matters as shown on survey map prepared by Lester L. Shimabukuro, Licensed Professional Land Surveyor, with Towill, Shigeoka & Associates, Inc., dated February 29, 2000.

15. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

16. Any unrecorded leases and matters arising from or affecting the same.

17. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

END OF EXHIBIT H

**EXHIBIT I
ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Common Interest</u>	<u>Monthly Fee</u>	<u>Monthly Fee x 12 months = Yearly Total</u>
1	5.38%	\$4,166.99	\$50,003.91
2	4.62%	\$3,585.41	\$43,024.89
3	4.62%	\$3,585.41	\$43,024.89
4	5.38%	\$4,166.99	\$50,003.91
5	5.38%	\$4,166.99	\$50,003.91
6	4.62%	\$3,585.41	\$43,024.89
7	4.62%	\$3,585.41	\$43,024.89
8	5.38%	\$4,166.99	\$50,003.91
9	5.38%	\$4,166.99	\$50,003.91
10	4.62%	\$3,585.41	\$43,024.89
11	4.62%	\$3,585.41	\$43,024.89
12	5.38%	\$4,166.99	\$50,003.91
13	5.38%	\$4,166.99	\$50,003.91
14	4.62%	\$3,585.41	\$43,024.89
15	4.62%	\$3,585.41	\$43,024.89
16	5.38%	\$4,166.99	\$50,003.91
17	5.38%	\$4,166.99	\$50,003.91
18	4.62%	\$3,585.41	\$43,024.89
19	4.62%	\$3,585.41	\$43,024.89
20	5.38%	\$4,166.99	\$50,003.91

The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency

Estimate of Maintenance Fee Disbursements:

Monthly Fee x 12 months = Yearly Total

Utilities and Services

- Air Conditioning
- Electricity
 - common elements only
 - common elements and apartments
- Elevator
- Gas
 - common elements only
 - common elements and apartments
- Refuse Collection
- Telephone
- Water and Sewer

Maintenance, Repairs and Supplies

- Building
- Grounds

Management

- Management Fee
- Payroll and Payroll Taxes
- Office Expenses

Insurance

Reserves(*)

Taxes and Government Assessments

Audit Fees

Other

TOTAL

I, _____, as agent for/and/or employed by _____, the condominium managing agent/developer for the _____ condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Signature

Date

(*) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with §514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to §514A-83.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.

EXHIBIT J
Summary of Pertinent Provisions of the Sales Contract

1. Sales Contract is Non-Binding. If at the time of execution of a Sales Contract by Purchaser and Developer the Real Estate Commission of the State of Hawaii (the "Commission") has not issued an effective date for the Final Public Report, the Sales Contract shall not be legally binding upon either Buyer or Developer.

2. When Sales Contract Will Become Binding. The Sales Contract will not become a binding sales contract unless and until:

(a) the Commission has issued an effective date for a Final Public Report;

(b) Buyer has received for or is deemed to have received for a Final Public Report; and

(c) Buyer has waived or is deemed to have waived Buyer's right to cancel the Sales Contract as more particularly provided in §514A-62 of the Hawaii Revised Statutes, as amended. Prior to the time the Sales Contract becomes a binding sales contract, the Sales Contract may be terminated at any time, with or without cause, at the option of Buyer or Developer, by written notice of such termination delivered to the other party.

3. Termination of Sales Contract. Prior to the time the Sales Contract becomes a binding sales contract as provided in Section 2 above, it may be terminated at any time, with or without cause, at the option of Buyer or Seller, by written notice of such termination delivered to the other party. In the event of the termination of the Sales Contract, Developer shall cause Escrow to refund all payments previously made by Buyer, without interest unless Buyer has elected to have interest accrue to the benefit of Buyer under Section 9.2.2 of the General Terms of the Sales Contract, and neither Buyer nor Developer shall have any other or further liability under the Sales Contract or with respect to the Condominium Project; provided, however, that if Buyer terminates the Sales Contract, then, Escrow shall deduct from the refund to Buyer the escrow cancellation fee and all costs, up to a maximum of Two Hundred Fifty Dollars (\$250.00), incurred by Developer, Escrow, or any lending institution in processing the Sales Contract or the loan application. If Developer terminates the Sales Contract, then, Developer shall pay the escrow cancellation fee and costs.

4. Failure of Buyer to Execute Receipt and Notice. If Buyer fails to execute and return the receipt and notice of right to cancel within thirty (30) calendar days after the delivery to Buyer of a copy of the Final Public Report, then, Seller may, at Seller's sole option, terminate the Sales Contract. Upon such termination, Seller shall cause Escrow Agent to refund to Buyer all payments previously made by Buyer (without interest regardless of whether Buyer has elected to have interest accrue to Buyer under Section 9.2.2 of the Sales Contract), and less Escrow Agent's cancellation fee, and Seller shall have no further liability under this Sales Contract.

5. Effect of Issuance of Final Public Report on Buyer's Termination Rights. If the Sales Contract is entered into after the issuance of the Final Public Report, then, it shall be a fully binding contract between Buyer and Developer upon acceptance by Developer; *provided, however,* that Buyer has received for or is deemed to have received for the Final Public Report; and Buyer has waived or is deemed to have waived Buyer's right to cancel the Sales Contract as more particularly provided in §514A-62 of the Hawaii Revised Statutes

6. Qualifying for Purchase. Buyer shall submit to Developer, within ten (10) days after receipt by Buyer of written notice that the Sales Contract has been accepted by Developer, a bank or brokerage statement, in form and content sufficient to provide proof of funds in the amount of the Purchase Price, and/or any other financial data reasonably requested by Developer. Developer shall have ten (10) days after receipt of such financial data to notify Buyer of its acceptance or rejection of said financial data. If Developer rejects such financial data, Developer may, in its sole discretion, terminate the Sales Contract and cause Escrow Agent to refund to Buyer all amounts paid pursuant to the Sales Contract, without interest regardless of whether Buyer has elected to have interest accrue to the benefit of Buyer pursuant to Section 9.2.2 of the Sales Contract, less the cost of any credit report, cancellation fees of Escrow Agent, if any, and other costs incurred by Developer in reviewing such financial statement.

7. Credit Inquiries. Buyer authorizes Developer to make credit inquiries about Buyer including, but not limited to, obtaining credit reports on Buyer and verifying by any legal means any financial information submitted to Developer.

8. Reconfirmation of Cash Purchase; Developer's Option to Terminate.

(a) Buyer is required to submit to Developer, within thirty (30) calendar days of Buyer's receipt for the Final Public Report, and if Developer so requires, no later than thirty (30) calendar days and no earlier than ninety (90) calendar days prior to the estimated closing date, written from Buyer's bankers or accountants or other persons to reconfirm that Buyer is still able to pay the purchase price in cash on the Closing Date.

(b) If Developer, in its sole discretion, after reviewing such written evidence, is not satisfied as to Buyer's continued ability to make the required cash payments, and if Developer determines that Buyer has not acted in good faith or

otherwise complied with the requirements of the Sales contract, then Buyer shall be in default under the Sales Contract, and Developer may then terminate the Sales Contract, and proceed in accordance with Section 11 below.

(c) If Developer determines that Buyer has at all times acted in good faith in seeking to fully comply with Buyer's obligations under the Sales Contract, Developer has the right and option to cancel the Sales Contract upon written notice to Buyer, but upon such cancellation, Developer will direct Escrow Agent to refund to Buyer, (without interest, unless Buyer has elected to have interest accrue to the benefit of Buyer pursuant to Section 9.2.2 of the Sales Contract), all sums paid by Buyer pursuant to the Sales Contract, less any cancellation fees of Escrow Agent and any other actual expenses incurred by Developer by reason of Buyer entering into the Sales Contract.

9. Developer's Right to Increase Purchase Price in Limited Circumstances. If the development or construction of the Project is delayed due to any governmental restrictions or regulations enacted after the date of acceptance of the Sales Contract by Developer, or by the occurrence of any contingency, the nonoccurrence of which was a basic assumption on which the Sales Contract was entered into by Developer, and if Developer determines that increases in the development or construction costs of the Condominium Project because of any such delay require increases in the sales price of Apartments to maintain the financial feasibility of the Condominium Project, then, Developer may increase the Purchase Price of the Apartment only to the extent necessitated by the increases in development and construction costs. Developer shall notify Buyer in writing of any such increases in the Purchase Price. Buyer shall have fifteen (15) calendar days from the date of its receipt of such notice within which to affirm or cancel the Sales Contract. If, within such 15 calendar day period, Buyer does not notify Developer in writing that Buyer elects to cancel the Sales Contract, Buyer shall be deemed to have affirmed the Sales Contract at the increased Purchase Price. If Buyer elects to cancel the Sales Contract as permitted by the preceding sentence, all sums paid by Buyer, without interest unless Buyer has elected to have interest accrue to Buyer under Section 9.2.2 of the Sales Contract, after deducting any cancellation fees of Escrow Agent, shall be refunded to Buyer. Upon termination, the Sales Contract then shall be deemed to have been canceled; both Developer and Buyer shall be released from all obligations and liabilities under the Sales Contract; and Developer may sell the Apartment to any other person.

10. Interest on Funds Deposited with Escrow Agent.

(a) All interest on a Buyer's deposits shall accrue to the benefit of Developer unless Buyer elects to have interest accrue to Buyer under Section 9.2.2 of the Sales Contract.

(b) If a Buyer elects to have interest accrue to the benefit of Buyer, all funds received by Escrow Agent may be deposited into an interest bearing account or accounts in a federally insured bank or savings and loan institution selected by Developer, in its sole discretion, with its principal place of business in Honolulu, Hawaii.

(c) If Buyer elects to have interest accrue to the benefit of Buyer, then Buyer shall pay all costs and expenses of Escrow Agent incurred or charged for the purpose of opening, maintaining and closing such interest bearing account or accounts, including, but not limited to, a fee of Twenty-Five Dollars (\$25.00) for each such account.

(d) Except as provided in Sections 4 and 6 above, and 11(c) below, all interest earned from an account or accounts under which interest accrues for Buyer's benefit shall be credited to Buyer's account from the date of Developer's acceptance of the Sales Contract; provided, however, that no interest shall be credited to Buyer for the period prior to Developer's acceptance of the Sales Contract, or on funds held by Escrow Agent for less than sixty (60) calendar days after Developer's acceptance of the Sales Contract.

11. Default; Liquidated Damages; Delays in Closing.

(a) Default by Buyer. Buyer shall be in default under the Sales Contract if

(i) Buyer fails to make a payment when due; or

(ii) Buyer fails to furnish Developer satisfactory evidence of Buyer's ability to pay the Purchase Price, as required in Section 7 above; or

(iii) Buyer fails to execute and return the receipt and notice of right to cancel in connection with Buyer's receipt of a copy of the Final Public Report within the time period required by §514A-62, Hawaii Revised Statutes; or

(iv) Buyer fails to perform any other obligation required under the Sales Contract and such failure continues for fifteen (15) days after Developer gives written notice to Buyer of such failure.

(b) Default by Buyer Prior to Sales Contract Becoming Binding. If Buyer defaults before the Sales Contract becomes a binding contract in accordance with §514A-62, Hawaii Revised Statutes, Developer may, at Developer's option, terminate the Sales Contract by written notice to Buyer, and the following shall apply:

(i) all deposits made under the Sales Contract shall be refunded or the check returned to Buyer, without interest unless Buyer elected to have interest accrue to Buyer under the Sales Contract, less any cancellation fee imposed by Escrow Agent and any other actual expenses incurred by Seller by reason of Buyer having signed the Sales Contract; and

(ii) all costs, including, without limitation, reasonable attorneys' fees, incurred by reason of the default by Buyer shall be paid by Buyer promptly upon Developer's demand therefor.

(c) Default by Buyer After Sales Contract Becomes Binding; Developer's Liquidated Damages. If Buyer defaults after the Sales Contract becomes a binding contract in accordance with §514A-62, Hawaii Revised Statutes, Developer may at its option terminate the Sales Contract. As a reasonable estimate of Developer's damages resulting from any such default occurring after the Sales Contract becomes a binding contract, the deposits previously made by Buyer under the Sales Contract together with all accrued interest thereon (regardless of whether Buyer has elected to have interest accrue to Buyer) shall become, at Developer's option, the sole property of Developer as liquidated damages.

(d) Default by Developer; Developer's Cure Rights. If Developer shall fail to perform any obligation required of Developer under the Sales Contract prior to Closing, including the obligation to execute promptly all documents necessary to close, Buyer shall notify Developer in writing by certified or registered mail of such default. Developer shall have fifteen (15) days after the date of such notice to cure such default. If Developer does not cure such default within such fifteen (15) day period, Buyer may elect, at Buyer's sole discretion, to either terminate the Sales Contract, or seek specific performance. Buyer shall give written notice of its election to Developer.

(e) Buyer's Remedies. If Buyer elects to terminate the Sales Contract due to Developer's default, the full amount of Buyer's deposits and all interest actually accrued thereon shall be paid to Buyer as Buyer's sole and exclusive remedy, and Developer shall be released and discharged from any further obligation under the Sales Contract. If Buyer seeks specific performance, Buyer shall not be entitled to recover any damages from Developer in such action.

12. Buyer's Rescission Rights.

(a) Basis for Rescission. After a Sales Contract has become binding as provided therein, Buyer shall have the right to rescind the Sales Contract only if there is a material change in the Project which directly, substantially and adversely affects the use or value of (i) the Apartment sale under such Sales Contract or its appurtenant limited common elements, or (ii) the amenities of the Project available for Buyer's use; *provided, however*, that any such material change shall not include any changes, additions, deletions or modifications (including, without limitation, any merger of the Project) made by Developer pursuant to its Reserved Rights under the Declaration.

(b) Waiver of Buyer's Rescission Rights. If any material change is made to the Project after issuance of a Final Public Report that is not provided for in the Declaration, Developer shall give to Buyer, either personally or by registered or certified mail, return receipt requested, written notice (i) describing the material change and containing a provision for Buyer's written approval or acceptance of such change, (ii) advising Buyer that Buyer has the right to rescind the Sales Contract within thirty (30) calendar days after delivery of such notice, and (iii) further advising Buyer that if Buyer does not act within such 30 days, Buyer will be deemed to have approved and accepted such material change. After receipt of any notice of any material change, Buyer may rescind the Sales Contract by giving notice of rescission to Developer by the earlier of thirty (30) calendar days after the date of delivery of such notice to Buyer, or ninety (90) calendar days after Buyer has accepted or occupied the Apartment (but only if such notice of material change is delivered within sixty (60) calendar days after Buyer's occupancy or acceptance of the Apartment). If Buyer does not give Developer notice of such rescission or approval of such material change within such 30- or 90-day time period, as applicable, Buyer will be deemed to have approved the change described in said notice and waived Buyer's right of rescission.

13. Cancellation in the Event of Buyer's Death. If Buyer or, if there is more than one Buyer, any one or more of Buyers, dies prior to Closing, Developer reserves the right to return all deposits paid under the Sales Contract by Buyer without interest, whereupon the Sales Contract shall be deemed to have been canceled and both Developer and Buyer shall be released from all obligations and liabilities under the Sales Contract.

END OF EXHIBIT J

EXHIBIT K
Summary of Pertinent Provisions of the Escrow Agreement

1. Sales Contracts to be Deposited in Escrow. When the Developer enters into a Sales Contract, the Developer will deliver an executed copy of such Sales Contract to Escrow.

2. Receipt of Funds by Escrow.

(a) Deposits by Developer. The Developer will deposit with Escrow any monies received by the Developer from each Buyer under a Sales Contract.

(b) Escrow's Responsibilities. Escrow will receive and hold in escrow and disburse as set forth in the Escrow Agreement:

- (i) all payments made by the Developer under Sales Contracts to the extent received by Escrow;
- (ii) all funds from any lending institution disbursed pursuant to a mortgage loan made to a Buyer for the purchase of an Apartment; and
- (iii) all sums received by Escrow from any other source on account of the sale to a Buyer of an Apartment.

3. Deposit of Escrowed Funds. In accordance with written instructions from the Developer, Escrow will deposit all funds received by it, within a reasonable time of such receipt by Escrow and in reasonably convenient sums, in trust accounts at a federally insured bank, savings and loan association or trust company authorized to do business under an escrow arrangement.

4. Interest on Escrowed Funds. Any interest earned on funds delivered to Escrow will accrue to the credit of the Developer. If Escrow is instructed to establish a separate account for a Buyer, the Buyer will pay Escrow a fee of Twenty-Five Dollars (\$25.00) for each such separate account and provide to Escrow the Buyer's social security or federal tax identification number, and any interest earned on funds deposited in such account will accrue to the credit of such Buyer. Escrow shall not be liable to either Developer or any Buyer for loss or diminution in funds invested in accordance with such instructions.

5. Conditions to be Satisfied Prior to Disbursement. No disbursement of funds held by Escrow shall be made unless and until all of the following conditions have been satisfied, which may occur before closing of the sale of the Apartment to Buyer:

(a) Final Public Report. The Real Estate Commission shall have issued an effective date for the "Final Public Report" for the Project, and the Buyer is given a copy of the Final Report and acknowledges receipt of same or is deemed to have acknowledged receipt of same.

(b) Buyer's Rescission Rights. The Developer or the Developer's attorney shall have delivered a written opinion to Escrow stating that the requirements of HRS Sections 514A-62 and 514A-63, as amended, have been satisfied.

(c) Developer's Cancellation Rights. The Developer shall have given Escrow a written waiver of any option reserved in any Sales Contract to cancel such Sales Contract.

6. Disbursement of Buyer's Funds. Subject to the provisions of Section 5 above, upon the Developer's written instructions, Escrow may disburse funds held in escrow to pay the following amounts:

(a) Construction Costs. To the Developer, the Developer's general contractor, or the Developer's mortgagee, if any, as specified by the Developer, to pay for construction costs of the buildings and other improvements and fixtures in such amounts and at such times and in proportion to the valuation of the work completed by said general contractor in accordance with the terms of said general contractor's construction contract with the Developer, as certified by a registered architect or professional engineer and as approved by said mortgagee, if any, or a financially disinterested person who shall be designated in writing by the Developer and said mortgagee, if any, and who shall certify to Escrow in writing that such person is financially disinterested (which certification Escrow shall have the right to rely upon).

(b) Other Expenses. To other persons for architectural, engineering, finance and legal fees and other incidental expenses of the Project (but not selling expenses or brokerage fees relating to sales of any Apartment) to the extent approved by the Developer's mortgagee or said financially disinterested person.

7. Disbursement of Balance. The balance of funds held by Escrow may be disbursed in accordance with the directions of the Developer and said mortgagee, if any, or of said financially disinterested person, only upon completion of the Project's buildings being constructed by the Developer's general contractor, or forty-six (46) days after the filing of the affidavit of publication of the notice of completion of construction of the Project in the office of the Clerk of the Third Circuit Court of the State

of Hawaii, a copy of which shall have been delivered to Escrow; provided, however, that if any notice of a mechanic's or materialmen's lien has been filed, said funds shall be disbursed only when all such mechanics' or materialmen's liens have been released and/or sufficient funds have been set aside to cover the claims for which any notice of lien have been filed.

8. Return of Funds and Documents.

(a) Escrow's Obligations to Return Funds. A Buyer shall be entitled to a return of funds, and Escrow shall pay such funds to such Buyer, with interest to the extent provided in the Sales Contract, if any one of the following shall have occurred:

(i) The Developer and such Buyer shall have instructed Escrow in writing to return to such Buyer funds of such Buyer held by Escrow pursuant to this Agreement; or

(ii) The Developer has notified Escrow of the Developer's exercise of the option to cancel or rescind the Sales Contract entered into by such Buyer pursuant to any right of cancellation or rescission provided for therein or otherwise available to the Developer with respect to which, and such Buyer is entitled in accordance with the Sales Contract to a return of funds deposited by such Buyer with Escrow; or

(iii) With respect to any Buyer whose funds were obtained prior to the issuance of the Final Public Report, such Buyer has exercised such Buyer's right to cancel the Sales Contract entered into by such Buyer pursuant to HRS Section 514A-62; or

(iv) Such Buyer has exercised such Buyer's right to rescind the Sales Contract pursuant to HRS Section 514A-63.

9. Cancellation Fee; Cancellation of Sales Contract. Upon the occurrence of any event described in Sections 8(a)(i) or 8(a)(ii) above or upon receipt of a written request for a refund from any Buyer upon the occurrence of any event described in Sections 8(a)(iii) or 8(a)(iv) above, and unless such Buyer has waived or has been deemed to have waived such Buyer's right to a refund, Escrow shall deliver to such Buyer all funds received from such Buyer, less, if so specified in the Sales Contract entered into by such Buyer, a cancellation fee to Escrow of not less than Two Hundred Fifty Dollars (\$250) per Apartment which is the subject matter of such Sales Contract. Upon such payment, said Sales Contract shall be deemed cancelled and any partially executed conveyance document theretofore delivered to Escrow shall be returned to the Developer; provided, however, that no refund shall be made to any Buyer prior to Escrow giving the Developer written notice of Escrow's intention to make such refund.

10. Buyer's Default.

(a) Sums Payable by Buyer Under Sales Contract. The Developer shall give notice in writing to Escrow of the occurrence of each event that creates an obligation on the part of any Buyer to make any payment to Escrow pursuant to the terms of a Sales Contract entered into by such Buyer, and the amount of and due date for such payment. Upon receipt of any such notice, Escrow shall promptly give such Buyer notice of the amount and date on which such required payment is due.

(b) Failure of Buyer to Make Required Payment. If a Buyer fails to make any required payment to Escrow on or before the date on which it is due or if such Buyer fails to satisfy any obligation or requirement being handled by Escrow, Escrow shall promptly notify the Developer of any such failure on the part of such Buyer. If the Developer (i) subsequently certifies in writing to Escrow that the Developer has terminated the Sales Contract into which such Buyer entered in accordance with the terms thereof, and (ii) provides to Escrow a copy of the notice of termination sent to such Buyer, Escrow shall thereafter treat all funds of such Buyer paid on account of such Buyer's Sales Contract as the property of the Developer, and not as the property of such Buyer. Such funds shall be free of the escrow established by the Sales Contract and Escrow Agreement and shall be held by Escrow for the account of the Developer.

(c) Disbursement of Funds; Delivery to Buyer Upon Termination of Sales Contract. Upon written request by the Developer, Escrow shall pay to the Developer the funds referred to in Section 10(b) above, less any escrow cancellation fee, shall return to the Developer any partially executed conveyance documents theretofore delivered to Escrow by the Developer, and shall hold all other documents theretofore delivered to Escrow in connection with such Purchaser's purchase of an Apartment for any applicable statutory period.

END OF EXHIBIT K

EXHIBIT L
Summary of Covenants, Conditions and Restrictions to Which the Project is Subject

Kauna`oa At Mauna Kea Subdivision.

1. The Project is located within the Kauna`oa at Mauna Kea subdivision (the "Subdivision"). The land within the Subdivision, including the land upon which the Project is located will be subject to a Declaration of Protective Covenants, Conditions and Restrictions For Kauna`oa at Mauna Kea (the "Kauna`oa CC&Rs") to be recorded prior to the Declaration the Declaration of Condominium Property Regime of the Project (the "Declaration"). The Project and buildings are subject to the Kauna`oa CC&Rs, and the Kauna`oa CC&Rs impose restrictions on use and occupancy of the apartments. The CC&Rs are superior to the Declaration. If there is a conflict between the Kauna`oa CC&Rs and the Declaration the Kauna`oa CC&Rs will control. Owners of apartments are subject to the following requirements and have the following rights under the Kauna`oa CC&Rs:

(a) All residents of apartments must become members of and are required to pay dues to the Kauna`oa Community Association (the "Kauna`oa Association") which was formed pursuant to the Kauna`oa CC&Rs. Initially, the monthly dues are estimated to be \$1,454.19. The Kauna`oa Association is required to prepare an annual budget covering its estimated common expenses for each year. The budget will include all of the following:

- (i) a statement of estimated revenue and expenses on an accrual basis;
- (ii) the amount of the total cash reserves held by the Association for the purpose of replacement and major repairs of the common areas of the Subdivision, and for contingencies;
- (iii) an itemized estimate of the remaining life of, and the methods of funding to defray repair or replacement of or additions to, major components of the common areas of the Subdivision for which the Kauna`oa Association is responsible;
- (iv) a general statement setting forth the procedures used by the Association in the calculation and establishment of reserves to defray the costs of future repair, replacement or additions to the Common Areas for which the Association is responsible.

(b) Members of the Association are permitted to use the common areas of the Subdivision, including a golf facility, canoe *hale*, and recreation area, and such common facilities are maintained by the Kauna`oa Association at the expense of its members.

(c) Because of the arid climate and limitations on the supply of fresh water available to the Subdivision, all land in the Subdivision, including the land upon which the Project is located, is subject to water conservation measures. Under the Kauna`oa CC&Rs not more than one (1) water commitment of six hundred (600) gallons of potable water per day shall be allocated to each apartment in the Project.

2. Hapuna Resort. The Project is located within the Hapuna Resort. The land within Hapuna Resort, including the land upon which the Project is located, is subject to that certain Declaration of Protective Covenants, also Conditions and Restrictions (the "Hapuna CC&Rs") which have been recorded. The Project and buildings are subject to the Hapuna CC&Rs, and the CC&Rs impose restrictions on use and occupancy of the apartments. The Hapuna CC&Rs are superior to the Kauna`oa CC&Rs and the Declaration, and if there is a conflict between the Hapuna CC&Rs and the Declaration, the Hapuna CC&Rs will control. Owners of apartments are subject to the following requirements of the Hapuna CC&Rs:

(a) All residents of dwelling units within Hapuna Resort are members of and are required to pay dues to the Hapuna Community Association (the "Hapuna Association"), which was formed pursuant to the Hapuna CC&Rs. Initially the monthly dues are estimated to be \$125.42.

(b) All costs and expenses incurred in connection with the upkeep, maintenance, operation and repair of the Hapuna Resort Entry Road, the security station and security patrol are to be shared between the developer of the Hapuna Resort and the Hapuna Resort Association.