

CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:

Developer MRGC LLC
Address 220 S. King Street, Suite 2170, Honolulu, Hawaii 96813

Project Name(\*): MAKAHA RESORT & GOLF CLUB CONDOMINIUMS
Address: 84-626 Makaha Valley Road, Waianae, Hawaii 96792

Registration No. 5256

Effective date: February 12, 2004
Expiration date: March 12, 2005

Preparation of this Report:

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

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

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

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

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

Type of Report:

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

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

SUPPLEMENTARY: (pink) This report updates information contained in the:
[ ] Preliminary 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 586-2643 to submit your request.

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

Required and attached to this report       Not Required - disclosures covered in this report.

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

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

No prior reports have been issued by the developer.

Changes made are as follows:

## 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	
EXHIBIT B: Buildings of the Project	
EXHIBIT C: Schedule of Apartments	
EXHIBIT D: Boundaries of Apartments	
EXHIBIT E: Permitted Alterations to Apartments	
EXHIBIT F: Common Elements	
EXHIBIT G: Limited Common Elements	
EXHIBIT H: Encumbrances Against Title	
EXHIBIT I: Estimate of Initial Maintenance Fees and Estimate of Maintenance Fee Disbursements	
EXHIBIT J: Summary of Sales Contract	
EXHIBIT K: Summary of Escrow Agreement	

## **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: MRGC LLC Phone: (808) 537-5976
Name\* (Business)
220 S. King Street, Suite 2170
Business Address
Honolulu, Hawaii 96813

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):
Towne Development of Hawaii, Inc. - see attached page 5A for names of officers and directors
JJZ Family Investments LLC - see attached page 5A for names of members

Real Estate Broker\*: Towne Island Homes, Ltd. Phone: (808) 537-5976
Name (Business)
220 S. King Street, Suite 2170
Business Address
Honolulu, Hawaii 96813

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

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

Condominium Managing Agent\*: Not applicable - self managed by Association Phone:
Name (Business)
Business Address

Attorney for Developer: Rush Moore Craven Sutton Morry & Beh A Limited Liability Law Partnership, LLP Phone: (808) 521-0400
Name (Business)
737 Bishop Street, Suite 2400
Business Address
Honolulu, Hawaii 96813

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

Towne Development of Hawaii, Inc. (Member and Manager) - Officers and Directors

<u>Name</u>	<u>Title</u>
John K. Tsui	Chairman
Christopher L. Lau	President
Gerald Stein	Executive Vice President
Arthur W. Wigchers, Jr.	Executive Vice President
James F. Janz	Senior Vice President
Richard H. Lachmann	Senior Vice President
Alison Vasconcellos	Senior Vice President
James B. Young	Vice President and Secretary
Stephan J. Chevalier	Vice President and Treasurer
Robert Danley	Vice President and Director
Robert E. Braun	Vice President
Takeshi Matsukata	Vice President
Douglas M. Tonokawa	Vice President
Mark S. Madigan	Assistant Secretary
Sandra J. Delisle	Assistant Secretary
Joseph J. Zilber	Director

JJZ Family Investments LLC (Member) - Members

Name

Joseph J. Zilber  
Stephan J. Chevalier, Trustee of the Marly Zilber 1994 Trust  
Stephan J. Chevalier, Trustee of the James Zilber 1994 Trust  
Stephan J. Chevalier, Trustee of the Marcy Carol Zilber Jackson 1994 Trust

**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. 3037476

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

First Amendment of Declaration of Condominium Property Regime of Makaha Resort & Golf Club Condominiums and Condominium Map No. 1593 dated February 2, 2004, recorded as Document No. 3064513.

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. 1593

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

First Amendment of Declaration of Condominium Property Regime of Makaha Resort & Golf Club Condominiums and Condominium Map No. 1593 dated February 2, 2004, recorded as Document No. 3064513.

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. 3037499

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

None.

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>                    </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: 84-626 Makaha Valley Road Tax Map Key (TMK): (1) 8-4-002-051 (portion)  
Waianae, Hawaii 96792

Address  TMK is expected to change because the land of the project is a part of a larger tax parcel. Individual CPR numbers may be assigned to each apartment as part of the tax map key.

Land Area: 19.431  square feet  acre (s) Zoning: Resort and P-2  
General Preservation

Fee Owner: MRGC LLC  
 Name  
220 S. King Street, Suite 2170  
 Address  
Honolulu, Hawaii 96813

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: 23 Floors Per Building 1 or 2  
 Exhibit "B" contains further explanations.

3. **Principal Construction Material:**

Concrete  Hollow Tile  Wood

Other Steel, Glass

4. **Uses Permitted by Zoning**

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input type="checkbox"/> Residential	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input 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 checked="" type="checkbox"/> Hotel	<u>195</u>	<input checked="" 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: Only certified guide dogs, service animals and service dogs are permitted with restrictions.

Number of Occupants: \_\_\_\_\_

Other: See Declaration and By-Laws, generally

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 1 in Clubhouse Building      Stairways: 1 each in Clubhouse Building and Banquet Pavilion      Trash Chutes: 0

Apt. Type	Quantity	BR/Bath.	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
<u>SEE EXHIBIT "C"</u>					
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 195

**\* 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 "D"

Permitted Alterations to Apartments:  
See Exhibit "E"

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.

**NOT APPLICABLE**

7. Parking Stalls:

Total Parking Stalls:	<u>265</u>				
	<u>Regular</u>		<u>Compact</u>		<u>Tandem</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 Clubhouse	_____	_____	_____	_____	_____
Other: <u>Apartment</u>	_____	<u>265</u>	_____	_____	<u>265</u>
Total Covered & Open	<u>265</u>		<u>0</u>	<u>0</u>	<u>265</u>

Each apartment will have the exclusive use of at least 0 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 that are a part of the common elements.
- Swimming pool                       Storage Area                       Recreation Area
- Laundry Area                       Tennis Court                       Trash Chute/Enclosure(s)
- Other: \_\_\_\_\_

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

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

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

There are no residential apartments in the Project.  
Developer makes no estimate of the expected useful life of the structural components of the Project.

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	_____x_____	_____	_____
Structures	_____x_____	_____	_____
Lot	_____x_____	_____	_____

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

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

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

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

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

- described in Exhibit "F" .  
 as follows:

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

There are no limited common elements in this project.

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

described in Exhibit "G".

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 "C".

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 November 18, 2003 and issued by Title Guaranty of Hawaii, Incorporated

**Blanket Liens:**

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>
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**F. Construction Warranties:**

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

1. Building and Other Improvements:

None.

2. Appliances:

None.

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

Construction of the buildings of the Project was completed originally in 1968.

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):

See Exhibit "A".

**IV. CONDOMINIUM MANAGEMENT**

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

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

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

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

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

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

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

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

C. **Utility Charges for Apartments:**

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

None  Electricity (\_\_\_ Common Elements only  Common Elements & Apartments)  
 Gas (\_\_\_ Common Elements only \_\_\_ Common Elements & Apartments)  
 Water  Sewer  Television Cable  
 Other \_\_\_\_\_

**V. MISCELLANEOUS**

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

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

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit "J" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated December 11, 2003.  
Exhibit "K" 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 \_\_\_\_\_

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. The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)

Website to access unofficial copy of laws: [www.hawaii.gov/dcca/hrs](http://www.hawaii.gov/dcca/hrs)

Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

This Public Report is a part of Registration No. 5256 filed with the Real Estate Commission on December 12, 2003.

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### C. Additional Information Not Covered Above

#### Mold and Mildew

Microorganisms, including, but not limited to, mold, mildew, spores, or any other form of fungi or bacteria ("Microorganisms"), occur naturally in the environment and may be present, during or after construction, in the indoor air and/or on the interior surfaces of the apartments, including, without limitation to, cavities, attics, windows, foundations, floor slabs, and/or on the exterior surfaces of the apartments, or any part thereof. Concentration of moisture in the apartments may result from cooking, showering or similar activities inside the apartments, the outside atmosphere, and/or the design, construction means and methods, and/or the building materials used in the construction of the apartments. This moisture may cause the growth, release, discharge, dispersal or presence of Microorganisms which, at certain levels, can cause deterioration of building materials, damage to property, health hazards, personal injuries and/or other irritant effects, such as, without limitation to, skin irritation, respiratory problems and/or allergic reactions. Likewise, concentrations of chemicals released from household furnishings, appliances, mechanical equipment, personal possessions or building materials may, at certain levels, create health hazards and/or other irritant effects, such as, without limitation to, skin irritation, respiratory problems and allergic reactions. Because Microorganisms occur naturally in the environment, Developer cannot eliminate the possibility that Microorganisms may grow in, on or about the apartments. Buyers may minimize these effects by proper utilization and maintenance of heating, cooling, dehumidification or ventilation equipment, interior maintenance and cleaning and exterior maintenance, such as, but not limited to, proper grading, landscaping, painting and caulking. Each buyer will acknowledge that the buyer has been informed of the effects of Microorganisms and chemicals, and each buyer will assume all risk of damage, personal injury or destruction of or injury to property that may arise as a result of or be in any way connected with the indoor air quality or the presence of Microorganisms or chemicals in, on or about the apartments.

Each buyer will also release and discharge, and agree to indemnify and defend, Developer and its successors and assigns, construction manager, contractors, subcontractors, material suppliers and the officers, employees, agents of each of them, from and against any and all claims, obligations, demands, damages, causes of action, liabilities, losses and expenses, including reasonable attorneys' and expert fees, whether now known or hereafter known, foreseen or unforeseen, that the buyer or any occupant of the apartment had, has, or may have in the future, in law or in equity (the "claim"), that are attributable to (1) bodily injury, sickness, emotional distress, disease, death or any other personal injury or adverse health effects, or (2) injury to or destruction of tangible personal property, including loss of the use thereof arising out of or relating to, or in any way connected with, indoor air quality, moisture, or the growth, release, discharge, dispersal or presence of any Microorganisms or chemicals in the air or on the interior surfaces of the apartment including, without limitation to, wall cavities, the attic, windows and the basement, or on the exterior surfaces of the apartment or on any part thereof, whether or not the claim is caused by, in whole or in part, any act or omission of Developer, its construction manager, contractors, subcontractors or material suppliers, in the construction of the Project, including, but not limited to, Developer's or its construction manager's, contractors', subcontractors' or material suppliers' construction means and methods, material selection and installation, and/or design services, if any. Developer makes no express or implied warranty of habitability, merchantability, fitness for a particular purpose or good workmanship as to building materials and/or construction means and methods with regard to indoor air quality or the presence of Microorganisms or chemicals in, on or about the apartments.

#### Amenities Use Agreement

The Clubhouse Apartment and the Banquet Pavilion include amenities that will, in accordance with the Amenities Use Agreement to be entered into between the Developer, as the owner of the Clubhouse Apartment and the Banquet Pavilion ("Amenities Owner"), and the Association of Apartment Owners, be available to the purchasers of the Guest Units. These amenities include the right to park in the parking stalls appurtenant to the Clubhouse, the right to have use to the swimming pool, locker rooms, lounge areas, front desk services, and related facilities included in the Clubhouse Apartment, and the right to have access to the luau grounds and other amenities appurtenant to the Banquet Pavilion (collectively the "Amenities").

The Amenities Owner intends to retain ownership of the Clubhouse Apartment and the Banquet Pavilion but has agreed to allow the purchasers of the Guest Units the right to have access to the Amenities. The Amenities Owner shall have the right to allow others to have use of the Amenities and may from time to time restrict the use by the Apartment Owners to the Amenities.

Upon purchase of an Apartment, each Apartment Owner as a member of the Association of Apartment Owners, will be permitted use of the Amenities pursuant to the Amenities Use Agreement and will be required to pay a fee for such usage rights, which fee shall be included in the Apartment Owner's maintenance fee. The fee shall be calculated by the Amenities Owner to be equal to the proportionate share of the costs of the Amenities Owner relating to the Amenities allocated equitably by the Amenities Owner amongst those who use or have access to the Amenities.

#### Affiliations

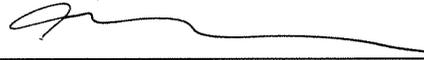
Towne Island Homes, Ltd.(the real estate broker) is a wholly owned subsidiary of Towne Development of Hawaii, Inc., the manager of MRGC LLC, the developer of the project.

- D. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

MRGC LLC

Printed Name of Developer

By:



Duly Authorized Signatory\*

December 11, 2003

Date

Christopher L. Lau, President of Towne Development of Hawaii, Inc.

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

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

EXHIBIT "A"

DEVELOPER'S RESERVED RIGHTS

1. The Developer reserves the right to conduct extensive sales activities on the Project for the sale of apartments in the Project, and for the sale of apartments in other projects developed on property located near or adjacent to the Project, including without limitation, the use of model apartments, sales and management offices, and extensive sales displays and activities until the date of the closing of the sale of the last unsold apartment in the Project or in such other projects (see Section 4.8 of the Declaration).

2. The Developer reserves the right, for itself and its successors and assigns, to designate and to grant to any public or governmental authority or other entity rights-of-way and other easements which are for the sole benefit of the Project, for the benefit of lands located near or adjacent to the Project, or which do not materially and adversely interfere with the use, nor materially and adversely impair the value of the Project or any apartment in it, 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; provided that in connection with the installation, maintenance, repair, alteration or removal of any such lines and facilities pursuant to rights-of-way and other easements granted hereunder, the Declarant or its successors or assigns, as applicable, must require that the common elements be restored promptly at the expense of the party owning and exercising such easement right; provided, further, that the Association, through the Board, and with the consent and agreement of the holders of any then existing easements affected thereby, is authorized to grant, convey, transfer, cancel, relocate and otherwise deal with any and all such public services and utilities easements now or hereafter located on or affecting the Project without requiring any consideration therefor. The Developer may exercise the reserved right at any time prior to December 31, 2018; provided that the Developer shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all apartment owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018. To the extent that joinder of any apartment owner and lien holder or other person who may have any interest in the Land or the Project or any apartment may be required in order to validate any act or thing done pursuant to the foregoing reservation, such joinder shall be accomplished by a power of attorney from each of the owners, lien holders or other such parties. The acquiring or acceptance of ownership of an apartment or of a lien covering an apartment or any other interest in the Project or Land subject to this Declaration shall constitute a grant of such power of attorney and the grant, being coupled with an interest, shall be irrevocable and shall not be affected by the disability of the party granting such power. (See Section 4.9 of the Declaration, as amended).

3. The Developer reserves the right to amend the Declaration (see Section 23 of the Declaration), without the consent or joinder of the Association or the persons then owning or leasing the apartments or their mortgagees, as follows:

a. From time to time, pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, to record verified statements of a registered architect or professional engineer certifying that the final plans of the buildings theretofore filed or being filed simultaneously with such amendments fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built.

b. To make changes to the Project and the Project drawings and/or specifications; provided that such changes do not violate applicable laws and codes and do not constitute a material change to any apartment not owned by the Developer.

c. To satisfy any requirement of the Department of Veterans' Affairs ("VA") or the Federal Housing Administration ("FHA") which the Developer deems necessary or convenient.

d. To such extent and with such language as may be requested by the FHA, VA, Federal Home Loan Mortgage Corporation or Federal National Mortgage Association, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of an apartment in the Project.

4. The Developer reserves the right, but shall not be obligated, at any time and from time to time prior to December 31, 2018 (or such later date as determined by the Developer, but not later than December 31, 2044), to create and construct additional apartments to the Project. Section 19 of the Declaration, as amended, provides as follows:

Section 19.1. Reserved Right to Create New Apartments. Notwithstanding any other provision in this Declaration to the contrary, the Declarant hereby reserves the right, but shall not be obligated, to create and construct such additional Apartments ("New Apartments") as the Declarant may desire on the Land (including without limitation any land annexed to the Project pursuant to Section 22 below) and to designate limited common elements appurtenant to the New Apartments. The Declarant further reserves the right to modify and/or add building and apartment types, common elements and/or limited common elements. The Declarant may exercise the foregoing reserved right at any time prior to December 31, 2018; provided, however, that the Declarant shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all Apartment Owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018.

Section 19.2. Construction of New Apartments. The Declarant hereby reserves for itself and its consultants, contractors and subcontractors, and their respective employees and agents, the right, and an easement in favor of the Declarant and its consultants, contractors and subcontractors, and their respective employees and agents is hereby granted, at any time and from time to time prior to December 31, 2018 (or such later date as determined by the Declarant pursuant to Section 19.1 above, but no later than December 31, 2044), to enter and go upon the Land and the common elements to do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any New Apartments, connecting the same to the utility installations of the Project, and selling any New Apartments, upon and subject to the following terms and conditions:

(a) Any New Apartments shall be constructed in accordance with plans and specifications prepared by a licensed architect or engineer.

(b) The Declarant shall have the right to designate, delete, relocate, realign, reserve, and to grant easements and rights-of-way for the use of any New Apartments over, across, under and through the common elements of the Project for electrical, gas, telephone, water, sewer, drainage, cable television 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; provided, that such easements and rights-of-way do not materially and adversely interfere with the use, nor materially and adversely impair the value, of the Project or any Apartment in it; provided further that in connection with the installation, maintenance, repair, alteration, or removal of such lines and facilities pursuant to rights-of-way and other easements granted hereunder, the Declarant must require that the common elements be restored promptly at the expense of the parties owning and exercising such easement rights.

(c) The Declarant, its consultants, contractors and subcontractors, and their respective employees and agents, shall not, in the construction of any New Apartments, cause any interruption other than a temporary interruption in the service of utilities to the Project and shall use reasonable efforts, without additional cost to the Declarant and consistent with maintaining the progress of the design, development, construction, completion and sale, to minimize interference with the Apartment Owners' use and enjoyment of the Project.

(d) Each and every person acquiring an interest in any Apartment of the Project acknowledges, accepts and agrees that construction and sales activities for the New Apartments may continue within the Project, as well as on adjacent land, after such person has taken

occupancy or after such person has acquired such person's interest, that such activities may result in noise, dust or other annoyances to such person, as well as hazards and potentially dangerous conditions, and such person agrees to stay out of any areas that are under development or construction or being used for sales activities and which are fenced or posted to exclude, restrict or otherwise control access; and also waives, releases and discharges any rights, claims or actions such person may have or acquire against the Declarant, its lenders, consultants, contractors and subcontractors, and their respective employees and agents, as a result of any such activities or any failure to stay out of such restricted areas, and does further hereby waive any rights, claims or actions that such person may have or acquire against the Declarant, its lenders, consultants, contractors, subcontractors, and their respective employees and agents as a result of any such activities.

(e) The Declarant, its brokers, sales agents, employees and other related persons, shall have an easement over the common elements of the Project, to conduct sales activities with respect to any New Apartments. This right shall include, without limitation, showing the New Apartments to potential buyers, operating model Apartments, sales and sales administration offices, conducting lotteries at the Project and placing signs or banners at the Project. Each and every party acquiring an interest in the Project hereby acknowledges that such activities may result in noise and nuisances, and consents to such activities by the Declarant, its brokers, sales agents, employees and other related persons, and further waives, releases and discharges any rights, claims or actions such person may acquire against the Declarant, its brokers, sales agents, employees and other related persons, as a result of any such activities.

Section 19.3. Consequences of the Addition of New Apartments. The addition of the New Apartments to the Project shall take effect upon the occurrence of all of the following conditions:

(a) Recordation in the Recording Office by the Declarant of an amendment of this Declaration, which shall contain:

- (i) The revised description of the Land, if applicable;
- (ii) The revised description of the Apartments that shall comprise the Project including the number of each type of Apartment; and
- (iii) The revised common interest appurtenant to each Apartment as a result of the change in the total number of Apartments. The common interest appurtenant to each Apartment in the Project shall be recalculated to equal the ratio of the net floor area of the Apartment to the net floor area of all Apartments in the Project. The Declarant shall have the right to round and/or adjust the common interests in any manner, up or down, so that each common interest will be reflected as a number having no more than five digits following the decimal point and so that the sum of the common interests of all Apartments in the reduced Project shall total one hundred percent (100%).

(b) Recordation in the Recording Office by the Declarant of an amendment of the Condominium Map to reflect the revised layout of the Project.

(c) Such other matters as the Declarant deems necessary or appropriate or as are required by law to effectuate the change in the size of the Project.

The Declarant expressly reserves the right, without being required to obtain the consent or joinder of the Association, any Apartment Owner, lienholder, or any other person who may have an interest in the Project, at any time or times prior to December 31, 2018 (or such later date as determined by the Declarant pursuant to Section 19.1 above, but no later than December 31, 2044), to execute, file and deliver:

(x) any amendment to the Declaration, By-Laws and/or the Condominium Map for the Project to describe any changes to the number and types of Apartments or the common elements or the common interest appurtenant to any Apartment, notwithstanding the lease, sale or conveyance of any or all of the Apartments in the Project;

(y) any such amendment to the Declarant, By-Laws, and/or the Condominium Map for the Project and to such apartment deeds as may have been issued, and any and all other instruments necessary or desirable for the purpose of carrying out the provisions or exercising the rights, powers, or privileges reserved in this Section 19 to the Declarant; and

(z) any petition to the Land Court of the State of Hawaii to amend or revise any previously recorded apartment deed or any other previously recorded instrument to describe any changes to the Apartments or common elements or the common interest appurtenant to any Apartment or to carry out the provisions or exercise the rights, powers, or privileges reserved in this Section 19 to the Declarant.

Section 19.4. Costs. The Declarant shall pay all costs of creating and constructing the New Apartments and adding the New Apartments to the Project. The Declarant shall be the owner of the New Apartments and shall have no responsibility to account to the Association or the other Apartment Owners with respect to the use of common elements used by the Declarant in creation of the New Apartments.

Section 19.5. Reserved Rights and Power of Attorney. The Declarant may exercise its reserved rights set forth in this Section 19 without being required to obtain the approval, consent or joinder of any person or group of persons, including, without limitation, the Association, any Apartment Owner, lien holder or any other person who may have an interest in any Apartment or in the Project. Every Apartment Owner and all holders of liens affecting any of the Apartments of the Project and each and every other party acquiring an interest in the Project, or any part thereof, by acquiring any such Apartment, lien or other interest, consent and agree to the creation, construction and addition of any New Apartments provided for in this Section 19 and to the amendment of this Declaration, the By-Laws, the Condominium Map, any apartment deeds and to all other documents that may be required and to the recording thereof in the Recording Office to effect the same; agrees to join in, consent to, execute, deliver, and record all such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Declarant such party's attorney-in-fact with full power of substitution to execute, deliver and file all such documents and instruments and to do such things on such party's behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party; and which grant of such power shall be binding upon any assignee of or successor-in-interest to any such party and shall be deemed to be automatically granted anew by any assignee or successor-in-interest of such party upon any transfer of an Apartment in the Project or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

The rights reserved to the Declarant in this Section 19 shall be covenants running with the land and shall inure to the benefit of and be binding upon the Declarant and its successors and assigns, the Association and each Apartment Owner or any lien holder or any other person with an interest in the Project or any Apartment and their respective heirs, personal representatives, successors, successors in trust and assigns. The Declarant shall have the right to transfer, assign, hypothecate, mortgage or otherwise dispose of such reserved rights without the consent or approval of the Association, any Apartment Owner or any lien holder or any other person who may have an interest in the Project or any Apartment.

The rights reserved to the Declarant in this Section 19 may not be impaired or affected by any amendment to this Declaration, except as may be specifically provided in this Section 19 and only with the prior written consent of the Declarant.

5. The Developer reserves the right, but shall not be obligated, at any time and from time to time prior to December 31, 2018 (or such later date as determined by the Developer, but not later than December 31, 2044), to reduce the size of the Project by subdividing and withdrawing a portion of the land and the Clubhouse Apartment from the Project. Section 20 of the Declaration, as amended, provides as follows:

Section 20.1. Reserved Right to Reduce the Size of the Project. Notwithstanding any other provision in this Declaration to the contrary, the Declarant hereby reserves the right, but shall not be obligated, to reduce the size of the Project by subdividing all or a portion of the Land, by withdrawing a portion of the Land from the operation of this Declaration and, without limiting the generality of the foregoing, by removing the Clubhouse Apartment, the Banquet Pavilion and the limited common elements pertaining thereto and the common elements associated therewith, from

the Project. The Declarant may exercise the foregoing reserved right at any time prior to December 31, 2018; provided, however, that the Declarant shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all Apartment Owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018.

Section 20.2. Reduction and Consequences of Reduction. The reduction of the size of the Project shall take effect upon the occurrence of all of the following conditions:

- (a) The subdivision, or consolidation and resubdivision, of all or a part of the Land.
- (b) Recordation in the Recording Office by the Declarant of an amendment of this Declaration, which shall contain:
  - (i) Withdrawal of a portion of the Land from the operation of this Declaration;
  - (ii) The revised description of the Land of the Project;
  - (iii) The revised description of the Apartments that shall comprise the Project including the number of each type of Apartment; and
  - (iv) The revised common interest appurtenant to each Apartment as a result of the reduction in the total number of Apartments. The common interest appurtenant to each Apartment in the reduced Project shall be recalculated to equal the ratio of the net floor area of the Apartment to the net floor area of all Apartments in the Project. The Declarant shall have the right to round and/or adjust the common interests in any manner, up or down, so that each common interest will be reflected as a number having no more than five digits following the decimal point and so that the sum of the common interests of all Apartments in the reduced Project shall total one hundred percent (100%).
- (c) Recordation in the Land Court by the Declarant of an amendment of the Condominium Map to reflect the revised layout of the Project.
- (d) Such other matters as the Declarant deems necessary or appropriate or as are required by law to effectuate the reduction in the size of the Project.

The Declarant expressly reserves the right, without being required to obtain the consent or joinder of the Association, any Apartment Owner, lienholder, or any other person who may have an interest in the Project, at any time or times prior to December 31, 2018 (or such later date as determined by the Declarant pursuant to Section 20.1 above, but no later than December 31, 2044), to execute, file and deliver:

- (x) any amendment to the Declaration, By-Laws and/or the Condominium Map for the Project to describe any changes to the Apartments or the common elements or the common interest appurtenant to any Apartment, notwithstanding the lease, sale or conveyance of any or all of the Apartments in the Project;
- (y) any such amendment to the Declarant, By-Laws, and/or the Condominium Map for the Project and to such apartment deeds as may have been issued, and any and all other instruments necessary or desirable for the purpose of carrying out the provisions or exercising the rights, powers, or privileges reserved in this Section 20 to the Declarant; and
- (z) any petition to the Land Court of the State of Hawaii to amend or revise any previously recorded apartment deed or any other previously recorded instrument to describe any changes to the Apartments or common elements or the common interest appurtenant to any Apartment or to carry out the provisions or exercise the rights, powers, or privileges reserved in this Section 20 to the Declarant.

Section 20.3. Entry Upon Land. The Declarant hereby reserves to itself and its consultants, contractors, subcontractors and their respective employees and agents the right to enter and go upon the Land to do all things necessary to effectuate such subdivision and withdrawal of a portion of the Land, including without limitation making surveys to undertake a reasonable realignment of the boundaries of the Land (it being understood that the Declarant shall have the reserved right to effect any such realignment), and to facilitate the granting, reserving, adding, deletion, reception, realignment and/or relocating of easements and/or rights of ways for utilities, sanitary and storm sewers, cable television, refuse disposal, driveways, parking areas and roadways, and of all other

required easements. The subdivision and withdrawal of any portion of the Land shall be subject to, and the Declarant shall comply with all of the then-applicable governmental laws and rules and regulations, including subdivision requirements.

Section 20.4. Easements. The Declarant hereby reserves the right, for the benefit of the Project and/or any portion of the Land and/or other adjoining or nearby lands, to (i) grant, reserve, add, delete, receive, realign and/or relocate over, across and under the Land or the Project, as appropriate, easements and/or rights of ways for utilities, sanitary and storm sewers, cable television, refuse disposal, access, driveways, parking areas and roadways, and walkways, and (ii) relocate or realign any existing easements and rights of way over, across and under the Land or the Project, as appropriate, including, without limitation, any existing utilities, sanitary and storm sewer lines and cable television lines and connect the same over, across and under the Land or the Project, provided that such easements and such relocations and connections of lines shall not materially and adversely impair or interfere with the use of any Apartment in the Project.

Section 20.5. Land Court Petition. The Declarant shall, without being required to obtain the consent or joinder of the Association, any Apartment Owner, lienholder, or any other person who may have an interest in the Project, execute and file in the Land Court of the State of Hawaii a petition for subdivision (and, to the extent deemed necessary or approved by Declarant, for designation of easements) and an amendment to the Declaration and Condominium Map: (i) describing the Withdrawn Land and any Improvements thereon; (ii) describing the realigned boundaries of the Land; and (iii) where applicable and appropriate, granting, reserving or relocating easements over, under and on the common elements as permitted by Section 20.4 above.

Section 20.6. No Limitation on Withdrawn Land. The exercise by the Declarant of the right to subdivide and withdraw all or any portion of the Land provided in this Section 20 shall not in any way limit or be deemed to limit Declarant's full use of the Withdrawn Land, including developing the Withdrawn Area and constructing thereon any buildings and improvements permitted by the governmental laws and ordinances then in effect. Notwithstanding any such subdivision and withdrawal contemplated herein, the Declarant will retain the reserved right to construct buildings and improvements on the Withdrawn Land and to merge any additional condominium project(s) with the Project in accordance with the procedures set forth in Section 21 below.

Section 20.7. Costs. The Declarant shall pay all costs of reducing the size of the Project and subdividing, or consolidating and resubdividing, the Land and withdrawing the Withdrawn Land from the Project. The Declarant shall be the owner of the Withdrawn Land and shall have no responsibility to account to the Association or the other Apartment Owners with respect to the use by the Declarant of the Withdrawn Land.

Section 20.8. Reserved Rights and Power of Attorney. The Declarant may exercise its reserved rights set forth in this Section 20 without being required to obtain the approval, consent or joinder of any person or group of persons, including, without limitation, the Association, any Apartment Owner, lien holder or any other person who may have an interest in any Apartment or in the Project. Every Apartment Owner and all holders of liens affecting any of the Apartments of the Project and each and every other party acquiring an interest in the Project, or any part thereof, by acquiring any such Apartment, lien or other interest, consent and agree to the reduction of the size of the Project provided for in this Section 20 and to the amendment of this Declaration, the By-Laws, the Condominium Map, any apartment deeds and to all other documents that may be required and to the recording thereof in the Recording Office to effect the same; agrees to join in, consent to, execute, deliver, and record all such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Declarant such party's attorney-in-fact with full power of substitution to execute, deliver and file all such documents and instruments and to do such things on such party's behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party; and which grant of such power shall be binding upon any assignee of or successor-in-interest to any such party and shall be deemed to be automatically granted anew by any assignee or successor-in-interest of such party upon any

transfer of an Apartment in the Project or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

The rights reserved to the Declarant in this Section 20 shall be covenants running with the land and shall inure to the benefit of and be binding upon the Declarant and its successors and assigns, the Association and each Apartment Owner or any lien holder or any other person with an interest in the Project or any Apartment and their respective heirs, personal representatives, successors, successors in trust and assigns. The Declarant shall have the right to transfer, assign, hypothecate, mortgage or otherwise dispose of such reserved rights without the consent or approval of the Association, any Apartment Owner or any lien holder or any other person who may have an interest in the Project or any Apartment.

The rights reserved to the Declarant in this Section 20 may not be impaired or affected by any amendment to this Declaration, except as may be specifically provided in this Section 20 and only with the prior written consent of the Declarant.

6. The Developer reserves the right, but shall not be obligated, at any time and from time to time prior to December 31, 2018 (or such later date as determined by the Developer, but not later than December 31, 2044), to merge the Project with one or more condominium projects developed on the portion of the land withdrawn from the Project pursuant to Section 20 of the Declaration. Section 21 of the Declaration, as amended, provides as follows:

Section 21.1. Reserved Right to Develop Condominium Projects. Notwithstanding any other provision in this Declaration to the contrary, the Declarant hereby reserves the right, but shall not be obligated, after the withdrawal of the Withdrawn Land pursuant to the provisions of Section 20 above, to develop such additional condominium project(s) as the Declarant may desire, to the extent permitted by applicable law, on the Withdrawn Land. The Declarant further reserves the right to execute and record declaration(s) of condominium property regime (herein referred to as "declaration") and condominium map(s) to create any additional condominium project(s) on the Withdrawn Land. The Declarant may exercise the foregoing reserved right at any time prior to December 31, 2018; provided, however, that the Declarant shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all Apartment Owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018.

Section 21.2. Development of Additional Projects. The Declarant hereby reserves for itself and its consultants, contractors and subcontractors, and their respective employees and agents, the right, and an easement in favor of the Declarant and its consultants, contractors and subcontractors, and their respective employees and agents is hereby granted at any time, and from time to time prior to December 31, 2018 (or such later date as determined by the Declarant pursuant to Section 21.1 above, but no later than December 31, 2044), to enter upon and use the common elements of the Project and to engage in certain activities described herein reasonably necessary, desirable or useful for creating, designing, developing, constructing or completing any additional condominium project located on the Withdrawn Land, connecting the same to the utility installations of the Project, and selling the apartments contained within said additional condominium project(s), upon and subject to the following terms and conditions:

(a) Any additional condominium project shall be constructed in accordance with plans and specifications prepared by a licensed architect or engineer and, with respect to quality of construction, shall be consistent with the Project in terms of quality of construction.

(b) The Declarant shall have the right to grant easements and rights-of-way for the use of any additional condominium project over and across the roads of the Project for ingress to and egress from such additional condominium project.

(c) The Declarant shall have the right to designate, delete, relocate, realign, reserve, and to grant easements and rights-of-way for the use by any additional condominium project over, across, under and through the common elements of the Project for electrical, gas, telephone, water, sewer, drainage, cable television 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; provided, that such easements and rights-of-way do not materially and adversely interfere with the use, nor materially and adversely impair the value of the Project or any Apartment in it; provided further that in connection with the installation, maintenance, repair, alteration, or removal of such lines and facilities pursuant to rights-of-way and other easements granted hereunder, the Declarant must require that the common elements be restored promptly at the expense of the parties owning and exercising such easement rights.

(d) The Declarant, its consultants, contractors and subcontractors, and their respective employees and agents, shall not, in their pursuit of the development of any additional condominium project, cause any interruption other than a temporary interruption in the service of utilities to the Project and shall use reasonable efforts, without additional cost to the Declarant and consistent with maintaining the progress of the design, development, construction, completion and sale, to minimize interference with the Apartment Owners' use and enjoyment of the Project.

(e) Each and every person acquiring an interest in any Apartment of the Project acknowledges, accepts and agrees that construction and sales activities for the Project and/or for any additional condominium projects may continue within the Land and the Withdrawn Land as well as on other land located near or adjacent to the Project, after such person has taken occupancy or after such person has acquired such person's interest, that such activities may result in noise, dust or other annoyances to him, as well as hazards and potentially dangerous conditions, and such person agrees to stay out of any areas that are under development or construction or being used for sales activities and which are fenced or posted to exclude, restrict or otherwise control access; and also waives, releases and discharges any rights, claims or actions he may acquire against the Declarant, its lenders, consultants, contractors and subcontractors and their respective employees and agents, as a result of any such activities or any failure to stay out of such restricted areas, and does further hereby waive any rights, claims or actions that such person may have or acquire against the Declarant, its lenders, consultants, contractors, subcontractors and their respective employees and agents as a result of such activities.

(f) The Declarant, its brokers, sales agents, employees and other related persons shall have an easement over the Land and any common elements of the Project, to conduct sales activities with respect to any apartment developed on the Land, on the Withdrawn Land, or on other land located near or adjacent to the Project. This right shall include, without limitation, showing the Project to potential buyers, operating model apartments, sales and sales administration offices, conducting lotteries at the Project and placing signs or banners at the Project. Each and every party acquiring an interest in the Project hereby acknowledges that such activities may result in noise and nuisances, and consents to such activities by the Declarant, its brokers, sales agents, employees and other related persons, and further waives, releases and discharges any rights, claims or actions such person may acquire against the Declarant, its brokers, sales agents, employees and other related persons as a result of any such activities.

Section 21.3. Merger and Consequences of Merger. The Declarant reserves the right, but shall not be obligated, at any time or times prior to December 31, 2018 (or such later date as determined by the Declarant pursuant to Section 21.1 above, but no later than December 31, 2044), to merge the Project and any additional condominium project developed on the Withdrawn Land as though the projects had been developed as a single project. Declarant may effect said merger as follows:

Each such merger shall take effect with respect to a particular additional condominium project upon the occurrence of all of the following conditions with respect thereto:

(a) Recordation in the Recording Office by the Declarant of a declaration and by laws covering the additional condominium project in a form substantially similar hereto (except for the descriptions of apartments, the common elements and the percentage of common interest appurtenant to each apartment and except for such matters as may be required to conform to any amendments of the Act enacted subsequent to the recordation hereof) and a condominium map depicting the plot and floor plans and elevations of the additional condominium project, all complying with the requirements of the Act; and

(b) Recordation in the Recording Office by the Declarant of a "Certificate of Merger", which certificate shall contain:

(i) A certification by a Hawaii registered architect or professional engineer, in the manner required by Section 514A-12 of the Act, that the plans previously filed for the condominium projects being merged, or being filed simultaneously with such certificate, accurately depict the layout, location, Apartment numbers, dimensions and elevations of the apartments of the condominium projects being merged, as built;

(ii) A certification by the Declarant that the additional condominium project has been substantially completed, that a notice of completion has been filed, and that the period for filing of mechanics' and materialmen's liens has expired or, if not expired, that the Declarant has obtained a title policy insuring against all such liens or the Declarant has guaranteed the payment of all liens which may be filed prior to the expiration of the period;

(iii) A certification by the Declarant that all real property taxes and assessments due from the additional condominium project being merged and for which the Declarant is liable have been paid;

(iv) The revised common interest of each apartment of the merged condominium project after completion of the merger of the Project with the additional condominium project; and

(v) Such other matters as the Declarant deems necessary or appropriate or as are required by law to effectuate the merger of the condominium projects and/or the operation of the merged condominium projects as a single condominium project.

The Declarant expressly reserves the right to file a Certificate of Merger and/or any amendment to the Declaration and/or the Condominium Map for the Project and to the declaration and/or condominium map for any additional condominium project(s) being merged to describe any changes to the apartments or common elements therein described at any time or times prior to December 31, 2018 (or such later date as determined by the Declarant pursuant to Section 21.1 above, but no later than December 31, 2044), notwithstanding the lease, sale or conveyance of any or all of the apartments in any of the projects being merged, and the Declarant may execute, file and deliver any such Certificate of Merger and/or any amendment to the Declaration and/or the Condominium Map for the Project and any amendment to the declaration and/or the condominium map for any additional condominium project(s) and to such apartment deeds as may have been issued, and any and all other instruments necessary or desirable for the purpose of carrying out the provisions or exercising the rights, powers, or privileges herein reserved to the Declarant. Each and every party acquiring an interest in the Project by such acquisition, consents to all such mergers of the Project with such additional condominium project(s), and to the execution, filing and delivery of such documents as may be necessary to effect the same.

Section 21.4. Consequences of Merger. The Declarant is under no obligation by the terms hereof to develop any condominium project in addition to this Project or to merge any additional condominium project with this Project. If the Declarant should, however, in its sole discretion, elect to develop any additional condominium project(s) and to merge the same with this Project, then, from and after the date of the recordation of said Certificate of Merger with respect to the Project and the additional condominium project(s), the following consequences shall ensue:

(a) Condominium Documentation. Unless and until the Declarant exercises its right to record one amended declaration and by-laws to govern all of the merged condominium projects as provided for in Section 21.5 below, this Declaration, the By-Laws and any House Rules promulgated thereunder, and any declaration, by-laws and house rules pertaining to any additional condominium project shall continue in effect and shall continue to apply to the respective project, provided that in any event of conflict, the provisions of this Declaration, the By-Laws, and any House Rules promulgated thereunder shall control. All rights reserved in favor of Declarant set forth in this Declaration shall apply to the merged condominium projects to the same extent as though the merged projects had been developed initially as a single project.

(b) Ownership of Apartments. Except to the extent that the same may have been previously conveyed by the Declarant, the Declarant shall for all purposes be deemed the owner of the newly merged apartments and the common interest and other rights and easements appurtenant

to such apartments prior to and from the time the merger takes effect until the apartments have been conveyed to other parties.

(c) Use of Common Elements. The owners of apartments in each of the merged condominium projects shall have the right to use the common elements in each condominium project to the same extent and subject to the same limitations as are imposed upon an owner of an apartment in each condominium project as though the merged condominium projects had been developed initially as a single condominium project.

(d) Common Interests. The common interest appurtenant to each apartment in the merged condominium projects shall be recalculated to equal the ratio of the net floor area of the apartment to the net floor area of all apartments in the merged condominium project. The Declarant shall have the right to round and/or adjust the common interests in any manner, up or down, so that each common interest will be reflected as a number having no more than five digits following the decimal point and so that the sum of the common interests of all apartments in the merged condominium project shall total one hundred percent (100%).

Each apartment's common interest shall constitute such apartment's proportionate share in the common elements, profits and common expenses of the merged condominium project following the merger, and such apartment's proportionate representation for all other purposes, including voting in the merged condominium project; provided, however, that the apartments in any new condominium project being merged into the Project shall not be assessed nor shall they have any obligation with respect to debts or obligations that are incurred for the exclusive benefit of the Project and that are incurred prior to the recordation in the Recording Office of the Certificate of Merger merging the condominium projects, all such debts or obligations not being "common expenses" of the merged condominium project, but rather, obligations of the owners of Apartments in the Project prior to the merger.

(e) Association and Board of Directors. There shall be only one association of apartment owners, one board of directors, one managing agent (if any) and one (except as provided in subparagraph d above) common fund, in the manner provided for in the By-Laws. Any contract for the Managing Agent shall provide: (i) that the Managing Agent shall act for the merged condominium project on the same terms and conditions and for the same or lesser fee per Apartment; and (ii) that if at the time of any merger and the filing of the necessary documents to effect the same, the Managing Agent should be unable or unwilling to act as the managing agent for the merged condominium project, such contract shall automatically terminate; provided however that the Managing Agent shall continue in its capacity as the managing agent for such period, not exceeding 60 days, as determined in the sole discretion of the Board of Directors to be necessary to effect an orderly transition of duties and authority to the new managing agent.

Notwithstanding any provision in any document, within 60 days following each merger and the filing of the necessary documents to effect the same, a special meeting of the single association of the merged condominium project shall be held to elect a new board of directors to replace the existing board(s) of directors. The procedure for calling and holding such meeting shall be as provided in the By-Laws. During the 60-day interim period the existing boards of directors of the condominium projects that have been merged shall have full authority to conduct the affairs of their respective associations of apartment owners.

(f) Name of Projects. The merged project shall also take the name "Makaha Resort & Golf Club Condominiums".

Section 21.5. Amended Declaration and By-Laws Covering Merged Projects. After completion of the merger of the Project with an additional condominium project, the Declarant shall have the irrevocable right, but shall not be obligated, to amend the declaration and by-laws for each condominium project in their entirety so that there shall be one amended declaration and by-laws for the merged condominium projects for the purpose of setting forth a consolidated description of the land, buildings, apartments, common elements, limited common elements and common interests of the Project following the merger, and of incorporating into such amended declaration and by-laws any statutory requirements enacted subsequent to the recordation of this Declaration and the By-Laws of the Project, without materially changing the form or content of

this Declaration and the By-Laws. After the last additional condominium project is merged with the Project, the amended declaration shall omit the provisions of this Section 21.

Section 21.6. Costs. The Declarant shall pay all costs of constructing and merging any condominium projects developed on the Withdrawn Land. The Declarant shall be the owner of any new condominium projects and the apartments created on the Withdrawn Land and shall have no responsibility to account to the Association or the other Apartment Owners with respect to the use of the Withdrawn Land by the Declarant in creation of any new condominium project.

Section 21.7. Reserved Rights and Power of Attorney. The Declarant may exercise any of its reserved rights set forth in this Section 21 without being required to obtain the approval, consent or joinder of any person or group of persons, including, without limitation, the Association, any Apartment Owner, lien holder or any other person who may have an interest in any Apartment or in the Project. Every Apartment Owner and all holders of liens affecting any of the Apartments of the Project and each and every other party acquiring an interest in the Project, or any part thereof, by acquiring any such Apartment, lien or other interest, consent and agree that they shall, if required by law or by the Declarant, join in, consent to, execute, deliver and file the following: (i) all instruments and documents necessary or desirable to effect the creation of any additional condominium projects as provided for in this Section 21, including the execution, delivery and filing of a separate declaration and condominium map therefor and/or an amendment to this Declaration and the Condominium Map for the Project and/or petitions to the Land Court of the State of Hawaii; (ii) all instruments and documents necessary or desirable to effect the granting of easements and/or rights-of-way as provided for in this Section 21; (iii) all instruments and documents as may be necessary or desirable to effect the merger of the Project with any additional condominium project(s) including, but not limited to, a Certificate of Merger and/or amendment of the declaration of each project to be merged and/or an amended declaration covering the merged projects and which Certificate of Merger, amendment and/or amended declaration shall change the percentage of common interest appurtenant to each Apartment in the merged projects as provided for in this Section 21; and (iv) any and all other instruments and documents as may be necessary or convenient to effectuate any other reserved right in favor of the Declarant provided for in this Section 21. The Association and each Apartment Owner, lien holder and other person having any interest in any Apartment or in the Project hereby appoint the Declarant its attorney-in-fact with full power of substitution to execute, deliver and file such documents and to do such things on their behalf, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by the disability of any such party; and which grant of such power shall be binding upon any assignee of or successor-in-interest to any such party and shall be deemed to be automatically granted anew by any assignee or successor-in-interest upon the transfer of any such Apartment, lien or interest, whether by deed, mortgage, or any other instrument of conveyance.

The rights reserved to the Declarant in this Section 21 shall be covenants running with the land and shall inure to the benefit of and be binding upon the Declarant and its successors and assigns, the Association and each Apartment Owner or any lien holder or any other person with an interest in the Project or any Apartment and their respective heirs, personal representatives, successors, successors in trust and assigns. The Declarant shall have the right to transfer, assign, hypothecate, mortgage or otherwise dispose of such reserved rights without the consent or approval of the Association, any Apartment Owner or any lien holder or any other person who may have an interest in the Project or any Apartment.

The rights reserved to the Declarant in this Section 21 may not be impaired or affected by any amendment to this Declaration, except as may be specifically provided in this Section 21 and only with the prior written consent of Declarant.

7. The Developer reserves the right, at any time prior to December 31, 2018 (or such later date as determined by the Developer, but not later than December 31, 2044), to annex all or any portion of Lots 1024, 1025-A, 1025-B, 1025-C, 1612 and/or 1613 (the "Additional Lands") described in Exhibit "C" to the Declaration, and any improvements thereon to the Project. Section 22 of the Declaration, as amended, provides as follows:

Section 22.1. Reserved Right to Annex Land and Improvements. Notwithstanding any other provision in this Declaration to the contrary, the Declarant hereby reserves the right, but shall not be obligated, to change the Project by annexing all or any part of the Additional Lands and any improvements located thereon into the Project. The Declarant further reserves the right to modify and/or add building and apartment types; common elements and limited common elements to the Project. The Declarant may exercise the foregoing reserved right at any time prior to December 31, 2018; provided, however, that the Declarant shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all Apartment Owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018.

Section 22.2. Right of Entry. The Declarant hereby reserves to itself and its consultants, contractors and subcontractors, and their respective employees and agents the right, and easement in favor of the Declarant, its consultants, contractors and subcontractors, and their respective employees and agents is granted, at any time, and from time to time prior to December 31, 2018 (or such later date as determined by the Declarant pursuant to Section 22.1 above, but no later than December 31, 2044), to enter and go upon the Land and the common elements to do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any improvements on the Additional Lands, connecting the same to the utility installations of the Project, and selling any apartments located on the Additional Lands, upon and subject to the following terms and conditions:

(a) Any improvements shall be constructed in accordance with plans and specifications prepared by a licensed architect or engineer.

(b) The Declarant shall have the right to designate, delete, relocate, realign, reserve, and to grant easements and rights-of-way for the use of any improvements on the Additional Lands over, across, under and through the common elements of the Project for electrical, gas, telephone, water, sewer, drainage, cable television 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; provided, that such easements and rights-of-way do not materially and adversely interfere with the use, nor materially and adversely impair the value of the Project or any Apartment in it; provided further that in connection with the installation, maintenance, repair, alteration, or removal of such lines and facilities pursuant to rights-of-way and other easements granted hereunder, the Declarant must require that the common elements be restored promptly at the expense of the party owning and exercising such easement right.

(c) The Declarant, its consultants, contractors and subcontractors, and their respective employees and agents, shall not, in the construction of any improvements on the Additional Lands and connecting the same to the utility installations of the Project, cause any interruption other than a temporary interruption in the service of utilities to the Project and shall use reasonable efforts, without additional cost to the Declarant and consistent with maintaining the progress of the design, development, construction, completion and sale, to minimize interference with the Apartment Owners' use and enjoyment of the Project.

(d) Each and every person acquiring an interest in any Apartment of the Project acknowledges, accepts and agrees that construction and sales activities for any improvements on the Additional Lands may continue within the Project, as well as on the Additional Lands, after such person has taken occupancy or after such person has acquired such person's interest, that such activities may result in noise, dust or other annoyances to him, as well as hazards and potentially dangerous conditions, and such persons agree to stay out of any areas that are under development or construction or being used for sales activities and which are fenced or posted to exclude, restrict or otherwise control access; and also waives, releases and discharges any rights, claims or actions such person may have or acquire against the Declarant, its lenders, consultants, contractors and subcontractors and their respective employees and agents, as a result of any such activities or any failure to stay out of such restricted areas, and does further hereby waive any rights, claims or actions that such person may have or acquire against the Declarant, its consultants, contractors, subcontractors and their respective agents and employees as a result of such activities.

(e) The Declarant, its brokers, sales agents, employees and other related persons, shall have an easement over the Land and the common elements of the Project, to conduct sales activities with respect to any apartments located on the Additional Lands. This right shall include, without limitation, showing such apartments to potential buyers, operating model apartments, sales and sales administration offices, conducting lotteries at the Project and placing signs or banners at the Project. Each and every party acquiring an interest in the Project hereby acknowledges that such activities may result in noise and nuisances, and consents to such activities by the Declarant, its brokers, sales agents, employees and other related persons, and further waives, releases and discharges any rights, claims or actions such person may acquire against the Declarant, its brokers, sales agents, employees and other related persons as a result of any such activities.

Section 22.3. Consequences of Annexing Land and Improvements. The Declarant may effect said annexation of the Additional Lands and the improvements thereon and the annexation shall take effect with respect to the Project upon the occurrence of all of the following conditions:

(a) Recordation in the Recording Office by the Declarant of an amendment of this Declaration, which shall contain:

(i) The revised description of the Land of the Project;

(ii) The revised description of the Apartments that shall comprise the Project including the number of each type of Apartment; and

(iii) The revised common interest appurtenant to each Apartment as a result of the annexation of the Additional Lands. The common interest appurtenant to each Apartment in the revised Project shall be recalculated to equal the ratio of the net floor area of the Apartment to the net floor area of all Apartments in the Project. The Declarant shall have the right to round and/or adjust the common interests in any manner, up or down, so that each common interest will be reflected as a number having no more than five digits following the decimal point and so that the sum of the common interests of all Apartments in the revised Project shall total one hundred percent (100%).

(b) Recordation in the Recording Office by the Declarant of an amendment of the Condominium Map to reflect the revised layout of the Project.

(c) Such other matters as the Declarant deems necessary or appropriate or as are required by law to effectuate the annexation of the Additional Lands and the change in the size of the Project.

The Declarant expressly reserves the right, without being required to obtain the consent or joinder of the Association, any Apartment Owner, lienholder, or any other person who may have an interest in the Project, at any time or times prior to December 31, 2018 (or such later date as determined by the Declarant pursuant to Section 22.1 above, but no later than December 31, 2044), to execute, file and deliver:

(x) any amendment to the Declaration, By-Laws and/or the Condominium Map for the Project to describe any changes to the number and types of Apartments or the common elements or the common interest appurtenant to any Apartment, notwithstanding the lease, sale or conveyance of any or all of the Apartments in the Project;

(y) any such amendment to the Declarant, By-Laws, and/or the Condominium Map for the Project and to such apartment deeds as may have been issued, and any and all other instruments necessary or desirable for the purpose of carrying out the provisions or exercising the rights, powers, or privileges reserved in this Section 22 to the Declarant; and

(z) any petition to the Land Court of the State of Hawaii to amend or revise any previously recorded apartment deed or any other previously recorded instrument to describe any changes to the Apartments or common elements or the common interest appurtenant to any Apartment or to carry out the provisions or exercise the rights, powers, or privileges reserved in this Section 22 to the Declarant.

Section 22.4. Costs. The Declarant shall pay all costs of creating and constructing any improvements on the Additional Lands and annexing the Additional Lands and any improvements thereon into the Project. The Declarant shall be the owner of any New Apartments created on the Additional Lands and shall have no responsibility to account to the Association or the other

Apartment Owners with respect to the use of common elements used by the Declarant in creation of such New Apartments.

Section 22.5. Reserved Rights and Power of Attorney. The Declarant may exercise its reserved rights set forth in this Section 22 without being required to obtain the approval, consent or joinder of any person or group of persons, including, without limitation, the Association, any Apartment Owner, lien holder or any other person who may have an interest in any Apartment or in the Project. Every Apartment Owner and all holders of liens affecting any of the Apartments of the Project and each and every other party acquiring an interest in the Project, or any part thereof, by acquiring any such Apartment, lien or other interest, consent and agree to the annexation of the Additional Lands and the improvements thereon provided for in this Section 22 and to the amendment of this Declaration, the By-Laws, the Condominium Map, any apartment deeds and to all other documents that may be required and to the recording thereof in the Recording Office to effect the same; agrees to join in, consent to, execute, deliver, and record all such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Declarant such party's attorney-in-fact with full power of substitution to execute, deliver and file all such documents and instruments and to do such things on such party's behalf, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by the disability of such party; and which grant of such power shall be binding upon any assignee of or successor-in-interest to any such party and shall be deemed to be automatically granted anew by any assignee or successor-in-interest of such party upon any transfer of an Apartment in the Project or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

The rights reserved to the Declarant in this Section 22 shall be covenants running with the land and shall inure to the benefit of and be binding upon the Declarant and its successors and assigns, the Association and each Apartment Owner or any lien holder or any other person with an interest in the Project or any Apartment and their respective heirs, personal representatives, successors, successors in trust and assigns. The Declarant shall have the right to transfer, assign, hypothecate, mortgage or otherwise dispose of such reserved rights without the consent or approval of the Association, any Apartment Owner or any lien holder or any other person who may have an interest in the Project or any Apartment.

The rights reserved to the Declarant in this Section 22 may not be impaired or affected by any amendment to this Declaration, except as may be specifically provided in this Section 22 and only with the prior written consent of the Declarant.

8. The Developer reserves the right, at any time prior to December 31, 2018 (or such later date as determined by the Developer, but not later than December 31, 2044), to subdivide and consolidate apartments. Section 26 of the Declaration provides as follows:

Notwithstanding anything provided to the contrary, and except as otherwise provided by law:

A. The Declarant shall have the reserved right, without obtaining the approval of any party with an interest in the Project, including any other Apartment Owner and/or mortgagee, to: (1) alter the floor plan of any Apartment which it owns at any time provided that the common interest appurtenant to the Apartment shall not change, (2) cause the subdivision of any Apartment which it owns at any time to create two or more Apartments provided that the total common interest appurtenant to the newly-created Apartments shall equal the common interest appurtenant to the original Apartment and shall be allocated among the newly-created apartments at the Declarant's sole discretion; and (3) convert certain portions of any existing Apartment to common element status to facilitate any subdivision.

B. If the Declarant is the owner of any two Apartments separated by a party wall, floor or ceiling, the Declarant shall have the right, without obtaining the approval of any party with an interest in the Project, including any other Apartment Owner and/or mortgagee, to consolidate two or more Apartments and to alter or remove all or portions of the intervening wall, floor or ceiling at the Declarant's expense provided that: (1) the structural integrity of the Project is not thereby

affected, (2) the finish of the common element then remaining is restored to a condition substantially compatible with that of the common element prior to such alteration, and (3) all construction activity necessary to any such alteration or removal shall be completed within a reasonable period of time after the commencement thereof, subject to delays beyond the control of the Declarant or its contractors, whether caused by strikes, the unavailability of construction materials or otherwise, in which case any such construction activity shall be completed in such additional time as may be reasonably necessary in the exercise of due diligence.

C. The Declarant, in the process of consolidating Apartments, shall have the right to convert that area between Apartments to an Apartment (as opposed to the same remaining a common element) for so long as such Apartments shall remain consolidated or shall continue to be commonly used or owned.

Any such alteration, subdivision or consolidation of Apartment(s) as provided above shall be effective provided that:

1. The Declarant shall record or cause to be recorded an amendment to this Declaration describing the Apartment(s) in question and setting forth at least: (a) a description of the newly-created Apartment(s); (b) in the case of the consolidation of Apartments by the Declarant, the undivided percentage interest appurtenant to the newly-created Apartment, which shall be calculated by adding together the undivided percentage interests for the Apartments to be consolidated; or (c) in the case of the subdivision of an Apartment by the Declarant, the undivided percentage interest appurtenant to each of the newly-created Apartments, which shall equal the total of the undivided interest appurtenant to the original Apartment;

2. The Declarant shall record or cause to be recorded an amendment to the Condominium Map for the Apartment(s) being altered, subdivided or consolidated to show an amended floor plan, as necessary, together with a verified statement of registered architect or professional engineer, in the manner required by Section 514A-12 of the Act, that the Condominium Map, as so amended, is an accurate copy of portions of the plans of the altered Apartment(s) as filed with and approved by the county officer having jurisdiction over the issuance of permits for the completion of buildings, and that the plans fully and accurately depict the layout, location, apartment numbers, and dimensions of the Apartments as built; and

3. Any such alteration shall comply in all respects with all applicable governmental codes, statutes, ordinances and rules and regulations, or with all variances granted therefrom.

The Declarant expressly reserves the right to amend this Declaration and the Condominium Map to effect any subdivision or consolidation of Apartments or alterations to floor plans at any time or times prior to December 31, 2018 (provided that the Declarant shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all Apartment Owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018), and the Declarant may, without being required to obtain the consent or joinder of any Apartment Owner, lien holder or other persons, execute and record amendments to this Declaration and the Condominium Map and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to the Declarant.

Each and every party acquiring an interest in the Project, by such acquisition, consents to such subdivision and/or consolidation and/or alteration, to the recalculation of the common interests appurtenant to each Apartment upon such subdivision and/or consolidation, and to the recording of any and all documents necessary to effect the same in the Recording Office, including any amendment or amendments of this Declaration and the Condominium Map; agrees to execute, deliver and record such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Declarant and its assigns his attorney-in-fact with full power of substitution to execute, deliver and record such documents and instruments and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties; which grant of such power shall be binding upon any assign of, or

successor-in-interest to, any such party and shall be deemed to be automatically granted anew by any assign or successor-in-interest upon any transfer of any Apartment or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

9. The Developer reserves the right, at any time prior to December 31, 2018 (or such later date as determined by the Developer, but not later than December 31, 2044), to convert limited common elements to apartments. Section 27 of the Declaration provides as follows:

Notwithstanding anything provided to the contrary, and except as otherwise provided by law:

A. The Declarant shall have the right, without obtaining the approval of any party with an interest in the Project, including any other Apartment Owner and/or mortgagee, to convert a limited common element appurtenant to any Apartment or Apartments owned by the Declarant, or any portion thereof, into one or more separate Apartments of the Project. In such event, the Declarant shall have the right, without obtaining the approval of any party with an interest in the Project, including any other Apartment Owner and/or mortgagee, to alter the physical aspects of the limited common element at the Declarant's expense in connection with such conversion, including building such structures as may be necessary or appropriate, provided that: (1) the structural integrity of the Project is not thereby affected, (2) the finish of any newly-created Apartment is consistent with the quality of other Apartments in the Project and any remaining portion of the limited common element not converted to an Apartment, if any, is restored, to the extent feasible, to a condition substantially compatible with that of the limited common element prior to such conversion, and (3) all construction activity necessary to any such conversion shall be completed within a reasonable period of time after the commencement thereof, subject to delays beyond the control of the Declarant or its contractors, whether caused by strikes, the unavailability of construction materials or otherwise, in which case any such construction activity shall be completed in such additional time as may be reasonably necessary in the exercise of due diligence.

B. The Declarant shall have the reserved right to designate certain common elements or limited common elements of the Project as limited common elements appurtenant to any newly-created Apartment; provided that there is no material adverse effect on the remainder of the Project.

Any such conversion of a limited common element into an Apartment or Apartments as provided above shall be effective provided that:

1. The Declarant shall record or cause to be recorded an amendment to this Declaration describing the Apartment(s) in question and setting forth at least: (a) a description of the newly-created Apartment(s), and (b) the common interests appurtenant to the newly-created Apartments and existing Apartments. In the event that additional Apartments are created, the common interests appurtenant to such newly-created Apartments shall be equivalent to the common interest of existing Guest Units having the same number of bedrooms and the common interest appurtenant to the Clubhouse Apartment or the Banquet Pavilion, at the Declarant's sole discretion, shall be reduced by such amounts;

2. The Declarant shall record or cause to be recorded an Amendment to the Condominium Map to show the floor plans and elevations for the newly-created Apartment, as necessary, together with a verified statement of registered architect or professional engineer, in the manner required by Section 514A-12 of the Act, that said Condominium Map, as so amended, contains an accurate copy of portions of the plans of the newly-created Apartment(s) as filed with and approved by the county officer having jurisdiction over the issuance of permits for the completion of buildings, and that the plans fully and accurately depict the layout, location, apartment number(s), and dimensions of the Apartment(s) as built; and

3. Any such alteration associated with such conversion shall comply in all respects with all applicable governmental codes, statutes, ordinances and rules and regulations.

The right to amend this Declaration and the Condominium Map to effect the conversion of any limited common element into an Apartment and the alterations to floor plans shall occur at any

time or times prior to December 31, 2018 (provided that the Declarant shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all Apartment Owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018), and the Declarant may, without being required to obtain the consent or joinder of any Apartment Owner, lien holder or other persons, execute, deliver and record amendments to this Declaration and the Condominium Map and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the foregoing rights, powers or privileges.

Each and every party acquiring an interest in the Project, by such acquisition, consents to such conversions of the limited common elements, to the recalculation of the common interests appurtenant to each Apartment upon such conversion, and to the recording of any and all documents necessary to effect the same in the Recording Office, including any amendment or amendments of this Declaration and the Condominium Map; agrees to execute, deliver and record such documents and instruments and do such other things as may be necessary or convenient to effect the same, including, without limitation, any deed conveying any newly-created Apartment or conveying common interests (or portions thereof) which may be appurtenant to particular Apartments in the Project; and appoints the Declarant and its assigns his attorney-in-fact with full power of substitution to execute, deliver and record such documents and instruments and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties; which grant of such power shall be binding upon any assign of, or successor-in-interest to, any such party and shall be deemed to be automatically granted anew by any assign or successor-in-interest upon any transfer of any Apartment or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

10. The Developer reserves the right, at any time prior to December 31, 2018 (or such later date as determined by the Developer, but not later than December 31, 2044), to recharacterize and redesignate limited common elements appurtenant to the Clubhouse Apartment or the Banquet Pavilion as common elements. Section 28 of the Declaration provides as follows:

The Declarant shall have the reserved right, but not the obligation, to amend this Declaration to recharacterize and redesignate certain limited common elements as may be appurtenant to the Clubhouse Apartment or the Banquet Pavilion, as long as either is owned by the Declarant, as being common elements of the Project.

The right to amend the aforesaid Declaration to effect the recharacterization of any limited common element appurtenant to the Clubhouse Apartment or the Banquet Pavilion as common elements shall occur at any time or times prior to December 31, 2018 (provided that the Declarant shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all Apartment Owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018), and shall be in accordance with the terms of §514A-13 of the Act, and the Declarant may, without being required to obtain the consent or joinder of any Apartment Owner, lien holder or other persons, execute, deliver and record any deed and/or amendments to this Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the foregoing rights, powers or privileges.

Each and every party acquiring an interest in the Project, by such acquisition, consents to such recharacterization of the limited common elements, and to the recording of any and all documents necessary to effect the same in the Recording Office, including any amendment or amendments of this Declaration; agrees to execute, deliver and record such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Declarant and its assigns his attorney-in-fact with full power of substitution to

execute, deliver and record such documents and instruments and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties and shall be binding upon any assign of, or successor-in-interest to, any such party and shall be deemed to be automatically granted anew by any assign or successor-in-interest upon any transfer of any Guest Unit or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

11. The Developer reserves the right, at any time prior to December 31, 2018 (or such later date as determined by the Developer, but not later than December 31, 2044), to convey apartments owned by the Developer and appurtenant limited common elements to the Association of Apartment Owners. Section 29 of the Declaration provides as follows:

The Declarant shall have the reserved right, but not the obligation, to convey Apartments that are owned by the Declarant and free of liens to the Association and to redesignate limited common elements appurtenant to Apartments owned by the Declarant to Apartments owned by the Association and to the extent necessary or required, to amend this Declaration and the Condominium Map to effect the same.

The right to convey such Apartments or redesignate limited common elements, and, to the extent necessary, to amend the aforesaid Declaration to effect the same shall occur at any time or times prior to December 31, 2018 (provided that the Declarant shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all Apartment Owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018), and the Declarant may, without being required to obtain the consent or joinder of any Apartment Owner, lien holder or other persons, execute, deliver and record any deed and/or amendments to this Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the foregoing rights, powers or privileges.

Each and every party acquiring an interest in the Project, by such acquisition, consents to and accepts any such conveyance of Apartments to the Association and/or to redesignation of limited common elements from Apartments owned by the Declarant to Apartments owned by the Association, and to the recording of any and all documents necessary to effect the same in the Recording Office, including any amendment or amendments of this Declaration; agrees to execute, deliver and record such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Declarant and its assigns his attorney-in-fact with full power of substitution to execute, deliver and record such documents and instruments and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties and shall be binding upon any assign of, or successor-in-interest to, any such party and shall be deemed to be automatically granted anew by any assign or successor-in-interest upon any transfer of any Apartment or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

12. The Developer reserves the right, at any time prior to December 31, 2018 (or such later date as determined by the Developer, but not later than December 31, 2044), to redesignate limited common elements appurtenant to apartments owned by the Developer to other apartments owned by the Developer. Section 30 of the Declaration provides as follows:

The Declarant shall have the reserved right, to and until December 31, 2018 (provided that the Declarant shall have the further right to extend such date to a date no later than December 31, 2044, upon written notice to the Association, all Apartment Owners and the Real Estate Branch of the Department of Commerce and Consumer Affairs, State of Hawaii (or any successor department, branch or agency) given prior to December 31, 2018), to amend this Declaration to designate all or a portion of certain limited common elements as may be appurtenant to any

Apartment owned by the Declarant, to another Apartment or Apartments owned by the Declarant, and to execute, record and deliver any amendments to this Declaration and to the Condominium Map, as may be necessary or required to effect the same.

Each and every party acquiring an interest in the Project, by such acquisition, consents to such partial or total redesignation of said limited common elements appurtenant to any Apartment owned by the Declarant to another Apartment or Apartments owned by the Declarant, and to the recording of any and all documents necessary to effect the same in the Recording Office, including any amendment or amendments of this Declaration and the Condominium Map; agrees to execute, deliver and record such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Declarant and its assigns his attorney-in-fact with full power of substitution to execute, deliver and record such documents and instruments and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties; which grant of such power shall be binding upon any assign of, or successor-in-interest to, any such party and shall be deemed to be automatically granted anew by any assign or successor-in-interest upon any transfer of any Apartment or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

EXHIBIT "B"

BUILDINGS OF THE PROJECT

There are one hundred and ninety-five (195) separate condominium apartments in the Project situated in twenty-one (21) buildings without basements. One hundred ninety-three (193) of the apartments, sometimes referred to as "Guest Units", are situated in eighteen (18) of the buildings. One apartment, the Banquet Pavilion, comprises one building. One apartment, the Clubhouse Apartment, includes two (2) buildings. One additional building, the Maintenance Shop, is a limited common element appurtenant to the Clubhouse Apartment. One additional building, the Machine Room, is a part of the common elements.

EXHIBIT "C"

SCHEDULE OF APARTMENTS

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area</u> (square feet)	<u>Lanai Floor Area</u> (square feet)	<u>Total Floor Area</u> (square feet)	<u>Common Interest</u>
<u>Building A (Type A-7b)</u>					
A-101	GG	1,520	0	1,520	0.96760%
<u>Building B (Type A-6)</u>					
B-201	AA	308	95	403	0.25654%
B-202	AA	308	95	403	0.25654%
B-203	AA	308	95	403	0.25654%
B-204	AA	308	95	403	0.25654%
B-205	AA	308	95	403	0.25654%
B-206	AA	308	95	403	0.25654%
B-207	AA	308	95	403	0.25654%
B-208	AA	308	95	403	0.25654%
B-209	AA	308	95	403	0.25654%
B-210	AA	308	95	403	0.25654%
B-211	AA	308	95	403	0.25654%
B-212	AA	308	95	403	0.25654%
B-214	AA	308	95	403	0.25654%
B-215	AA	308	95	403	0.25654%
B-216	AA	308	95	403	0.25654%
B-217	AA	308	95	403	0.25654%
B-218	AA	308	95	403	0.25654%
B-219	AA	308	95	403	0.25654%

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area (square feet)</u>	<u>Lanai Floor Area (square feet)</u>	<u>Total Floor Area (square feet)</u>	<u>Common Interest</u>
B-220	AA	308	95	403	0.25654%
B-221	AA	308	95	403	0.25654%
B-222	AA	308	95	403	0.25654%
B-223	AA	308	95	403	0.25654%
B-224	AA	308	95	403	0.25654%
B-225	AA	308	95	403	0.25654%

Building C (Type A-7)

C-301	DD	332	0	332	0.21135%
C-302	DD	332	0	332	0.21135%
C-303	DD	332	0	332	0.21135%
C-304	DD	332	0	332	0.21135%

Building D (Type A-6)

D-401	AA	308	95	403	0.25654%
D-402	AA	308	95	403	0.25654%
D-403	AA	308	95	403	0.25654%
D-404	AA	308	95	403	0.25654%
D-405	AA	308	95	403	0.25654%
D-406	AA	308	95	403	0.25654%
D-407	AA	308	95	403	0.25654%
D-408	AA	308	95	403	0.25654%
D-409	AA	308	95	403	0.25654%
D-410	AA	308	95	403	0.25654%
D-411	AA	308	95	403	0.25654%
D-412	AA	308	95	403	0.25654%

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area (square feet)</u>	<u>Lanai Floor Area (square feet)</u>	<u>Total Floor Area (square feet)</u>	<u>Common Interest</u>
D-414	AA	308	95	403	0.25654%
D-415	AA	308	95	403	0.25654%
D-416	AA	308	95	403	0.25654%
D-417	AA	308	95	403	0.25654%
D-418	AA	308	95	403	0.25654%
D-419	AA	308	95	403	0.25654%
D-420	AA	308	95	403	0.25654%
D-421	AA	308	95	403	0.25654%
D-422	AA	308	95	403	0.25654%
D-423	AA	308	95	403	0.25654%
D-424	AA	308	95	403	0.25654%
D-425	AA	308	95	403	0.25654%

Building E (Type A-4)

E-501	BB	332	0	332	0.21135%
E-502	BB	332	0	332	0.21135%
E-503	BB	332	0	332	0.21135%
E-504	BB	332	0	332	0.21135%
E-505	CC	332	86	418	0.26609%
E-506	CC	332	86	418	0.26609%
E-507	CC	332	86	418	0.26609%
E-508	CC	332	86	418	0.26609%

Building F (Type A-4)

F-601	BB	332	0	332	0.21135%
F-602	BB	332	0	332	0.21135%

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area</u> (square feet)	<u>Lanai Floor Area</u> (square feet)	<u>Total Floor Area</u> (square feet)	<u>Common Interest</u>
F-603	BB	332	0	332	0.21135%
F-604	BB	332	0	332	0.21135%
F-605	CC	332	86	418	0.26609%
F-606	CC	332	86	418	0.26609%
F-607	CC	332	86	418	0.26609%
F-608	CC	332	86	418	0.26609%

Building G (Type A-4)

G-701	BB	332	0	332	0.21135%
G-702	BB	332	0	332	0.21135%
G-703	BB	332	0	332	0.21135%
G-704	BB	332	0	332	0.21135%
G-705	CC	332	86	418	0.26609%
G-706	CC	332	86	418	0.26609%
G-707	CC	332	86	418	0.26609%
G-708	CC	332	86	418	0.26609%

Building H (Type A-6)

H-801	AA	308	95	403	0.25654%
H-802	AA	308	95	403	0.25654%
H-803	AA	308	95	403	0.25654%
H-804	AA	308	95	403	0.25654%
H-805	AA	308	95	403	0.25654%
H-806	AA	308	95	403	0.25654%
H-807	AA	308	95	403	0.25654%
H-808	AA	308	95	403	0.25654%

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area (square feet)</u>	<u>Lanai Floor Area (square feet)</u>	<u>Total Floor Area (square feet)</u>	<u>Common Interest</u>
H-809	AA	308	95	403	0.25654%
H-810	AA	308	95	403	0.25654%
H-811	AA	308	95	403	0.25654%
H-812	AA	308	95	403	0.25654%
H-814	AA	308	95	403	0.25654%
H-815	AA	308	95	403	0.25654%
H-816	AA	308	95	403	0.25654%
H-817	AA	308	95	403	0.25654%
H-818	AA	308	95	403	0.25654%
H-819	AA	308	95	403	0.25654%
H-820	AA	308	95	403	0.25654%
H-821	AA	308	95	403	0.25654%
H 822	AA	308	95	403	0.25654%
H-823	AA	308	95	403	0.25654%
H-824	AA	308	95	403	0.25654%
H-825	AA	308	95	403	0.25654%

Building J (Type A-4)

J-901	BB	332	0	332	0.21135%
J-902	BB	332	0	332	0.21135%
J-903	BB	332	0	332	0.21135%
J-904	BB	332	0	332	0.21135%
J-905	CC	332	86	418	0.26609%
J-906	CC	332	86	418	0.26609%
J-907	CC	332	86	418	0.26609%
J-908	CC	332	86	418	0.26609%

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area (square feet)</u>	<u>Lanai Floor Area (square feet)</u>	<u>Total Floor Area (square feet)</u>	<u>Common Interest</u>
<u>Building K (Type A-7)</u>					
K-1001	DD	332	0	332	0.21135%
K-1002	DD	332	0	332	0.21135%
K-1003	DD	332	0	332	0.21135%
K-1004	DD	332	0	332	0.21135%
<u>Building L (Type A-7a)</u>					
L-1101	DD	332	0	332	0.21135%
L-1102	DD	332	0	332	0.21135%
L-1103	FF	677	0	677	0.43097%
<u>Building M (Type A-4)</u>					
M-1201	BB	332	0	332	0.21135%
M-1202	BB	332	0	332	0.21135%
M-1203	BB	332	0	332	0.21135%
M-1204	BB	332	0	332	0.21135%
M-1205	CC	332	86	418	0.26609%
M-1206	CC	332	86	418	0.26609%
M-1207	CC	332	86	418	0.26609%
M-1208	CC	332	86	418	0.26609%
<u>Building N (Type A-4)</u>					
N-1401	BB	332	0	332	0.21135%
N-1402	BB	332	0	332	0.21135%

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area (square feet)</u>	<u>Lanai Floor Area (square feet)</u>	<u>Total Floor Area (square feet)</u>	<u>Common Interest</u>
N-1403	BB	332	0	332	0.21135%
N-1404	BB	332	0	332	0.21135%
N-1405	CC	332	86	418	0.26609%
N-1406	CC	332	86	418	0.26609%
N-1407	CC	332	86	418	0.26609%
N-1408	CC	332	86	418	0.26609%

Building P (Type A-7a)

P-1501	DD	332	0	332	0.21135%
P-1502	DD	332	0	332	0.21135%
P-1503	FF	677	0	677	0.43097%

Building Q (Type A-6)

Q-1601	AA	308	95	403	0.25654%
Q-1602	AA	308	95	403	0.25654%
Q-1603	AA	308	95	403	0.25654%
Q-1604	AA	308	95	403	0.25654%
Q-1605	AA	308	95	403	0.25654%
Q-1606	AA	308	95	403	0.25654%
Q-1607	AA	308	95	403	0.25654%
Q-1608	AA	308	95	403	0.25654%
Q-1609	AA	308	95	403	0.25654%
Q-1610	AA	308	95	403	0.25654%
Q-1611	AA	308	95	403	0.25654%
Q-1612	AA	308	95	403	0.25654%
Q-1614	AA	308	95	403	0.25654%

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area</u> (square feet)	<u>Lanai Floor Area</u> (square feet)	<u>Total Floor Area</u> (square feet)	<u>Common Interest</u>
Q-1615	AA	308	95	403	0.25654%
Q-1616	AA	308	95	403	0.25654%
Q-1617	AA	308	95	403	0.25654%
Q-1618	AA	308	95	403	0.25654%
Q-1619	AA	308	95	403	0.25654%
Q-1620	AA	308	95	403	0.25654%
Q-1621	AA	308	95	403	0.25654%
Q-1622	AA	308	95	403	0.25654%
Q-1623	AA	308	95	403	0.25654%
Q-1624	AA	308	95	403	0.25654%
Q-1625	AA	308	95	403	0.25654%

Building R (Type A-4)

R-1701	BB	332	0	332	0.21135%
R-1702	BB	332	0	332	0.21135%
R-1703	BB	332	0	332	0.21135%
R-1704	BB	332	0	332	0.21135%
R-1705	CC	332	86	418	0.26609%
R-1706	CC	332	86	418	0.26609%
R-1707	CC	332	86	418	0.26609%
R-1708	CC	332	86	418	0.26609%

Building S (Type A-6 w/Type DD Apartment)

S-1801	AA	308	95	403	0.25654%
S-1802	AA	308	95	403	0.25654%
S-1803	AA	308	95	403	0.25654%

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area (square feet)</u>	<u>Lanai Floor Area (square feet)</u>	<u>Total Floor Area (square feet)</u>	<u>Common Interest</u>
S-1804	AA	308	95	403	0.25654%
S-1805	AA	308	95	403	0.25654%
S-1806	AA	308	95	403	0.25654%
S-1807	AA	308	95	403	0.25654%
S-1808	AA	308	95	403	0.25654%
S-1809	AA	308	95	403	0.25654%
S-1810	AA	308	95	403	0.25654%
S-1811	AA	308	95	403	0.25654%
S-1812	AA	308	95	403	0.25654%
S-1814	AA	308	95	403	0.25654%
S-1815	AA	308	95	403	0.25654%
S-1816	AA	308	95	403	0.25654%
S-1817	AA	308	95	403	0.25654%
S-1818	AA	308	95	403	0.25654%
S-1819	AA	308	95	403	0.25654%
S-1820	AA	308	95	403	0.25654%
S-1821	AA	308	95	403	0.25654%
S-1822	AA	308	95	403	0.25654%
S-1823	AA	308	95	403	0.25654%
S-1824	EE	627	190	817	0.52009%

Building T (Type A-7a)

T-1901	DD	332	0	332	0.21135%
T-1902	DD	332	0	332	0.21135%
T-1903	FF	677	0	677	0.43097%

<u>Apartment Number/Name</u>	<u>Apartment Type</u>	<u>Interior Floor Area (square feet)</u>	<u>Lanai Floor Area (square feet)</u>	<u>Total Floor Area (square feet)</u>	<u>Common Interest</u>
Clubhouse Apartment		50,053	7,484	57,537	36.62712%
Banquet Pavilion		15,649	6,333	21,982	13.99334

EXHIBIT "D"

BOUNDARIES OF APARTMENTS

The Guest Units, other than Apartment No. A-101, shall not be deemed to include the undecorated or unfinished surfaces of the perimeter or party walls or interior load-bearing walls, the floors and ceilings surrounding each Guest Unit or any pipes, wires, conduits or other utility or service lines running through such Guest Unit which are utilized for or serve more than one Guest Unit, the same being deemed common elements. Each such Guest Unit shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter or party walls, doors and door frames, windows and window frames, all adjacent lanais and lanai air space, the inner decorated or finished surfaces of all walls, floors and ceilings, and all fixtures originally installed therein.

Apartment No. A-101 is an entire building, Building A. The boundaries of Apartment No. A-101 consist of the exterior surfaces of the perimeter walls, roofs and eaves and the bottom surfaces of the foundations and/or floors of Building A and includes any exterior entry area, gutters, downspouts or railings attached to and a part of Building A.

The boundaries of the Clubhouse Apartment include the areas surrounding the Clubhouse Building, the Terrace Bar and the swimming pool as shown outlined on the Condominium Map.

The boundaries of the Banquet Pavilion consist of the exterior surfaces of the perimeter walls, roofs and eaves and the bottom surfaces of the foundations and/or floors of the Banquet Pavilion, and includes any exterior entry areas and walkways, all adjacent lanais and lanai air space, stairs, gutters, downspouts or railings attached to and a part of the Banquet Pavilion.

EXHIBIT "E"

PERMITTED ALTERATIONS TO APARTMENTS

Section 15 of the Declaration provides as follows:

Except as otherwise provided by Sections 19, 20, 21, 22, 26 and 27 below or applicable law, restoration or replacement of the Project or any building or other structure thereof or construction of any additional building or other structure or structural alteration or addition thereto different in any material respect from the Condominium Map shall be undertaken by the Association or any Apartment Owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to a vote by a Special Majority of Apartment Owners and in accordance with complete plans and specifications therefor first approved in writing by the Board, and promptly upon completion of such restoration, replacement, construction, alteration or addition the Association shall duly record or file of record such amendment together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer; PROVIDED, HOWEVER, that:

(a) notwithstanding any provision in this Declaration to the contrary, any alterations or additions to an Apartment or of certain Apartments, or within a limited common element appurtenant to and for the exclusive use of an Apartment or of certain Apartments, including without limitation any fence and/or wall, shall require only the written approval thereof, including the Apartment Owner's plans therefor, by the Board, and all other Apartment Owners thereby directly affected (as determined by said Board), and such alterations or additions may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the Project as so altered; and

(b) the owner(s) of the two adjoining Apartments, at their expense, and with the consent of the Board and the Managing Agent, which consent may be arbitrarily withheld, may remove or alter the common wall between the two Apartments with the written approval by the institutional holders of mortgages covering such Apartments (if the mortgagees require such approval), provided that the structural integrity of the building is not affected by such removal or alteration and the owner(s) provide written notice to the Board of such removal or alteration. If, subsequent to such removal or alteration, ownership of one or both of the Apartments is transferred, then the owner(s) of the Apartments, at their expense, shall restore the common wall to its original condition prior to the transfer of ownership unless the new owner(s) accept the common wall in its altered condition. The owner(s) of the Apartments shall provide written notice to the Board if the common wall is restored to its original condition.

Non-material additions to the common elements shall require approval only by the Board and by the Majority of Apartment Owner. For so long as a statutory definition of "non-material structural additions to the common elements" shall be prescribed by Section 514A-89 of the Act, as it may be amended from time to time or by any substitute or successor statute, said statutory definition shall be applied in interpreting the foregoing sentence.

EXHIBIT "F"

COMMON ELEMENTS

1. The Land of the Project in fee simple.
2. The Maintenance Shop.
3. The Machine Room.
4. The cooling tower and pad.
5. The luau grounds.
6. All yards, grounds, trees, landscaping, fences and walls.
7. All roads, parking stalls, sidewalks and walkways.
8. All pipes, wires, cables, conduits, ducts, water meters, electrical equipment, and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one Apartment for services such as power, light, gas, water, sewer, telephone, television and cable signal distribution, if any.
9. Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.

EXHIBIT "G"

LIMITED COMMON ELEMENTS

1. Any entry areas, stairways and passage ways of any building shall be appurtenant to and for the exclusive use of the Apartments located within the building.
2. The Maintenance Shop shall be appurtenant to and for the exclusive use of the Clubhouse Apartment.
3. All parking stalls shall be appurtenant to and for the exclusive use of the Clubhouse Apartment and the persons authorized to use the parking stalls by the owner of the Clubhouse Apartment.
4. The service tunnel connecting the ground floor of the Clubhouse Building and the Banquet Pavilion shall be appurtenant to and for the exclusive use of the Clubhouse Apartment and the Banquet Pavilion.
5. The luau grounds shall be appurtenant to and for the exclusive use of the Banquet Pavilion.

EXHIBIT "H"

ENCUMBRANCES AGAINST TITLE

The following are the encumbrances against title to the land of the Project, identified as a portion of Tax Map Key No. (1) 8-4-002-051:

1. For Real Property taxes that may be due and owing reference is made to the Office of the Tax Assessor, City and County of Honolulu.
2. Grant to Hawaiian Electric Company, Inc. and GTE Hawaiian Telephone Company Incorporated, now known as Verizon Hawaii Inc. dated February 19, 1951, filed as Land Court Document No. 126432, granting an easement for utility purposes.
3. Designation of Easement "98" (5 feet wide), as shown on Map 119, as set forth by Land Court Order No. 42446, filed July 23, 1975.
4. Declaration dated March 6, 1979, filed as Land Court Document No. 931192,
5. Encroachments or any other matters as shown on survey map prepared by Russell Figueiroa, Land Surveyor, with R.M. Towill Corporation, dated September 26, 2000.
6. Declaration of Condominium Property Regime of Makaha Resort & Golf Club Condominiums dated November 24, 2003, recorded as Land Court Document No. 3037476, and Condominium Map No. 1593, as amended by First Amendment of Declaration of Condominium Property Regime of Makaha Resort & Golf Club Condominiums and Condominium Map No. 1593 dated February 2, 2004, recorded as Land Court Document No. 3064513.
7. By-Laws of the Association of Apartment Owners of Makaha Resort & Golf Club Condominiums dated November 24, 2003, recorded as Land Court Document No. 3037499.

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

Estimate of Initial Maintenance Fees:

<u>Apartment Type</u>	<u>Monthly Fee x 12 months = Yearly Total</u>	
AA	\$ 142.67	\$ 1,712.04
BB	\$ 117.54	\$ 1,410.48
CC	\$ 147.99	\$ 1,775.88
DD	\$ 117.54	\$ 1,410.48
EE	\$ 289.25	\$ 3,471.00
FF	\$ 239.69	\$ 2,876.28
GG	\$ 538.13	\$ 6,457.56
Clubhouse Apartment	\$20,370.17	\$244,442.04
Banquet Pavilion	\$ 7,782.40	\$ 93,388.80

**SEE ATTACHED EXHIBIT A**

The Developer has not 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.

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

EXHIBIT "A"  
 AOOO MAKAHA RESORT & GOLF CLUB CONDOMINIUMS  
 Estimated Annual Common Expense

	<u>Monthly</u>	<u>Annual</u>
<b>Utilities and Services</b>		
Electricity	\$21,000.00	\$252,000.00
Water	\$ 5,000.00	\$ 60,000.00
Air conditioning	\$ 150.00	\$ 1,800.00
Refuse collection	\$ 475.00	\$ 5,700.00
 <b>Maintenance, Repairs and Supplies</b>		
Building and grounds	\$ 500.00	\$ 6,000.00
 <b>Management</b>		
Office expenses	\$ 100.00	\$ 1,200.00
Telephone	\$ 40.00	\$ 480.00
 <b>Insurance</b>	\$ 8,000.00	\$ 96,000.00
 <b>Reserves</b>	\$20,000.00	\$240,000.00
 <b>Professional services – audit</b>	\$ 100.00	\$ 1,200.00
<b>Other - legal expenses</b>	\$ 250.00	\$ 3,000.00
 <b>TOTAL</b>	 \$55,615.00	 \$667,380.00

I, Richard H. Lachmann, as agent for and/or employed by the developer for the condominium project MAKAHA RESORT & GOLF CLUB CONDOMINIUMS, hereby certify that the above estimates of initial maintenance fees assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Richard H. Lachmann

12/2/03

Date

EXHIBIT "J"

SUMMARY OF SALES CONTRACT

A copy of the form of Condominium Reservation Agreement, Deposit Receipt and Sales Agreement ("Sales Contract") has been submitted to the Real Estate Commission and is available for inspection at the Developer's office. The following is a summary of some of the provisions of the Sales Contract. ALL BUYERS AND PROSPECTIVE BUYERS SHOULD CAREFULLY READ THE SALES CONTRACT IN FULL SINCE THIS SUMMARY IS NOT INTENDED TO BE A COMPLETE DESCRIPTION OF THE PROVISIONS OF THE SALES CONTRACT.

1. The Sales Contract does not become a binding contract until the Effective Date occurs. Until the Effective Date, the Sales Contract is only a reservation for the Apartment and is not legally binding on either Buyer or Developer. The Effective Date of the Sales Contract shall be the date on which all of the following conditions are fulfilled:

(a) A copy of the Final Public Report covering the Apartment is mailed or otherwise delivered to the Buyer;

(b) Buyer has waived or be deemed to have waived Buyer's right to terminate the Sales Contract pursuant to Hawaii Revised Statutes, Section 514A-62, as amended; and

(c) The Sales Contract has been accepted by Developer through execution of the Sales Contract by Developer's officers or designated agents.

2. Section G.3 of the Sales Contract provides as follows:

Warranties. Seller makes no warranties itself regarding the Apartment or the Project or any furnishings, fixtures and appliances in the Apartment.

It is expressly understood and agreed by and between Seller and Buyer that SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE APARTMENT, CONSUMER PRODUCTS INSTALLED THEREIN, THE PROJECT OR ANYTHING INSTALLED THEREIN, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS OF THE APARTMENT FOR A PARTICULAR USE OR PURPOSE OR FOR SUFFICIENCY OF DESIGN.

3. Buyer agrees that all payments required by the Sales Contract will be deposited with Escrow and that all checks will be made payable to Escrow. Buyer also agrees that any money that Buyer deposits with Escrow may be deposited together with other buyers' money in a federally insured interest bearing account, and that Escrow may distribute the money in this account according to an Escrow Agreement between Developer and Escrow. Buyer also agrees that all the interest earned from the funds deposited by buyers will be credited to Developer.

In case Buyer is late in making payments to Escrow, the late payment will bear interest at the rate of one percent (1%) per month until paid.

4. All taxes, assessments, and charges of any kind assessable against the Apartment or the land of the Project will be prorated as of the Closing Date. This means that Buyer will have to pay Buyer's share of these taxes and assessments at the Closing Date. In addition, Buyer will be responsible for paying all closing costs in connection with the purchase of the Apartment, including all costs related to any mortgages, all notary fees,

recording fees, escrow fees, title insurance, conveyance taxes and fees, and preparation of the Apartment Deed to Buyer.

5. In addition to all other funds due, Buyer must deposit with Escrow at Preclosing a nonrefundable "start-up" fee for the Condominium Association. This start-up fee is an initial contribution to the Association common expenses reserve. The minimum amount of the start-up fee will be equal to two (2) months of estimated assessments for common expenses. This amount is separate from the purchase price and closing costs for the Apartment.

6. Buyer may not assign Buyer's rights under the Sales Contract without the prior written consent of Developer. Under no circumstances may Buyer assign Buyer's rights to the agreement after the Preclosing or the Closing Date. If Buyer attempts to assign the agreement without Developer's written consent, Buyer shall be in default under the Sales Contract.

7. The Developer may, at its option, preclose the sale of Apartments by requiring the Buyer to deliver all documents necessary for closing and certain funds to Escrow up to sixty (60) days prior to the closing date. Buyer will have ten (10) days notice of such preclosing. Buyer must deposit all funds other than the proceeds of Buyer's first mortgage loan or the balance of the purchase price for a cash sale with Escrow, including the advanced payment for a maintenance assessment fund. Buyer must also sign all documents required for closing.

8. Buyer shall not be able to occupy the Apartment until the Closing Date for the sale of the Apartment. Developer or Escrow will notify Buyer of when the Closing Date will take place. Buyer will not be able to take occupancy until all payments required by the Sales Contract have been made. Keys will not be issued for the Apartment unless all payments have been made. If Buyer attempts to take occupancy of the Apartment prior to the Closing Date, then Buyer will be in default of the Sales Contract, and Developer has the right to remove Buyer from the Apartment using any lawful means.

9. Buyer agrees to accept an Apartment as suitable for occupancy even if there are defects or damage to the Apartment, as long as Developer promises to repair these defects within a reasonable time after Buyer takes occupancy. If Buyer wrongfully refuses to take occupancy of a defective Apartment, Buyer may have to bear the cost of Developer's costs in any resulting legal action. Developer will notify Buyer that the Apartment is ready for inspection prior to occupancy. Buyer then has fifteen (15) days from the date Buyer receives notification to inspect the Apartment. If Buyer does not inspect the Apartment within this time, Developer may appoint an appropriate person to inspect the Apartment on Buyer's behalf and decide if it is acceptable.

10. The Developer reserves the right to change the Project and modify the condominium map and any other condominium documents for any reason up to the Effective Date of the agreement.

11. The Developer reserves the right, but is not obligated, to modify the Project by creating additional apartments; by subdividing and withdrawing a portion of the land and the Clubhouse Apartment, the Banquet Pavilion, the limited common elements appurtenant thereto and the common elements associated therewith; by constructing and merging one or more additional condominium projects; and by Lots 1024, 1025-A, 1025-B, 1025-C, 1612 and/or 1613 described in Exhibit "C" to the Declaration and any improvements thereon to the Project. See Exhibit A to this Final Condominium Public Report.

12. By signing the Sales Contract, Buyer represents that Buyer is financially capable of paying the purchase price for the Apartment. Buyer also represents that any financial data he has given Developer is accurate. If Buyer does not notify Developer that Buyer's financial situation has changed as of the Closing Date, Developer will assume that the information Developer has is accurate. If the Developer discovers that any important financial data provided to Developer is not accurate and Buyer failed to notify Developer of this inaccuracy, Developer has the right to cancel the Sales Contract.

If Buyer intends to finance the purchase of an Apartment, Buyer must apply for financing and

inform Developer of the name and address of the lending institution within five (5) days of Developer's acceptance of the Sales Contract or, if the Sales Contract is a reservation, from the Effective Date of the Sales Contract. Buyer agrees to do everything possible and/or necessary to successfully obtain the loan. Within fifty-five (55) days of Developer's acceptance of the Sales Contract or, if the Sales Contract is a reservation, from the Effective Date of the Sales Contract, Buyer must deliver to Developer a written, unqualified loan commitment that is reasonably acceptable to Developer signed by the lending institution agreeing to make the loan to Buyer.

If Buyer tries in good faith and with diligent effort to obtain financing but is unsuccessful in doing so, then either Developer or Buyer may cancel the Sales Contract upon written notice to the other party. If the Sales Contract is cancelled in this manner, Buyer is entitled to a refund from Escrow of Buyer's money, without interest and minus any costs incurred by Developer, Escrow, or any lending institution in processing the Sales Contract or the Buyer's loan application(s).

If Buyer does not apply for and do everything possible and/or necessary to successfully obtain the loan, then Developer may cancel the Sales Contract upon written notice to Buyer and Developer may keep all money previously paid by Buyer and any interest earned.

If Buyer is making a cash purchase of an Apartment, Buyer must provide proof to Developer within ten (10) days after Developer accepts the Sales Contract that Buyer is financially capable of making all payments under the Sales Contract. Developer has the option to terminate the Sales Contract if Developer determines at any time that Buyer is unable to make the required payments. If the Sales Contract is cancelled in this manner, Buyer is entitled to a refund from Escrow of Buyer's money, without interest and less escrow charges, the cost of any credit reports and all other costs incurred by Developer. Developer will give Buyer notice of any such cancellation.

13. As long as the Sales Contract is only a reservation, it may be terminated for any reason and at any time at the option of either Buyer or Developer, by giving written notice of termination to the other party. In the event of a termination, the Developer will instruct Escrow to refund all payments previously made by Buyer, without interest. Additionally, if the Buyer is terminating the Sales Contract pursuant to Hawaii Revised Statutes, Section 514A-63, as amended, then Escrow shall deduct an escrow cancellation fee and all costs incurred by Developer, escrow, or any lending institution in processing the Sales Contract or loan application.

14. If Buyer defaults, Developer may cancel the Sales Contract by notifying Buyer in writing. If the cancellation occurs after the Effective Date of the Sales Contract, the Developer may keep any amounts previously paid by Buyer as liquidated damages to compensate Developer for its damages. In addition, Developer may also pursue any other legal remedy for Buyer's default.

If Developer defaults after the Effective Date of the Sales Contract, Buyer's only remedy is to cancel the Sales Contract and have all of Buyer's money refunded.

15. Developer has the option to cancel the Sales Contract if unanticipated delays in construction cause the cost of development to increase to the point where the Project is no longer economically feasible for the Developer. In this case, Developer may cancel the Sales Contract and refund Buyer's money in the same way as for a cancellation due to lack of sales described above.

16. By entering into the Sales Contract, Buyer acknowledges that Buyer has never received any information of representations from Developer or any of Developer's agents regarding rental income from the Apartment or other economic or tax benefits that Buyer may receive from ownership of the Apartment. The Buyer further agrees that he or she will not participate in any rental pool for the renting of the Apartment. Buyer may be required to sign documents which satisfy the Developer that no such representations have been made.

EXHIBIT "K"

SUMMARY OF ESCROW AGREEMENT

A copy of the Escrow Agreement between the Developer and Title Guaranty Escrow Services, Inc. ("Escrow"), has been submitted to the Real Estate Commission and is available for inspection at the Developer's office. The following is a summary of some of the provisions of the Escrow Agreement.

NOTE: ALL BUYERS AND PROSPECTIVE BUYERS SHOULD READ THE ESCROW AGREEMENT AND ALL AMENDMENTS IN FULL AS THIS SUMMARY DOES NOT CONTAIN A COMPLETE DESCRIPTION OF ALL PROVISIONS IN THE ESCROW AGREEMENT. THIS SUMMARY IS INTENDED ONLY TO GIVE A BRIEF DESCRIPTION OF SOME OF THE ITEMS CONTAINED IN THE ESCROW AGREEMENT, AND DOES NOT ALTER OR AMEND THE ESCROW AGREEMENT IN ANY MANNER.

1. A signed copy of each sales contract for an Apartment in the Project must be given to Escrow.
2. All money received by the Developer from buyers under sales contracts for apartments in the Project must be given to Escrow. Escrow, in accordance with written instructions from the Developer, shall deposit all money so received in accounts at a federally insured bank, savings and loan association or other financial institution which pays interest on deposits. Any interest earned on funds deposited into Escrow will accrue as set forth in the sales contract unless otherwise provided.
3. Escrow may not make any disbursements of funds until certain conditions, including the issuance of a Final Public Report of the Project by the Real Estate Commission, have been met.
4. Under certain conditions, a buyer shall be entitled to a refund. Escrow shall pay this refund to the buyer without interest less a reasonable escrow cancellation fee.
5. If a buyer fails to claim a refund for a cancelled sales contract, Escrow shall deposit the refund in a special account in a bank or other depository selected by Escrow, in the name of the Developer as trustee for the benefit of the buyer. Escrow will then attempt to notify the buyer about the refund.
6. If a buyer fails to make a payment to Escrow in a timely manner, Escrow will notify Developer. If the Developer subsequently notifies Escrow in writing that Developer has terminated the sales contract and provides Escrow with copies of all notices of termination sent to the buyer, Escrow will then treat any funds the buyer has already paid as though they belong to the Developer. Upon written request by the Developer, Escrow will pay all such sums to Developer minus any escrow cancellation fee.
7. The Escrow Agreement is subject to the provisions of Hawaii Revised Statutes, Chapter 514A, as it may be amended.