CONDOMINIUM PUBLIC REPORT

Prepared & Issued by:
Developer Popkin Weinstein I, LLC
Address 2025 First Avenue, Suite 1080, Seattle, Washington 98121
Project Name (*): PAPALI WAILEA
Address: 3100 Wailea Alanui Drive, Wailea, Maui, Hawaii 96753

Registration No. 5508

Effective date: March 9, 2005
Expiration date: December 9, 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__ **CONTINGENT FINAL: (green)** The developer has legally created a condominium and has filed information with the Commission for this report which EXPIRES NINE (9) MONTHS after the above effective date. Contingent Final public reports may not be extended or renewed.
- ☐ No prior reports have been issued.
- ☒ This report supersedes all prior public reports.

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

FORM: RECO-30 1297 / 0298 / 0800 / 0203 / 0104

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: SEE EXHIBIT A

SPECIAL ATTENTION

This Contingent Final Public Report has been prepared by the Developer pursuant to §514A-39.5, HRS. The Real Estate Commission issued this report before the developer submitted certain documents and information as more fully set forth in the statutory notice below. Sales contract executed pursuant to this report **are binding on the buyer under those conditions specified immediately below** and in Part V. B. of this report found on pages 18 & 19 of this report. This report expires nine (9) months after the effective date of the report and may not be extended or renewed.

STATUTORY NOTICE

"The effective date for the Developer's Contingent Final Public Report was issued before the Developer submitted to the Real Estate Commission: the executed and recorded deed or master lease for the project site; the executed construction contract for the project; the building permit; satisfactory evidence of sufficient funds to cover the total project cost; or satisfactory evidence of a performance bond issued by a surety licensed in the State of not less than one hundred percent of the cost of construction, or such other substantially equivalent or similar instrument or security approved by the Commission. Until the Developer submits each of the foregoing items to the Commission, all Purchaser deposits will be held by the escrow agent in a federally-insured, interest-bearing account at a bank, savings and loan association, or trust company authorized to do business in the State. If the Developer does not submit each of the foregoing items to the Commission and the Commission does not issue an effective date for the Final Public Report before the expiration of the Contingent Final Public Report, then:

(1) The Developer will notify the Purchaser thereof by certified mail; and

(2) Either the Developer or the Purchaser shall thereafter have the right under Hawaii law to rescind the Purchaser's sales contract. In the event of a rescission, the Developer shall return all of the Purchaser's deposits together with all interest earned thereon, reimbursement of any required escrow fees, and, if the Developer required the Purchaser to secure a financing commitment, reimburse any fees the Purchaser incurred to secure that financing commitment." (§514A-64.5, HRS)

The developer is not required to submit but has for this registration submitted the following documents and information:

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General Information On Condominiums

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

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

If you are a typical condominium 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: Popkin Weinstein I, LLC
Name*
2025 First Avenue, Suite 1080
Business Address
Seattle, Washington 98121

Phone: (206) 448-1393
(Business)

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

Real Estate Broker*: The Wailea Group LLC
Name*
3750 Wailea Alanui Drive, Suite 5EW
Business Address
Wailea, Maui, Hawaii 96753

Phone: (808) 875-6911
(Business)

Escrow: Title Guaranty Escrow Services, Inc.
Name*
First Floor, 235 Queen Street
Business Address
Honolulu, Hawaii 96813

Phone: (808) 521-0211
(Business)

General Contractor*: N/A
Name*

Business Address

Phone:
(Business)

Condominium Managing Agent*: Self-Managed
Name*

Business Address

Phone:
(Business)

Attorney for Developer: McCorriston Miller Mukai MacKinnon LLP
Attn.: D. Scott MacKinnon, Esq.
Name*
Suite 400, Five Waterfront Plaza, 500 Ala Moana Blvd.
Business Address
Honolulu, Hawaii 96813

Phone: (808) 529-7300
(Business)

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

II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

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

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

The Declaration for this condominium is:

☐ Proposed
☐ Recorded - Bureau of Conveyances: Document No. _____
Book _____ Page _____
☒ Filed - Land Court: Document No. 3229243

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

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

The Condominium Map for this condominium project is:

☐ Proposed
☐ Recorded - Bureau of Conveyances Condo Map No. _____
☒ Filed - Land Court Condo Map No. 1694

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

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

The Bylaws for this condominium are:

☐ Proposed
☐ Recorded - Bureau of Conveyances: Document No. _____
Book _____ Page _____
☒ Filed - Land Court: Document No. 3229244

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

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

The House Rules for this condominium are:

☐ Proposed ☒ Adopted ☐ Developer does not plan to adopt House Rules

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

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

	Minimum Set by Law	This Condominium
Declaration (and Condo Map)	75%*	75%
Bylaws	65%	65%
House Rules	---	N/A

* 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 C

III. THE CONDOMINIUM PROJECT

A. **Interest to be Conveyed to Buyer:**

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

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

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

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

Lease Term Expires: _____ Rent Renegotiation Date(s): _____

Lease Rent Payable: ☐ Monthly ☐ Quarterly ☐ Semi-Annually ☐ Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per: ☐ Month ☐ Year

For Sub-leaseholds:

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

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

☐ Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

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

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

Lease Term Expires: _____ Rent Renegotiation Date(s): _____

Lease Rent Payable: ☐ Monthly ☐ Quarterly ☐ Semi-Annually ☐ Annually

Exhibit _____ contains a schedule of the lease rent for each apartment per: ☐ Month ☐ Year

☐ Other:

IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS

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

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

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

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

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

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

B. **Underlying Land:**

Address: 3100 Wailea Alanui Drive
Wailea, Maui, Hawaii 96753

Tax Map Key (TMK): (2) 2-1-008: 084

☐ Address ☐ TMK is expected to change because _____

Land Area: 10.446 ☐ square feet ☒ acre(s) Zoning: Residential

Fee Owner: Popkin Weinstein I, LLC
Name
2025 First Avenue, Suite 1080
Address
Seattle, Washington 98121

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: 26 Floors Per Building: 1

   ☐ Exhibit _____ contains further explanations.

3. Principal Construction Material:

   ☒ Concrete ☐ Hollow Tile ☒ Wood

   ☒ Other: Concrete block, gypsum board, metal stud partitions, and glass

4. Uses Permitted by Zoning:

		No. of Apts.	Use Permitted By Zoning	
☒	Residential	24	☒ Yes	☐ No
☐	Commercial		☐ Yes	☐ No
☐	Mix Res/Comm		☐ Yes	☐ No
☐	Hotel		☐ Yes	☐ No
☐	Timeshare		☐ Yes	☐ No
☐	Ohana		☐ Yes	☐ No
☐	Industrial		☐ Yes	☐ No
☐	Agricultural		☐ Yes	☐ No
☐	Recreational		☐ Yes	☐ No
☐	Other		☐ Yes	☐ No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?
☒ Yes ☐ No

5. Special Use Restrictions:

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

☒ Pets: SEE EXHIBIT D

☒ Number of Occupants: SEE EXHIBIT D

☐ Other: _____

☐ There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Net Other Area (sf)	(Identify)
SEE EXHIBIT E					

Total Number of Apartments: 24

*** 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 F

Permitted Alterations to Apartments: SEE EXHIBIT G

Apartments Designated for Owner-Occupants Only:

Fifty percent (50%) of **residential** apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has _____ elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 77

	Regular		Compact		Tandem		
	Covered	Open	Covered	Open	Covered	Open	TOTAL
Assigned (for each unit)	1	1					48
Guest		29					29
Unassigned							
Extra for Purchase							
Other:							
Total Covered & Open:	77						77

Each apartment will have the exclusive use of at least 2 parking stall(s).
Buyers are encouraged to find out which stall(s) will be available for their use.

☐ Commercial parking garage permitted in condominium project.

☐ Exhibit _____ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

☐ There are no recreational or common facilities.

☒ Swimming pool ☐ Storage Area ☐ Recreation Area

☐ Laundry Area ☐ Tennis Court ☐ Trash Chute/Enclosure(s)

☒ Other: Recreation Building adjacent to pool, containing fitness center, kitchen and restrooms

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

☒ There are no violations. ☐ Violations will not be cured.

☐ Violations and cost to cure are listed below: ☐ Violations will be cured by _____ (Date)

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

N/A

11. Conformance to Present Zoning Code

a. ☒ No variances to zoning code have been granted.

☐ Variance(s) to zoning code was/were granted as follows:

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

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

	Conforming	Non-Conforming	Illegal
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 _____.

☒ as follows: All parts of the Condominium except the "Units" are designated as "Common Elements".

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 H.

☐ 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 _____.

☒ as follows: Unit Nos. 1-23 have a common interest of 4.1667%; Unit No. 24 has a common interest of 4.1659%

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 I describes the encumbrances against the title contained in the title report dated February 3, 2005 and issued by Title Guaranty of Hawaii, Incorporated.

Blanket Liens:

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

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

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

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

Type of Lien	Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
Mortgage	If the Developer defaults before the Unit is conveyed to the Buyer, the Mortgagee will have the right to decide whether to sell the Unit to the Buyer under the Sales Contract. If the Buyer's interest is terminated by the Mortgagee, then the Buyer's deposit will be refunded to the Buyer, less the escrow cancellation fee.

F. **Construction Warranties:**

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

1. Building and Other Improvements: Developer is not making any warranties, either express or implied.

The Developer currently anticipates, but does not guarantee, that the construction contract for the Project will contain a provision under which for a period of one year after the date of "Substantial Completion", the contractor will correct "Work" that is "found to be not in accordance with the requirements of the Contract Documents" as those terms are defined in the construction contract.

If such a provision is contained in the construction contract and a purchaser gives Developer written notice of any such condition promptly after discovering it and before the one-year warranty by the relevant contractor has expired (and before Developer accepts the condition), then Developer will forward the purchaser's notice to the contractor together with a notice from Developer asking the contractor to correct the Work. However, Developer is not joining in the contractor's warranties or guarantying that the contractor will fix any defects or honor the contractor's warranties.

2. Appliances: Developer is not making any warranties, either express or implied.

However, the closing of the sale of the Unit shall constitute the assignment by Developer to Buyer, for the unexpired term, if any, of any manufacturer's or dealer's warranties covering any furnishings, fixtures and appliances that are part of the Unit. Developer is merely attempting to pass through to Buyer any such manufacturer's or dealer's warranties; Developer is not adopting any such warranties or acting as co-warrantor with respect to any furnishings, fixtures or appliances. The terms of the manufacturer's or dealers written warranties shall be available for buyer's examination at Developer's sales office.

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

Construction of the Project is currently estimated to begin on or about April 1, 2005 and to be completed on or before April 1, 2007.

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):

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 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 fees may vary depending on the services provided.

Exhibit __J__ 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 (_X_ Common Elements Only _____ Common Elements & Apartments)

☒ Gas (_X_ Common Elements Only _____ Common Elements & Apartments)

☒ Water (Common Elements Only) ☒ Sewer (Common Elements Only) ☒ Television Cable

☒ Other: Trash Removal

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 __K__ contains a summary of the pertinent provisions of the sales contract.

☐ Escrow Agreement dated __June 25, 2004__
Exhibit __L__ 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.

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

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

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

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

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

A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**

B) The buyer has not waived the right to rescind.

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

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

A) Condominium Public Reports issued by the developer which have been 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 (i) Wailea Community Association Amended and Restated Declaration of Covenants and Restrictions dated July 15, 1998 (Document No. 2479882); (ii) Additional Declaration of Covenants, Conditions and Restrictions dated May 14, 2004 (Document No. 3110204); (iii) Special Management Area Permit dated January 19, 2005 (SM1 2004/0026); and (iv) Planned Development Step 2 Approval dated January 19, 2005 (PD2 2004/0008).

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

Website to access official copy of laws:	www.capitol.hawaii.gov
Website to access unofficial copy of laws:	www.hawaii.gov/dcca/hrs
Website to access rules:	www.hawaii.gov/dcca/har

This Public Report is a part of Registration No. 5508 filed with the Real Estate Commission on October 29, 2004.

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

☐ YELLOW paper stock ☐ WHITE paper stock ☐ PINK paper stock ☒ GREEN paper stock

C. **Additional Information Not Covered Above**
SEE EXHIBIT M

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

Popkin Weinstein I, LLC
Printed Name of Developer

By: _____ 2-11-05
Duly Authorized Signatory* Date

Henry Popkin, Manager
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Maui

Planning Department, County of Maui

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

SUMMARY OF CHANGES FROM EARLIER PUBLIC REPORTS

The summary set forth below contains a general description of the changes made by the developer since the issuance of the Preliminary Public Report on the Project on November 30, 2004. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier Preliminary Public Report if they wish to know all of the specific changes that have been made.

1. The developer did not to commence sales of the Units in the Project upon issuance of the effective date for the Preliminary Public Report. Rather the developer elected to defer the commencement of any sales of Units in the Project until March 1, 2005, on which date the developer will begin its owner occupant sales in accordance with the requirements of the Hawaii Condominium Property Act. The developer has included the appropriate information relating to its owner occupant sales in an advertisement as required by Section 514A-102 which was first published on February 27, 2005.

2. The developer does not anticipate offering to sell Units in the Project to persons other than owner occupants until after the date of issuance of the effective date for this Contingent Final Public Report.

3. Developer has adopted House Rules for the Project as of February 8, 2005, and a copy of the adopted House Rules have been filed with the Commission.

4. Developer has elected for the Project to initially be self-managed by the Association of Unit Owners with a hired resident manager. However the Owners do retain the right in the future to elect to retain the services of a corporate managing agent.

5. The prior listing of encumbrances against title to the Project (Exhibit H of the Preliminary Public Report) listed two Declarations of Covenants, Conditions and Restrictions relating to the Wailea Community golf courses. It was subsequently determined that these two Declarations encumber only the golf course properties themselves and provide a benefit to owners of the benefited lots described therein, including the Project lands. Since these two (2) declarations do not encumber the Project lands they were removed as title encumbrances as reflected in the updated Preliminary Title Report filed with the Commission.

6. The prior listing of encumbrances against title to the Project (Exhibit H of the Preliminary Public Report) was revised to include the Declaration of Condominium Property Regime of Papali Wailea dated February 7, 2005, filed in the Office of the Assistant Registrar of the Land Court as Document No. 3229243, the Bylaws of the Association of Unit Owners of Papali Wailea dated February 7, 2005, filed as Land Court Document No. 3229244, and Condominium Map No. 1694 filed with the Land Court as encumbrances against title.

7. The Sales Contract was revised to change the developer's commitment to deliver the completed Unit from 2 years to 30 months after the date that the sales contract becomes fully binding. The Project is exempt from any requirements arising under the Interstate Land Sales Full Disclosure Act because there are fewer than 25 Units in the Project.

8. On January 19, 2005 the Developer obtained final approval from the Planning Commission of the County of Maui of that certain Special Management Area Permit (SM1 - 2004/0026) and that certain Planned Development Step 2 Approval (PD2 - 2004/0008) and Paragraph 1 in Exhibit M under the heading Miscellaneous was modified to expressly refer to and cover these two (2) issued permits as governing development on the Project lands rather than the generic reference to permits contained in the prior Preliminary Public Report with respect to the same. A copy of these two (2) permits has been filed with the Commission.

Exhibit B

LIST OF MEMBERS OF DEVELOPER

The Members of the Developer are:

1. POPKIN DEVELOPMENT WM LIMITED PARTNERSHIP, a Washington limited partnership
2. E&M WEINSTEIN PROPERTIES LLC, a Washington limited liability company
3. FRANK KATZ
4. ELISE KATZ
5. EDWARD BRIDGE
6. PAMELA BRIDGE
7. KELLER FAMILIES PROPERTIES II, LLC, a Washington limited liability company
8. M & J SANDLER INVESTMENTS, LLC, a Washington limited liability company
9. POPKIN WAILEA LLC, a Washington limited liability company

Exhibit C

SUMMARY OF DEVELOPER'SRESERVED RIGHTS

1. **Amendments in Connection with Exercise of Developer's Reserved Rights.** The Developer has the right to amend some or all of the Condominium Documents in connection with the exercise of the Developer's Reserved Rights as described below.

2. **General Rights.** The Developer has reserved the right to change the Condominium Documents:

- In any way and for any purpose before the date when the Developer first records a Unit Deed transferring a Unit to someone other than the Developer or its Lenders;

- To file the "as-built" statement (with plans, if necessary or convenient) required by Section 514A-12 of the Condominium Property Act. It may also do this at any other time required by law or permitted by the Declaration;

- To comply with the real estate laws of the State of Hawaii or the requirements of any government agency (such as the Hawaii Real Estate Commission) in connection with the registration of the Project to permit the sale of the Units in the Project;

- To satisfy requests for changes made by any institutional lender loaning money to the Developer or by any title company licensed to do business in the State of Hawaii; or

- To correct any misstatements of fact in the Condominium Documents.

- To design, develop, build, add, alter and complete New Improvements on the Land. Developer may do this more than once and at any time before the Development Period ends.

- to change the Units, the Common Elements, the Limited Common Elements, and/or to amend the Condominium Documents as required to comply with any laws that apply to the Project or to the Association, or the Developer, including, without limitation, that certain Special Management Area Permit (SM1 - 2004/0026) and Planned Development Step 2 Approval (PD2 - 2004/0008) issued by the Planning Commission of the County of Maui

This is only a summary of the Developer's Reserved Rights. The nature and extent of these rights is described in and governed by the Condominium Documents.

Exhibit D

SUMMARY OF RULES REGARDING PETS IN THE PROJECT / OCCUPANCY LIMITATION

A. These are the rules about having animals in the Project which are contained in Section 9.1G of the Bylaws and summarized below as follows:

1) Definitions:

(a) "*Specially trained animals*" means certified guide dogs, signal dogs, service animals and other animals specially trained to assist handicapped people.

(b) "*Guide dog*" has the meaning stated in Section 515-3(8), Hawaii Revised Statutes. The current definition is "any dog individually trained by a licensed guide dog trainer for guiding a blind person by means of a harness attached to the dog and rigid handle grasped by the person." This definition will change if and when the law changes.

(c) "*Signal dog*" has the meaning stated in Section 515-3(8), Hawaii Revised Statutes. The current definition is "any dog trained to alert a deaf person to intruders or sounds." This definition will change as the law changes.

(d) "*Service animal*" has the meaning stated in Section 515-3(8), Hawaii Revised Statutes. The current definition is "any animal that is trained to provide those life activities limited by the disability of the person." This definition will change as the law changes.

2) No livestock, poultry, or other animals of any kind are allowed on or may be kept in any part of the Project except as expressly permitted in subsections 3), 4), 5), 6) and 7) hereinbelow.

3) Regardless of anything else stated in the Bylaws, a dog, a cat or other typical household pet (a "pet"), such as a guinea pig, a rabbit, aquarium fish, or birds may be kept by occupants in their respective Units subject to the following conditions and restrictions:

(a) Pets may not be kept, bred, or used at the Project for any commercial purpose.

(b) Except for aquarium fish, no more than two (2) pets shall be allowed per Unit.

(c) No pet may exceed thirty (30) pounds in weight. No infant or juvenile pet of a type or breed, when fully grown, is likely to exceed thirty (30) pounds in weight, may be kept in the Project.

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

(e) Every Owner or occupant keeping a pet(s) in a Unit shall register the pet(s) with the Managing Agent, who shall maintain a register of all pets kept in the Project.

(f) Dogs must be kept on a leash when they are on the Common Elements, including, but not limited to, any recreation areas.

(g) Except for specially trained animals, pets are not permitted at any time in the swimming pool and its appurtenant deck area, or the recreation building of the Project.

(h) Any pet causing a nuisance or an unreasonable disturbance to any other Owner or occupant of the Project must be permanently removed from the Project promptly after the Board or the

Managing Agent gives notice to the person owning the pet. The pet causing a nuisance or disturbance need not be removed before the time stated in the notice unless the Board believes that the pet poses an imminent and serious threat of physical harm to other Owners or occupants of the Project.

(i) The Board may from time to time include in the House Rules other reasonable restrictions, regulations, or prohibitions relating to pets.

4) Regardless of anything else stated in these Bylaws, animals that must be permitted on the Project pursuant to the Americans with Disabilities Act are allowed on the Project and may be kept by occupants in their respective Units.

5) Regardless of anything else stated in these Bylaws, specially trained animals are permitted on the Project pursuant to Chapter 515, Hawaii Revised Statutes, provided that:

(a) Specially trained animals may not be kept, bred, or used at the Project for any commercial purpose.

(b) Specially trained animals must be kept on a leash when they are on the Common Elements, including, but not limited to, any recreation areas.

(c) Any specially trained animal causing a nuisance or an unreasonable disturbance to any other occupant of the Project must be permanently removed from the Project promptly after the Board or the Managing Agent gives notice to the person using the specially trained animal. The notice must give the person a reasonable period within which to obtain a replacement specially trained animal. The animal causing a nuisance or disturbance need not be removed before the time stated in the notice unless the Board believes that the animal poses an imminent and serious threat of physical harm to other occupants of the Project.

(d) The Board may from time to time include in the House Rules reasonable restrictions or prohibitions relating to specially trained animals. Any such restrictions or prohibitions must be consistent with any laws protecting the civil rights of persons using specially trained animals.

6) A tenant of an Owner must obtain the written consent of the Owner to keep an animal allowed under subsections 3) and 4) hereinabove in the Unit and provide a copy thereof to the Managing Agent. Notwithstanding such consent, a tenant may keep only that type of pet which may be kept by an Owner.

7) Any occupant who keeps and has properly registered a pet in accordance with these Bylaws may, upon the death of the pet, replace the pet with the same type of pet and continue to do so as long as the occupant resides in the Apartment or another Apartment in the Project subject to these same Bylaws.

B. Occupancy Limitation. Section 9.1.5 of the Declaration limits occupancy in each Unit as follows:

1) No more than eight (8) persons at any time shall be permitted to occupy or reside in any Unit. This occupancy limitation shall not apply to or restrict the Owner of any such Unit from hosting a larger group of invited guests or visitors in such Unit.

Exhibit E

DESCRIPTION OF THE UNITS

Unit Type 1: All twenty-four (24) Units are Unit Type 1, each of which will consist of eleven (11) rooms, including a master bedroom, a master bathroom, two (2) other bedrooms, two (2) other bathrooms, a bathroom/laundry room, a living room, a kitchen, a dining room, and a storage room containing a net living area of approximately 4,251 square feet, including two (2) courts of approximately 144 square feet, each, one (1) terrace of approximately 238 square feet, one (1) terrace of approximately 463 square feet, an entry porch of approximately 405 square feet, and a garage of approximately 471 square feet.

IMPORTANT NOTE: THE FLOOR AREAS FOR THE UNITS AS SHOWN IN THIS EXHIBIT ARE ALL APPROXIMATE. THE DEVELOPER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACTUAL AREA OF ANY PARTICULAR UNITS. THE AREAS OF PARTICULAR UNITS ARE LIKELY TO VARY.

Exhibit F

UNIT BOUNDARIES

Limits of the Units. Notwithstanding the floor areas set forth in Exhibit D above and the manner in which such floor areas have been measured in accordance with the Condominium Property Act, each Unit shall be deemed to include all of (a) the concrete slab foundation of the Building housing each Unit, (b) the finished roof, (c) the exterior finished surfaces of all perimeter walls, whether load-bearing or not, (d) the unfinished interior surface of any party walls, whether load-bearing or not, (e) the exterior finished surfaces of all movable doors and their door frames, (f) all windows and window frames, all louvers or jalousies, and all shutters within the Building housing such Unit, (g) the inner decorated or finished surfaces of all interior walls, panels, doors and their door frames, floors and ceilings, (h) all fixtures originally installed therein, and (i) any pipes, wires, vents, shafts, ducts, air conditioning. Each Unit shall also be deemed to and shall include (i) the areas of the Terraces, Courts and Entry Porch which are underneath the roof of the Building housing each Unit, (ii) the two (2) terraces as shown on the Condominium Map to the edge of the tiled concrete slab and encompassing the air space above which is outside the roof line of the Building housing each Unit as delineated by a perpendicular vertical line rising to a height of 8' 6" above the finished surface of the tiled concrete slab and intersecting with the horizontal line drawn from the bottom of the roof decking and gutter of the overhanging roof of the Building housing the Unit, (iii) the two (2) Courts as shown on the Condominium Map to the edge of the tiled concrete slab and encompassing the air space above which is outside the roof line of the Building housing each Unit as delineated by a perpendicular vertical line rising to a height of 8' 6" above the finished surface of the tiled concrete slab and intersecting with the horizontal line drawn from the bottom of the roof decking and gutter of the overhanging roof of the Building housing the Unit, and (iv) the Entry Porch as shown on the Condominium Map and encompassing the air space above which is outside the roof line of the Building housing each Unit as delineated by the walls and the outside edge of the planters forming a part of its boundary and a perpendicular vertical line drawn across the tiled concrete slab area at the entry into the Entry Porch raising to a height of 8' 6" above the finished surface of the tiled concrete slab and intersecting with the horizontal line drawn from the bottom of the roof decking and gutter of the roof of the Building housing the Unit. Notwithstanding the foregoing the respective Units shall not be deemed to include the undecorated or unfinished surfaces of any party walls or any pipes, wires, vents, shafts, ducts, conduits or other utility or service lines or enclosed spaces for wiring, pipes, or air exhaust running through or otherwise located within such Unit which are utilized for or serve more than one Unit, the same being deemed Common Elements as hereinafter provided.

Exhibit G

ALTERATION OF UNITS

1. ADDITIONS OR CHANGES WITHIN A UNIT OR LIMITED COMMON ELEMENT.

Each Owner has the right to make any of the following changes, additions and improvements solely within the Owner's Unit or within any Limited Common Element that the Owner controls:

- The Owner may install, maintain, remove and rearrange partitions and other structures from time to time within the Unit or Limited Common Element; provided that the Owner shall not have the right to enclose any exterior lanai; provided, further, that the number of Units shall not be increased as a result of the exercise of such rights.
- The Owner may finish, change or substitute any plumbing, electrical or other fixtures attached to the ceilings, floors or walls as appropriate for the use of the Unit or Limited Common Element.
- The Owner may decorate, paint, repaint, wallpaper or otherwise change the appearance of the walls, floors and ceilings of the Unit or Limited Common Element.
- The Owner may tile, finish, carpet, re-carpet, and install, change, or remove other flooring in the Unit or Limited Common Element which is not readily visible from outside the Unit or Limited Common Element.
- The Owner may make such changes, additions and improvements to the Unit or Limited Common Elements to facilitate handicapped accessibility within the Unit or Limited Common Elements.

In addition, an Owner may make "nonmaterial structural additions to the Common Elements" as that term is used in §514A-89 of the Condominium Property Act.

The Developer's Reserved Rights include the right to do any or all of these things with respect to any Unit that the Developer owns or the Limited Common Elements of a Unit that it owns.

2. LIMITS ON OWNER OR DEVELOPER ALTERATIONS.

Nothing contained in the Declaration shall:

A. Authorizes the construction, placement or making, by an Owner other than the Developer, of any new improvements or material alterations in existing improvements on the Property (with the exception of (i) interior changes to the buildings which are not visible from the exterior, and (iii) improvements or alterations in existing improvements that (a) cost less than $50,000 in the aggregate, and (b) strictly adhere to all principles, requirements and goals set forth in the Design Guidelines), without the prior consent of the Board and, during the Development Period, the Developer;

B. Authorizes any work or change by an Owner or the Developer that would jeopardize the soundness or safety of any Unit or part of the Project;

C. Authorizes any work or change by an Owner, other than the Developer, that would materially change the uniform external appearance of the Project without the consent of the Board and, during the Development Period, the Developer;

D. Prohibits the Board from making or requiring that an Owner or the Developer make changes within a Unit or Limited Common Element as needed to comply with the fire code and all other laws, ordinances, rules or regulations that apply to the Project from time to time; or

E. Authorizes any work or change by an Owner other than the Developer to the electrical, structural, or plumbing systems and facilities (e.g. electrical wiring, load-bearing walls and supports, and pipes) in or serving a Unit without the consent of the Board and, during the Development Period, the Developer.

3. **CONDITIONS TO BOARD APPROVAL.**

The Board may impose certain conditions upon the Board's approval of any alteration, addition, change, removal by an Owner to such Owner's Unit under the Declaration, including, without limitation the following:

A. The Owner of the Unit (or the Developer as to its Units) provide evidence satisfactory to the Board that the Owner (or Developer) has sufficient funds in cash or by means of committed financing to fully pay the estimated costs of construction for the contemplated alterations, additions or changes.

B. The Owner of the Unit (or the Developer as to its Units) provides a copy of the building permit covering the proposed improvement work duly issued by the County of Maui.

C. The Owner of the Unit (or the Developer as to its Unit) provide a performance bond and a labor and materials payment bond in a face amount equal to one hundred percent (100%) of the estimated cost of the construction, naming the Board on behalf of the Association, the Unit Owners and their Lenders, as their respective interests may appear as additional obligees. As an alternative, and under the appropriate circumstances the Board may approve a written indemnity, in form and content acceptable to the Association, under which the Owner of the Unit (or the Developer) agrees to indemnify and save harmless the Association, the Unit Owners, and their Lenders, as their respective interests may appear, from and against any claims, demands or liability arising out of any failure by the Owner (or the Developer) to pay all costs and expenses for any and all labor, materials or supplies for any work performed in or to the Unit or Limited Common Element. The Developer shall have the right to provide such written indemnity in lieu of a bond.

4. **AMENDMENT TO DECLARATION.**

If any change to a Unit made under the authority of the provisions in the Declaration materially changes the depiction of a particular Unit or Units on the Condominium Map or the description of it in the Declaration, then the Owner or Owners of the Unit(s) (or the Developer as to its Units) must amend the Declaration and/or the Condominium Map to reflect the change. The amendment will take effect when it is recorded, subject to the following:

A. The Board has approved the form of the amendment and has acknowledged such approval by signing the amendment.

B. The Owner of the changed Unit or Units (or the Developer as to its Units) must sign the amendment. No matter what Section 18 of the Declaration says, it is

not necessary for anyone else to vote for, consent to, or sign the amendment, except for any Lender who has a Mortgage on the Unit or Units that are changed or altered.

C. When a Unit Owner or other Interested Person acquires a Unit or any other interest in the Project, he or she automatically (i) consents to the change; and (ii) agrees that he or she will, if required by law or by the Owner who has changed a Unit under the authority of the provisions in the Declaration sign, deliver and record all documents necessary or desirable to make the amendment of the Condominium Documents effective.

Exhibit H

LIMITED COMMON ELEMENTS

All parts of the Condominium except the Units are called "*Common Elements*". Some Common Elements, called "*Limited Common Elements*", are designated and set aside for the exclusive use of certain Units. Except as otherwise specifically provided in the Declaration, those Units have the exclusive right (in legal terms, an "*exclusive easement*") to use the Limited Common Elements set aside for their use. These Common Elements are Limited Common Elements:

1. UNCOVERED DRIVEWAY AREA. Each Unit shall have the exclusive use of the exterior uncovered driveway area fronting the garage of each Unit containing an area of approximately 357 square feet as noted and shown on the Condominium Map which driveway area may be used for the parking of one (1) automobile.

2. ENTRY SIDEWALK. Each Unit shall have the exclusive use of the exterior uncovered sidewalk leading from the roadway fronting each Unit to the Entry Porch for each such Unit containing an area of approximately 54 square feet.

3. SOLAR WATER HEATING UNIT. Each Unit shall have for its exclusive use the solar water heating unit located on the rooftop of the garage attached to each Unit.

4. MAILBOXES. Each Unit has the exclusive right to use one (1) mailbox bearing the same number as the Unit and located in the mailbox area located at the Manager's Building as shown on the Condominium Map.

Exhibit I

ENCUMBRANCES

1. Real Property Taxes: Reference is made to the Tax Assessor's Office, County of Maui.

2. Reservation in favor of the State of Hawaii of all mineral and metallic mines.

3. DESIGNATION OF EASEMENT "88"
   PURPOSE: utility
   SHOWN: on Maps 21 and 26, as set forth by Land Court Order No. 50723, filed July 25, 1978

4. DESIGNATION OF EASEMENT "89"
   PURPOSE: drainage
   SHOWN: on Maps 21 and 26, as set forth by Land Court Order No. 50723, filed July 25, 1978

5. DESIGNATION OF EASEMENT "90"
   PURPOSE: utility
   SHOWN: on Maps 21 and 26, as set forth by Land Court Order No. 50723, filed July 25, 1978

6. DESIGNATION OF EASEMENT "91"
   PURPOSE: drainage
   SHOWN: on Maps 21 and 26, as set forth by Land Court Order No. 50723, filed July 25, 1978

7. DESIGNATION OF EASEMENT "146"
   PURPOSE: drainage, landscaping, pedestrian access and walkway
   SHOWN: on Map 26, as set forth by Land Court Order No. 54945, filed November 8, 1979

8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

   INSTRUMENT: WAILEA COMMUNITY ASSOCIATION AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS
   DATED: July 13, 1998
   FILED: Land Court Document No. 2479882

   The foregoing Declaration restates the original Declaration dated December 19, 1986, filed as Land Court Document No. 1427923.

   Said Declaration was amended by instrument dated April 6, 2004, filed as Land Court Document No. 3114057.

9. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT:	GRANT OF EASEMENT
DATED:	April 11, 1987
FILED:	Land Court Document No. 2614891
RECORDED:	Document No. 2000-039649

10. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT:	FREE FLOWAGE AGREEMENT
DATED:	May 10, 2003
FILED:	Land Court Document Nos. 2849788 and 2849789
RECORDED:	Document Nos. 2002-181979 through 2002-181981

11. Chain link fence crosses over and across the southerly boundary which adjoins Tax Map Key (2) 2-1-008-083, as disclosed to Popkin Weinstein I, LLC, a Washington limited liability company.

12. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT:	ADDITIONAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
DATED:	May 14, 2004
FILED:	Land Court Document No. 3110204

13. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT:	LIMITED WARRANTY DEED WITH COVENANTS AND RESERVATIONS
DATED:	as of May 12, 2004
FILED:	Land Court Document No. 3110205

14. PURCHASE MONEY MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING (LOAN/ACCOUNT NO. 8100279077)

MORTGAGOR:	POPKIN WEINSTEIN I, LLC, a Washington limited liability company
MORTGAGEE:	CENTRAL PACIFIC BANK, a Hawaii corporation
DATED:	May 10, 2004
FILED:	Land Court Document No. 3110206
AMOUNT:	$3,575,000.00

15. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT:	ASSIGNMENT OF LESSOR'S INTEREST IN LEASES
DATED:	May 10, 2004
RECORDED:	Document No. 2004-097766
PARTIES:	POPKIN WEINSTEIN I, LLC, a Washington limited liability company, "Assignor", and CENTRAL PACIFIC BANK, a Hawaii corporation, "Assignee"
RE:	to secure the repayment of a loan in the principal amount of $3,575,000.00

(Not noted on Transfer Certificate(s) of Title referred to herein)

16. FINANCING STATEMENT

DEBTOR:	POPKIN WEINSTEIN I, LLC, a Washington limited liability company
SECURED PARTY:	CENTRAL PACIFIC BANK
RECORDED:	Document No. 2004-097767
RECORDED ON:	May 14, 2004

(Not noted on Transfer Certificate(s) of Title referred to herein)

17. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT:	DECLARATION OF CONDOMINIUM PROPERTY REGIME FOR "PAPALI WAILEA" CONDOMINIUM PROJECT
DATED:	February 7, 2005
RECORDED:	Document No. 3229243
MAP:	1694 and any amendments thereto

18. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT:	BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS OF PAPALI WAILEA
DATED:	February 7, 2005
RECORDED:	Document No. 3229244

Exhibit J

ESTIMATE OF INITIAL MAINTENANCE FEES AND
ESTIMATE OF INITIAL MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

Unit	Monthly Fee	Yearly Fee
1	$1355	$16,260
2	$1355	$16,260
3	$1355	$16,260
4	$1355	$16,260
5	$1355	$16,260
6	$1355	$16,260
7	$1355	$16,260
8	$1355	$16,260
9	$1355	$16,260
10	$1355	$16,260
11	$1355	$16,260
12	$1355	$16,260
13	$1355	$16,260
14	$1355	$16,260
15	$1355	$16,260
16	$1355	$16,260
17	$1355	$16,260
18	$1355	$16,260
19	$1355	$16,260
20	$1355	$16,260
21	$1355	$16,260
22	$1355	$16,260
23	$1355	$16,260
24	$1355	$16,260

Estimate of Maintenance Fee Disbursements – 2005 Operating Budget

		Monthly Total	Yearly Total
Revenue Maintenance Fees			
Total Revenue		**32,520**	**390,240**
Utilities and Services			
Electricity	common areas	840	10,080
Gas	common areas	840	10,080
Trash removal	all units + common areas	600	7,200
Telephone	common areas	192	2,304
TV	all units + common areas	1,248	14,976
Water/sewer/irrigation	common areas	1,200	14,400
Total Utilities		**4,920**	**59,040**
Maintenance & Repair			
Building	common areas	2,400	28,800
Grounds		10,440	125,280
Total Maintenance & Repair		**12,840**	**154,080**
Management			
Fee		2,040	24,480
Payroll		4,920	59,040
Office Expense		480	5,760
Professional Expenses		336	4,032
Total Management Expenses		**7,776**	**93,312**
Insurance		**4,992**	**59,904**
Taxes		**408**	**4,896**
Audit Fees		**192**	**2,304**
Other- Misc.		**192**	**2,304**
Reserves*		**1,200**	**14,400**
TOTAL		**32,520**	**390,240**

I, Henry Popkin, as agent for the developer for the Papali Wailea condominium project, hereby certify that the above estimate of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

POPKIN WEINSTEIN I, LLC
a Washington limited liability company

BY POPKIN DEVELOPMENT WM LIMITED PARTNERSHIP,
a Washington limited partnership, A Manager

BY POPKIN DEVELOPMENT CORPORATION,
a Washington corporation, Its General Partner

By: _____ Date: 10/13/2004
Henry Popkin, President

(*) The Developer has not conducted a reserve study.

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

Exhibit K

SUMMARY OF SALES CONTRACT

The specimen Condominium Purchase Agreement, Deposit Receipt and Contract ("Purchase Agreement") contains, among others, the following terms and provisions (which may be modified or otherwise limited by provisions not summarized):

1. The Purchase Price shall be paid in four (4) payments, the last of which shall be paid to the escrow agent, subject to other terms, on the earlier of (a) the Date of Pre-closing, or (b) three (3) days prior to the Date of Closing, except that mortgage proceeds from Buyer's Permanent Loan may be paid one (1) day prior to the Date of Closing.

2. The Purchase Price does not include the Project start-up fee, any maintenance fees for the Apartment, closing costs, prorations, and additional costs payable by Buyer under the Purchase Agreement.

3. The Purchase Agreement will become a binding sales contract upon the last to occur of Buyer's actual or deemed execution and return of the receipt for a Contingent Final Public Report (or, if a Contingent Final Public Report is not issued, the Final Public Report), and Buyer's actual or deemed waiver, or the expiration, of Buyer's right to cancel as more particularly provided in Hawaii Revised Statutes ("H.R.S.") §514A-62. Prior to the time the Purchase Agreement becomes a binding sales contract, it may be terminated by either Buyer or Seller, with or without cause, at the option of either party by written notice of such termination delivered to the other party.

4. Buyer has received a copy of the public report(s) for the Project, and Buyer acknowledges that Buyer has had a reasonable opportunity to read the Declaration, By-Laws, form of Apartment Deed and Escrow Agreement, and to examine the Project plans, and Buyer accepts such documents and plans with such changes and modifications as the Project architect may deem necessary.

5. Within thirty (30) days after the date Seller accepts the Purchase Agreement, Buyer must submit to Seller a Qualification Letter, in form and content acceptable to Seller, issued by a financial institution reasonably acceptable to Seller ("Qualification Agent"), confirming Buyer's ability to pay the Purchase Price.

6. If Buyer applied for and diligently pursued a Qualification Letter, and Buyer does not obtain a Qualification Letter in form and content acceptable to Seller within thirty (30) calendar days of Seller's acceptance of this Agreement, then Seller or Buyer can terminate this Agreement, and in such event, Escrow shall refund to Buyer all monies previously paid by Buyer, with interest to the extent provided under the Purchase Agreement, less Escrow's cancellation fee and other actual expenses incurred by reason of Buyer having signed the Purchase Agreement.

7. If the Qualification Letter for Buyer's Permanent Loan is issued more than one hundred twenty (120) days prior to the Date of Closing, then Buyer must promptly submit all documents that may be required by Buyer's Permanent Lender to reconfirm the written commitment for Buyer's Permanent Loan.

8. If Buyer does not act in good faith under the Purchase Agreement or otherwise comply with the requirements with respect to mortgage financing set forth in the Purchase Agreement strictly within the time frames set forth in the Purchase Agreement, Buyer shall be in default under the Purchase Agreement, and Seller may then cancel Escrow, terminate the Purchase Agreement and proceed in accordance with Paragraph 31 of the Purchase Agreement.

9. If Buyer will be paying the entire Purchase Price in cash and Seller so requires, then no later than sixty (60) days, and no earlier than ninety (90) days prior to the estimated Date of Closing, Buyer must submit to Seller written evidence from Buyer's bankers or accountants or other persons reconfirming Buyer's ability to pay the Purchase Price in cash on the Date of Closing. If Seller, in its sole discretion, is not satisfied as to Buyer's continued ability to make such cash payments and Seller determines that Buyer has not acted in good faith hereunder or otherwise complied with the requirements of Paragraph 1 of the Purchase Agreement, then Seller may cancel Escrow, terminate the Purchase Agreement and proceed in accordance with Paragraph 31 hereinbelow.

10. All payments made by Borrower under the Purchase Agreement will be deposited with Escrow under the terms of the Escrow Agreement.

11. Buyer agrees that after the Commission's issuance of an effective date for a Contingent Final Public Report (or, if a Contingent Final Public Report is not issued, the Final Public Report), Payments A, B and C under the Purchase Agreement may be disbursed by Escrow subject to the terms of the Escrow Agreement prior to the date of completion of the Project as permitted by §514A-40(a)(6) and §514A-67, Hawaii Revised Statutes, as amended, to pay for the costs of constructing the Project.

12. Seller has reserved the right to make certain modifications to the Declaration, By-Laws, House Rules, Condominium Map, form of Apartment Deed, and other documents as may be required by law, any title insurance company, any institutional mortgagee, or any governmental agency, or as Seller otherwise deems appropriate.

13. Buyer acknowledges and accepts certain conditions pertaining to the Project including those set forth in Schedule 1 attached hereto.

14. The Purchase Agreement shall not be construed as a present transfer of any interest in the Apartment, but is an agreement to transfer in the future.

15. Buyer waives, relinquishes, and subordinates the priority or superiority of any lien or any other legal or equitable interest arising under the Purchase Agreement in favor of the lien or charge on the Project or the security interests of Seller's lender ("Lender"), including but not limited to any lien, mortgage, or other charge securing a loan made to finance the acquisition of the land and the costs of construction and other costs during such construction and any and all advances therefor, whether contractual or voluntary, until the final closing and delivery by Seller of an apartment deed to Buyer.

16. Buyer consents to Seller's assignment to Lender, as security, of Seller's interests in the Purchase Agreement and Buyer's deposits with Escrow. In the event Lender acquires Seller's interest in the Purchase Agreement pursuant to said assignment, Buyer will, at Lender's option, perform to, attorn to, and recognize Lender as the Seller under the Purchase Agreement.

17. Seller covenants and agrees to use all commercially reasonable efforts to cause construction of the Unit to be completed within thirty (30) months of the date that the Purchase Agreement becomes a binding contract between Buyer and Seller as more particularly provided and set forth in Section IV, Paragraph 2 of the Purchase Agreement; provided, however, said thirty (30) month period shall be extended for any period of time during which Seller is actually and necessarily delayed in completing construction of the Unit if said delay is caused by fire, earthquake, acts of God, the elements, war or civil disturbance, strikes or other disturbances, government legislation or controls, or economic controls making it impossible to obtain the necessary labor or materials, or other matters or conditions legally supportable under Hawaii law as being beyond the control of Seller and which cause completion of construction of the Unit within said thirty (30) month period to be impossible..

18. So long as Seller owns an interest in any apartment in the Project, and until the election of the Board of Directors and officers of the Association of Apartment Owners, Seller may exercise all of the powers of the Board of Directors and officers.

19. The estimates of monthly maintenance charges and assessments for the Apartments set forth in the public reports for the Project are not intended to be and do not constitute any representation or warranty by Seller.

20. After the Purchase Agreement has become a binding contract, Buyer may terminate the Purchase Agreement only if there is a material change in the Project (other than a change made pursuant to the Declaration) which directly, substantially, and adversely affects the use or value of the Apartment or appurtenant limited common elements or the amenities of the Project available for Buyer's use.

21. Seller may cancel the Purchase Agreement if (i) Buyer fails to make any payment when due under the Purchase Agreement, or (ii) Buyer fails to furnish to Seller satisfactory evidence of Buyer's ability to pay the Purchase Price, or (iii) if fails to furnish to Seller the qualification letter or Buyer fails to furnish to Seller a firm written commitment for such loan within the time periods specified in the Purchase Agreement, or (iv) if Buyer is paying the entire Purchase Price in cash, Buyer fails to reconfirm to Seller satisfaction Buyer's ability to pay the Purchase Price as required by the Purchase Agreement, or (v) if Buyer is not a natural person, Buyer fails to have its obligations under the Purchase Agreement guaranteed by a person acceptable to Seller, or (vi) Buyer fails to execute and return the receipt and notice of right to cancel in connection with Buyer's receipt of a copy of a Contingent Final Public Report or the Final Public Report within the time period specified in the Purchase Agreement, or (vii) Buyer fails to perform any other obligation required under the Purchase Agreement and such failure continues for fifteen (15) days after Seller gives written notice to Buyer of such failure, or (viii) any Buyer under the Purchase Agreement dies prior to the performance of all of Buyer's obligations under the Purchase Agreement.

22. Neither Seller nor any of Seller's representatives has made any representations or references as to rental of the Apartment, or the income, or any other economic benefit to be derived from the rental of the Apartment. Buyer will not enter into any rental pool or similar arrangement unless specifically agreed to in writing by Seller.

23. Seller makes only those warranties regarding construction and appliances which are set forth in the Purchase Agreement.

24. If Buyer is purchasing the Apartment as a prospective owner-occupant pursuant to H.R.S. §514A-101 et seq., then until the expiration of the Owner-Occupant Affidavit executed by Buyer, Buyer must notify the Real Estate Commission immediately upon any decision to cease being an owner-occupant of the Apartment.

25. If the Purchase Agreement is accepted by Seller more than forty-five (45) days prior to the Date of Occupancy, the Date of Closing shall be the date, selected by Seller, within thirty (30) days after the Date of Occupancy; otherwise, the Date of Closing shall be a date mutually acceptable to Buyer and Seller, but in no event more than seventy-five (75) days after Seller has accepted the Purchase Agreement.

26. Buyer will not take possession of the Apartment prior to the Date of Closing and full satisfaction by Buyer of all terms and conditions of the Purchase Agreement.

27. Buyer or its agent will inspect the Apartment and will sign an inspection sheet to be furnished by Seller or the contractor, or Buyer will appoint the inspecting architect or engineer for the Project, or Seller or any agent of Seller to inspect the Apartment and execute the inspection sheet on behalf of Buyer. Buyer agrees to accept possession of the Apartment despite the existence of

defects and damages as long as Seller agrees to repair such defects or damages within a reasonable time. Buyer agrees to indemnify Seller for any damages or losses resulting from any wrongful refusal to accept possession of the Apartment.

28. If Seller chooses to offer color selections for the standard appliances or any other standard items in the Apartment, then Buyer must make such selections within five (5) business days after receipt of notice from Seller or Seller's agent requiring Buyer to make such selections. If Buyer fails to make such selections within the required time period, Seller shall be authorized to make the color selections on behalf of Buyer. If any of the color selections become unavailable for any reason, Buyer must make another color selection from the alternative choices offered by Seller within five (5) business days after receipt of written notice of the unavailability of the original color selection, or Seller shall be authorized to make such selection on behalf of Buyer. The unavailability of any original color selection shall have no effect on Buyer's obligations under the Purchase Agreement and shall not in any way constitute grounds for any claim whatsoever against Seller.

29. Risk of loss to the Apartment shall be borne by Seller until the Date of Closing.

30. Time is of the essence of the obligations of Buyer under the Purchase Agreement.

31. In the event of any default under the Purchase Agreement by Buyer which occurs before the Purchase Agreement becomes a binding contract, Seller may terminate the Purchase Agreement by written notice to Buyer, and (a) all moneys paid under the Purchase Agreement shall be refunded or the check returned to Buyer, with interest to the extent provided in the Purchase Agreement, less any cancellation fee imposed by Escrow and any other actual expenses incurred by reason of Buyer having signed the Purchase Agreement; and (b) all costs, including reasonable attorneys' fees, incurred by reason of the default by Buyer shall be paid by Buyer promptly upon Seller's demand therefor. In the event of any default under the Purchase Agreement by Buyer which occurs after the Purchase Agreement becomes a binding contract, (i) Seller may terminate the Purchase Agreement and thereupon, at Seller's option, all sums previously paid by Buyer, together with all accrued interest thereon, shall belong to Seller as liquidated damages, or (ii) Seller may pursue any other remedies permitted at law or in equity, including, but not limited to, specific performance.

32. Seller shall be in default under this Agreement if (i) Seller fails to complete or cause completion of construction of the Apartment within thirty (30) months of the date the Purchase Agreement becomes a binding contract, or (ii) Seller fails to perform any other obligation required under the Purchase Agreement and such failure continues for fifteen (15) days after Buyer gives written notice to Seller of such failure.

33. In the event of any default by Seller which occurs before the Purchase Agreement becomes a binding contract, Buyer may terminate the Purchase Agreement by written notice to Seller, and (i) all moneys paid under the Purchase Agreement by Buyer shall be refunded or the check returned to Buyer, with interest to the extent provided in the Purchase Agreement, less any cancellation fee imposed by Escrow and any other actual expenses incurred by reason of Buyer having signed this Agreement; and (ii) upon Buyer's demand therefor, Seller shall promptly pay all costs, including reasonable attorneys' fees, incurred by reason of the default by Seller. In the event of any default by Seller which occurs after the Agreement becomes a binding contract, Buyer may (i) cancel and terminate the Purchase Agreement by written notice to Seller, and receive (x) from Escrow a full refund of all moneys paid by Buyer under the Purchase Agreement, together with interest to the extent provided in the Purchase Agreement (less any cancellation fee imposed by Escrow), and (y) all costs, including reasonable attorneys' fees, incurred by Buyer by reason of Seller's default, or (ii) file suit against Seller for the actual damages suffered by Buyer as a result of Seller's default under the Purchase Agreement, or (iii) pursue any other remedies permitted at law or in equity, including, but not limited to, seeking specific performance of the Purchase Agreement.

34. Buyer may not at any time assign its rights or obligations under the Purchase Agreement.

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Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings given them under the Purchase Agreement.

* * * * * * *

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE PURCHASE AGREEMENT. WHILE A BUYER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF BUYER'S RIGHTS AND OBLIGATIONS UNDER THE PURCHASE AGREEMENT, BUYER MUST REFER TO THE PURCHASE AGREEMENT TO DETERMINE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE PURCHASE AGREEMENT, THE PURCHASE AGREEMENT WILL CONTROL.

SCHEDULE 1

Under the Purchase Agreement Buyer specifically acknowledges and accepts certain conditions, including without limitation, the following:

1. Seller's Reserved Right to Utilize Common Elements. Seller reserves the right, for itself, its representatives, licensees and invitees, to utilize the Common Elements for ingress and egress, for the exercise of any of the Seller's Reserved Rights under the Declaration, for access to parking spaces, and in order to show the Common Elements to prospective purchasers.

2. Seller's Reserved Right to Grant Easements. Seller reserves the right to grant to any public or governmental authority or utility company rights-of-way and other easements which are for the sole benefit of 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 unit 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.

3. School Information. Seller has made no representations, warranties or assurances to Buyer that the Project will be included within any particular school district. Buyer is responsible for determining the availability of schools and the same are subject to change by the applicable school district.

4. Changes in Price, Size and Design. Seller has made no promises, representations or assurances to Buyer regarding the pricing, size, design or configuration of any units in the Project other than the Unit, and Buyer acknowledges that as market conditions or other facts change, such matters may be subject to change, including reduction in prices of such other units in the Project or sales incentives offered in connection therewith, and changes in size, design or product type of such other units in the Project.

5 View Impairment. Neither Seller nor any of its authorized agents, representatives or employees has made any representations, warranties or promises that the views which may be enjoyed from all or any portion of the Unit or the Project at the time of Closing will be perpetual. The views from the Unit or Project may change, be affected or obstructed by construction or installation of buildings, improvements, structures, walls and/or landscaping and vegetation by owners of property outside the Project. However pursuant to Section 9.3C of the Bylaws each Unit Owner and the Association agrees to maintain the common element and limited common element landscaping and vegetation within the Project in a neat and attractive condition consistent with the First Class Development Standard with the objective of preserving and maintaining at all times the makai (towards the ocean) views from each of the Units to the maximum extent which is reasonably and economically feasible.

6. Tax and Insurance Estimates. Any sum estimated for taxes or insurance affecting the Unit or Project may increase or decrease depending upon fluctuation of real property taxes or insurance rates.

7. Construction of Unit and Project. Buyer is purchasing a completed Unit. Seller is not acting as a contractor for Buyer in the construction of such Unit. Issuance of a Certificate of Occupancy or other alternative final approval of occupancy of the Unit by the relevant local governmental authority is conclusive evidence of Seller's completion of the Unit. Seller is not constructing the Unit specifically for Buyer, nor to the precise specifications or design of a model or

appurtenances, if any, displayed to or visited by Buyer. Seller is constructing the Unit as part of the Project. Any unit in the Project shown to Buyer is shown only for illustration and Seller shall not thereby be required to deliver the Unit in exact accordance with any other unit visited by Buyer. None of the appurtenances and furnishings shown in any unit shown to Buyer by Seller is included in this Agreement, unless it is mentioned in Section I of this Agreement hereinabove or Seller otherwise expressly agrees in writing to deliver the same for part of the Purchase Price. The usable or living area, location and configuration of the Unit and all improvements of the Project may fluctuate from that shown or displayed to Buyer in any drawings, plans or when Seller finally places final improvements, in Seller's sole and absolute discretion. The location, size, height and composition of all improvements to be constructed as a part of the Project or adjacent thereto shall be determined by Seller in its sole and absolute discretion. Despite drawings or plans shown to Buyer, Seller has made no representations, warranties or assurances to Buyer regarding the size, height, location or composition of any improvement to be constructed on the Project. Seller may substitute the materials, appliances and other items in the Unit and the Project with materials, appliances and other items of substantially equal quality and utility (and acceptable to Buyer's Permanent Lender). Such substitutions may include kitchen appliances, household fixtures, electrical outlets and switches, hardware, wall surfaces, painting and other similar items. Seller may make such substitutions without adjustment to the Purchase Price. Buyer's consultation by Seller or Seller's agents shall not waive Seller's rights to make any change contemplated or provided herein. If Seller is unable to complete or install in the Unit any optional item, decorator item, fixture, furnishing or other improvement, and such failure is caused by circumstances beyond Seller's reasonable control, the Close of Escrow shall not be delayed so long as occupancy of the Unit is approved by the applicable governmental authority. The incomplete items shall be completed by Seller as soon as reasonably possible after the Close of Escrow.

8. Estimated Monthly Maintenance Charges. Buyer has examined and approved the estimate of monthly maintenance charges and assessments for the Unit as shown in the Public Reports provided to Buyer. Buyer is aware that such amounts are only estimates, and are subject to change for various reasons, and Buyer hereby specifically accepts and approves any such changes. BUYER AGREES THAT SUCH ESTIMATES ARE NOT INTENDED TO BE AND DO NOT CONSTITUTE ANY REPRESENTATION OR WARRANTY BY SELLER, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF SUCH ESTIMATES.

Buyer accepts each of the foregoing conditions as well as any inconvenience or annoyance which Buyer may experience as a result of such conditions and expressly waives any rights, claims or action which Buyer might otherwise have against Seller or third parties as a result of such circumstances.

Exhibit L

SUMMARY OF CONDOMINIUM ESCROW AGREEMENT

The Condominium Escrow Agreement ("Escrow Agreement") dated as of June 25, 2004, was made by and between Title Guaranty Escrow Services, Inc. ("Escrow Agent") and Popkin Weinstein I, LLC ("Developer"). The Escrow Agreement contains among other provisions the following (which may be modified or otherwise limited by provisions not summarized herein):

1. Sales Contracts Deposited in Escrow. Whenever Developer enters into a sales contract with a purchaser for the sale of a Unit in the Papali Wailea condominium project (the "Project"), Developer shall deliver an executed copy of said contract to Escrow Agent. The sales contract shall require that all payments due thereunder be made directly to Escrow Agent to be held and disbursed in accordance with the Escrow Agreement. If the purchaser intends to purchase the Unit as an "owner-occupant" pursuant to Chapter 514A, Part VI, Hawaii Revised Statutes ("H.R.S."), said purchaser shall deliver an owner-occupant affidavit to Escrow Agent in the form and content required by H.R.S. §514A-104.5.

2. Receipt of Funds by Escrow Agent. Escrow Agent will receive payments under the sales contracts and from any other source relating to the Project. Escrow Agent will deposit all funds within a reasonable time after receipt in an interest-bearing account or accounts at a federally insured bank, savings and loan association, or other financial institution. Any interest earned on such deposits shall accrue to the credit of Developer unless Escrow Agent is asked to establish a separate account for a purchaser, in which case interest on such account shall accrue to the credit of said purchaser. (Pursuant to the sales contract, Purchaser and Developer will instruct Escrow Agent to credit to Purchaser all interest earned on deposits made by Purchaser, except as otherwise specifically provided for in the sales contract.)

3. Conditions to be Met Prior to Disbursement; Disbursement of Purchasers' Funds Held In Escrow to Pay Certain Project Expenses Prior to Completion of Construction. Escrow Agent shall make no disbursement of funds deposited with it unless: (a) the Real Estate Commission has issued a Final Public Report on the Project; (b) Developer or Developer's attorney has notified Escrow Agent that the requirements of H.R.S. §514A-62 and §514A-63 have been met; and (c) Developer has given Escrow Agent a written waiver of any reserved option to cancel the sales contract. Prior to completion of construction, provided that the requirements set forth in clauses (a) through (c) of the preceding sentence have been satisfied, Escrow Agent shall disburse funds deposited with it to pay for (i) construction costs of the buildings and other improvements and fixtures of the Project, and (ii) architectural, engineering, finance and legal fees and other incidental expense of the Project to the extent approved by Developer's mortgagee.

4. Return of Funds and Documents. Escrow Agent will return deposited sums, without interest and less Escrow Agent's cancellation fee and other costs up to a maximum of $250.00, to a purchaser if:

(a) Developer and such purchaser shall instruct Escrow Agent in writing to return such funds to such purchaser; or

(b) Developer shall notify Escrow Agent of Developer's exercise of the option to cancel or rescind the Sales Contract entered into by such purchaser pursuant to any right of cancellation or rescission provided for therein or otherwise available to Developer with respect to which, in accordance with the sales contract, Purchaser is entitled to a return of funds deposited by it with Escrow Agent; or

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

(d) Such purchaser has exercised such purchaser's right to rescind the sales contract pursuant to HRS Section 514A-63.

5. Unclaimed Funds. Escrow Agent shall notify each purchaser entitled to a return of funds by registered or certified mail. If any purchaser does not claim the refund within sixty (60) days, Escrow Agent shall deposit the funds with a bank or depository selected by Escrow Agent in the name of Developer as trustee for the purchaser. Thereafter, Escrow Agent shall have no further obligation or liability with respect to such funds or purchaser.

6. Closing. Except for the sales contract and any note and mortgage, Escrow Agent shall arrange for and supervise the execution, recording, and delivery of all documents, as necessary, related to the Project.

7. Partial Closings. In the event Developer desires partial closings (i.e. closings for some but not all of the Units), Escrow Agent agrees to cooperate and facilitate such partial closings.

8. Defects in Documents. Escrow Agent shall record all documents within three (3) business days of the date of closing, provided said documents are not defective in any way. If any documents are defective, Escrow Agent will notify Developer thereof and correct such defects if they are within Escrow Agent's capacity to correct.

9. Purchaser's Default. Developer shall notify Escrow Agent when payments are due from a purchaser, who shall then be notified by Escrow Agent. Escrow Agent shall notify Developer of any defaults by a purchaser. If Developer certifies to Escrow Agent in writing that Developer has terminated the sales contract, Escrow Agent shall thereafter treat all funds of the purchaser paid on account of said sales contract as funds of Developer. Upon the written request of Developer, Escrow Agent shall pay such funds to Developer, less any cancellation fee, and shall return any partially executed conveyance documents. Escrow Agent shall retain all other documents for the statutory period. Thereafter, Escrow Agent shall have no further obligation or liability with respect to such funds or purchaser.

10. Protection of Escrow Agent. Escrow Agent shall have no liability for acting in accordance with the terms of the Escrow Agreement, notwithstanding a notice to the contrary from Developer, any purchaser, or any third person. Escrow Agent shall not be responsible for the validity or sufficiency of any documents received by it, shall assume that said documents have been properly executed, and shall assume that any written certification or instrument from Developer is true and accurate. In the event of any dispute, difference, or conflicting demand upon Escrow Agent, Escrow Agent shall not be required to determine the same or take any action in the premises, but may await settlement of the controversy by appropriate legal proceedings or otherwise, including the resolution of an interpleader action initiated by Escrow Agent. Developer and each purchaser agree to pay Escrow Agent on demand and to indemnify and hold harmless Escrow Agent against all costs and damages arising out of this Agreement, except for any act or omission of Escrow Agent that is not generally accepted as a reasonable business practice. Escrow Agent shall not be required to mail any notice or keep any records required under H.R.S. Chapter 514A.

11. Miscellaneous. The Escrow Agreement is binding upon and inures to the benefit of the parties hereto and their successors and assigns. The Escrow Agreement may be terminated on thirty (30) days' written notice to either party. In the event of any conflict between the Escrow Agreement and H.R.S. Chapter 514A, the statutory provisions shall control. Escrow Agent shall furnish Developer with semi-monthly reports that cover the status of each sales contract in escrow.

12. Compensation. For each Unit sale closed by Escrow Agent, Escrow Agent shall be paid an escrow fee. The escrow fee shall be $1,700.00 plus the applicable Hawaii general excise tax thereon with respect to Units having a purchase price between $2,000,000 to $2,250,000; the escrow fee shall be $1,800.00 plus the applicable Hawaii general excise tax thereon with respect to Units having a purchase price between $2,250,001 to $2,500,000; the escrow fee shall be $1,900.00 plus the applicable Hawaii general excise tax thereon with respect to Units having a purchase price between $2,500,001 to $2,750,000; and the escrow fee shall be $2,000.00 plus the applicable Hawaii general excise tax thereon with respect to Apartments having a purchase price of more than $2,750,001. The premium for the purchaser's title insurance policy shall be as follows:

(a) If the purchase price of the Unit is between $2,000,000 to $2,250,000, the premium shall be (i) $2,300.00 for a Hawaii Standard Owner's Policy, or (ii) $2,530.00 for an ALTA Homeowner's Policy, or (iii) $3,450.00 for an ALTA Owner's Policy.

(b) If the purchase price of the Apartment is between $2,250,001 to $2,500,000, the premium shall be (i) $2,600.00 for a Hawaii Standard Owner's Policy, or (ii) $2,860.00 for an ALTA Homeowner's Policy, or (iii) $3,900.00 for an ALTA Owner's Policy.

(c) If the purchase price of the Apartment is between $2,500,001 to $2,750,000, the premium shall be (i) $2,900.00 for a Hawaii Standard Owner's Policy, or (ii) $3,200.00 for an ALTA Homeowner's Policy, or (iii) $4,350.00 for an ALTA Owner's Policy.

(d) If the purchase price of the Apartment is between $2,750,001 to $3,000,000, the premium shall be (i) $3,200.00 for a Hawaii Standard Owner's Policy, or (ii) $3,520.00 for an ALTA Homeowner's Policy, or (iii) $4,800.00 for an ALTA Owner's Policy.

(e) If the purchase price of the Apartment is between $3,000,001 to $3,250,000, the premium shall be (i) $3,500.00 for a Hawaii Standard Owner's Policy, or (ii) $3,850.00 for an ALTA Homeowner's Policy, or (iii) $5,250.00 for an ALTA Owner's Policy.

(f) If the purchase price of the Apartment is between $3,250,001 to $3,500,000, the premium shall be (i) $3,800.00 for a Hawaii Standard Owner's Policy, or (ii) $4,180.00 for an ALTA Homeowner's Policy, or (iii) $5,700.00 for an ALTA Owner's Policy.

(g) There shall be no additional cost for issuance of an ALTA lender's title insurance policy (not to exceed the purchase price) concurrently with the issuance of any of the owner's Title Policies referenced; provided, however, that the title insurance premiums may be subject to change if special endorsements or additional title services are requested

The compensation to Escrow Agent with respect to the closing of the sale of any Unit shall be due and payable upon the earlier of: (i) transfer to a purchaser of legal title to such Unit; and (ii) final disbursement of the purchase price of such Unit and other sums held by Escrow Agent with respect hereto. Developer agrees to pay an additional charge for any changes to any closing statement or other document that are necessary after the commencement of preclosing or closing proceedings, unless said changes are necessary due to the fault of Escrow Agent.

* * * * * *

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE ESCROW AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE ESCROW AGREEMENT, ONE MUST REFER TO THE ACTUAL ESCROW AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE ESCROW AGREEMENT, THE ESCROW AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

Exhibit M

ADDITIONAL INFORMATION NOT COVERED ABOVE

EASEMENTS

"Easement" is a legal term. In general, it refers to the right of one person to use property in the possession of someone else. The Condominium Documents create various easements. Some of them can be summarized as follows:

1. The Developer and persons authorized by it have the ***exclusive*** right and an easement to conduct extensive marketing and sales activities on the Common Elements (including but not limited to the Limited Common Elements) and from any Unit owned by it. This right includes but it is not limited to the right to permit purchasers and prospective purchasers to come onto the project and to park in unassigned parking stalls, the right to show the project to those persons, the right to use Units owned by the Developer as model Units, sales, management, and/or administrative offices, and the right to use banners, signs or other extensive sales displays and activities at the Project.

   This easement applies to activities conducted in connection with the initial sale of the Units by Developer.

2. The Developer and persons authorized by it have an easement as may be reasonably necessary or convenient to complete any improvements and to correct any defects and other punchlist items in the common elements or any Unit or to use any of the other Developer's Reserved Rights.

Each Owner (i) understands, acknowledges and accepts that some or all of these easements activities may result in noise, dust, soot, smoke, odors, vibrations and other nuisances and hazards, (ii) consents to this activity, and (iii) gives up (in legal terms, "waives, releases and discharges") any rights, claims or actions that he or she may have, now or in the future, against the Developer and various other persons. Each Owner assumes the risk of any property damage, personal injury or loss in property value arising from the exercise of these easements.

MISCELLANEOUS

1. **Property Subject to SMA Permit**.

The Property is subject to that certain Special Management Area Permit (SM1 - 2004/0026) and Planned Development Step 2 Approval (PD2 - 2004/0008) issued by the Planning Commission of the County of Maui on January 19, 2005.

A copy of the SMA Permit and the PD2 Permit have been filed with the Hawaii Real Estate Commission and will be made available for inspection by purchasers and prospective purchasers at the Developer's office or through the Project Broker. Since the Property will be subject to the terms and covenants of the SMA Permit and the PD2 Permit, Purchasers and/or the owners association will be required to observe and comply with the terms and conditions of the SMA Permit and PD2 Permit on an ongoing basis.

Please note that any further development may require additional Special Management Area and/or Planned Development Permit approvals by the County of Maui.

2. **Limitations on Changes to Buildings and/or Exterior Appearance of Units or Limited Common Elements**.

A. Changes by Owners or the Developer. Even though some of the Common Elements are Limited Common Elements appurtenant to certain Units, an Owner is not allowed to change or cause a change to the exterior appearance of any portion of the Project or of any of the Buildings or Units, unless such Owner has the prior written consent of either the Board or a subcommittee of the Board duly appointed to review such matters, and during the Development Period, the Developer. This rule does not apply to the Developer when exercising any of the Developer's Reserved Rights.

B. Changes by the Board. The Board has the right to change the exterior appearance of the Project or of any of the Buildings or Units, subject to the restrictions and limitations set forth in the Declaration. The Board cannot do so without the Developer's prior written consent during the Development Period.

C. Compliance with Design Requirements in Master Declaration and Additional Declaration. Nobody is allowed to change the exterior appearance of the Project or of any of the Buildings or Units in a way that does not strictly adhere to all principles, requirements and guidelines set forth in the Master Declaration and the Additional Declaration. Furthermore any such change shall only be made after the necessary and appropriate approvals are obtained in accordance with the Master Declaration and the Additional Declaration.

D. Specific Design Review Procedures and Guidelines Applicable to Project. Nobody (except for the Developer during the Development Period) is allowed to change the exterior appearance of the Project or of any of the Buildings or Units in a way that does not strictly adhere to all principles, requirements and guidelines set forth in Section 9.3.4 of the Declaration, including the following:

1. General Use Guideline. The Project shall be used solely for purposes consistent with a first-class luxury resort developed and maintained in accordance with a First-Class Development Standard.

2. Design Review Procedures. No new improvements or material alterations to existing improvements shall be constructed, placed or made on the Project nor may any change be made to the exterior appearance of the Buildings or Units by an Owner, except in strict accordance with Development Plans approved by the Board or a subcommittee duly appointed by the Board for such purpose (the "Board subcommittee") and during the Development Period by the Developer; provided, however, that no such approval shall be required for any interior changes to any Buildings or Units which are not visible from outside the Building or Unit. Prior to construction of any new improvements or any material alterations or changes to existing improvements on the Project, including the exterior of any Building or Unit, Owner shall submit for approval, and the Board or the Board subcommittee and the Developer during the Development Period shall approve or disapprove the Development Plans submitted to them as provided herein. The approval or disapproval of the Board or subcommittee and/or Developer (as appropriate) of any such Development Plans shall be given in writing within thirty (30) calendar days after their receipt of all of the required elements of the Development Plans. If the Board, or Board subcommittee and/or Developer shall disapprove all or any portions of the Development Plans, the Board, or the Board subcommittee and/or Developer shall, within said thirty (30) day period, send notice of its or their disapproval to the applicant, advising the applicant of the reasons for such disapproval. If notice of disapproval is not so sent within said thirty (30) day period, and the Board, or the Board subcommittee and/or Developer thereafter fails to respond within fifteen (15) calendar days after the applicant delivers written notice to the Board, the Board subcommittee and/or the Developer (as the case may be) that such party has failed to respond within the required time, then the Development Plans submitted shall be deemed to have been approved by the Board, the Board subcommittee and/or the Developer (as the case may be) but not as to any of such parties that timely responded to the Development Plans.

3. Requirements of Development Plans. All plans and specifications for any new building or other improvement or material alteration or change on the Project shall be prepared by an architect licensed in the State of Hawaii, shall be submitted by Owner to the Board, or the Board subcommittee, and the Developer (during the Development Period) for approval by the Board, or the Board subcommittee and/or Developer prior to the commencement of any construction on the Project, and shall include, without limitation, maps, sketches, drawings, narratives and computations showing the design concept of the buildings and other improvements, the building sites, setbacks, landscape plans, hardscape

plans, density and building heights; floor, elevation, plot and grading plans showing the location and layout of all residential and other space; sections through the Buildings and the Land commencing at each boundary and extending to the opposite boundary of the Land; sections showing outdoor landscaped areas, walls, and fences; specifications for and samples of the principal materials and colors for exteriors, roofs, glazing and masonry; parking plans; exterior lighting plans; and landscaping plans (collectively the "Development Plans"). The Development Plans shall not include mechanical, electrical, plumbing or other detailed construction plans.

4. Standards of Review. The Board, the Board subcommittee, and/or the Developer, as the case may be, in reviewing the Development Plans submitted to them, shall consider their compliance with the use and design guidelines and restrictions contained in this Declaration, the suitability of the proposed buildings and other improvements for the area, and the quality of the materials to be used in construction.

5. Limited Liability of the Board, Board subcommittee and Developer. The Board, Board subcommittee and Developer shall not be liable for any damage, loss or prejudice suffered or claimed on account of:

(a) the approval or disapproval of any Development Plans, whether or not defective; or

(b) the construction or performance of any work, whether or not pursuant to approved Development Plans; or

(c) the development or manner of development of any portion of the Land; or

(d) the execution and recordation of a notice of approval or disapproval of any Development Plans; or

(e) the performance of any other design review function pursuant to the provisions of this Declaration.

6. No Increase in FAR. Notwithstanding any other provision of this Declaration to the contrary, no new improvements or material alterations to existing improvements shall be constructed on any parcel subject to this Declaration if such new improvements or material alterations would have the effect of increasing the Floor Area Ratio of the subject parcel beyond that in effect for such parcel at the time construction of the Papali Wailea condominium project is completed.

E. Maintenance and Repair of Units and Limited Common Elements by Owner. Each Owner must keep the exterior finished surface of the exterior walls of Owner's Unit, the roof of the Unit, the interior of Owner's Unit, and its appurtenant Limited Common Elements, in good order, repair and condition. This includes not just the walls and windows, but also includes all plumbing, electrical and other fixtures and equipment that are part of the Unit or its Limited Common Elements. The Board, however, will provide for periodic resurfacing and other routine maintenance of (a) the exterior, uncovered driveway surface area fronting each garage for a Unit which is designated as a Limited Common Element, and (b) the entry sidewalk leading to the entry porch for each Unit which is designated as a Limited Common Element. This does not relieve an Owner from the obligation to pay for damages beyond normal wear and tear to his or her driveway area and/or entry sidewalk.

1. Periodic Scheduled Painting of Exterior of Buildings and Maintenance of Roof. The Developer during the Development Period (and thereafter the Board) shall from time to time to establish guidelines and standards for regularly scheduled and periodic painting of the exterior of the Building in which each Unit is located and for the regularly scheduled maintenance of the roof of each Building. The costs and expenses of this regularly scheduled painting of the exterior of the Buildings and for maintenance of the roof of each Unit/Building shall be the responsibility of the Owner of the Unit located in the Building. The Board shall have the power and authority, if it so elects, to contract on behalf of all of the Owners for the periodic painting of the exterior of the Building and for the scheduled maintenance of the roof of each Unit/Building and each Owner shall

promptly pay upon presentation by the Board of the invoice for such painting and/or maintenance work for the roof associated with the Building in which such Owner's Unit is located. Nothing in this section shall relieve an Owner of the responsibility and obligation to pay for the repair and maintenance of the exterior finished surfaces of the exterior walls of Owner's Unit and/or the roof of the Building which may be necessary to maintain the same in good order, repair and condition as provided in Section 9.4 above.

F. Definitions. The following definitions drawn from the Declaration are applicable to the above provisions:

1. "**First-Class Development Standard**" means the standard of maintenance and development adhered to by the owners, developers and/or operators of any of the following resorts as of the date of this Declaration: Wailea Resort, Kapalua Resort, Hualalai Resort at Historic Kau`upulehu, Mauna Lani Resort, or Mauna Kea Resort. First Class Development Standard shall refer to the quality of maintenance and development of the project, and not to the degree of amenities offered in the project or the projected price range of units in the project.

2. "**Floor Area Ratio**" has the meaning given to such term in the Comprehensive Zoning Ordinance of the County of Maui (Title 19, Maui County Code), as amended from time to time, which, as of the date of this Declaration, was defined as the ratio of floor area to total area of the zoning lot expressed as a percent or decimal.

G. Pedestrian Gate. The main entry into the Project site is a gated/restricted entry for motor vehicles off of Wailea Alanui Drive. To assure pedestrian access to the Project the County of Maui required the Developer under the terms of the Special Management Area Permit (SM1 - 2004/0026) for the Project to provide for a pedestrian gate allowing for public access into the Project near the vehicular entry into the Project. This pedestrian gate is required by the SMA Permit to be kept open to the public during daylight hours from 7:00 a.m. until 6:00 p.m. The location of this pedestrian gate is shown on the illustrative site plan attached to this Exhibit M. The pedestrian pathway passes by the Manager's Office / Apartment as pedestrian's enter the Project along this route.

H. **Notice to Contractor of Construction Defects.**

THE HAWAII CONTRACTOR REPAIR ACT (ACT 119, 2004 HAWAII SESSION LAWS) CONTAINS IMPORTANT REQUIREMENTS A BUYER MUST FOLLOW BEFORE A BUYER MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO DESIGNED, REPAIRED, OR CONSTRUCTED BUYER'S UNIT. NINETY DAYS BEFORE BUYER CAN FILE BUYER'S LAWSUIT OR OTHER ACTION, BUYER MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS BUYER ALLEGES ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR AND/OR PAY FOR THE DEFECTS. BUYER IS NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THE LAW, AND FAILURE TO FOLLOW THEM MAY NEGATIVELY AFFECT BUYER'S ABILITY TO FILE A LAWSUIT OR OTHER ACTION.

EACH BUYER IS ENCOURAGED TO CAREFULLY REVIEW THIS ACT AND TO DISCUSS WITH LEGAL COUNSEL OF BUYER'S CHOICE IF BUYER HAS ANY QUESTIONS REGARDING THE AFFECT THIS ACT.

Illustrative Site Plan

0 20 40 60 80 100

PAPALI

WEINSTEIN AU Architects + Urban Designers