

**CONDOMINIUM PUBLIC REPORT**

Prepared & Developer Ohana Hotel Company LLC, a Delaware limited liability company, dba Hotel Hana-Maui  
 Issued by: Address 5031 Hana Highway, Hana, Hawaii 96713  
 Project Name (\*): The Hotel Hana-Maui Condominiums  
 Address: 5031 Hana Highway, Hana, Hawaii 96713  
 Registration No. 5520 Effective date: January 5, 2005  
 (Conversion) Expiration date: February 5, 2006

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:** The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.  
 (yellow)
  - CONTINGENT FINAL:** 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.  
 (green)  
 No prior reports have been issued.  
 This report supersedes all prior public reports.
  - FINAL:** The developer has legally created a condominium and has filed complete information with the Commission.  
 (white)  
 No prior reports have been issued.  
 This report supersedes all prior public reports.  
 This report must be read together with \_\_\_\_\_
  - SUPPLEMENTARY:** This report updates information contained in the:  
 (pink)  
 Preliminary Public Report dated: \_\_\_\_\_  
 Final Public Report dated: \_\_\_\_\_  
 Supplementary Public Report dated: \_\_\_\_\_
- And  Supersedes all prior public reports.  
 Must be read together with \_\_\_\_\_  
 This report reactivates the \_\_\_\_\_ public report(s) which expired on \_\_\_\_\_

(\*) Exactly as named in the Declaration  
 This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 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:

**SPECIAL ATTENTION**

A. 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 contracts 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 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:

1. The executed and recorded deed for the project site.
2. The letter relating to the availability of funds to complete the project.

B. This is a CONDOMINIUM PROJECT, not a subdivision. It does not include the sale of individual subdivided lots. The land area beneath and immediately appurtenant to each unit is designated a LIMITED COMMON ELEMENT and not a legally subdivided lot. The dotted lines in the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

This public report does not constitute approval of the Project by the Real Estate Commission, or any other government agency, nor does it ensure that all applicable County codes, ordinances and subdivision requirements have been complied with.

Facilities and improvements normally associated with County approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., may not necessarily be provided for, and services such as County street maintenance will not be available for interior roads and driveways. Trash service is expected to be handled by a private service provider.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

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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: Ohana Hotel Company LLC, a Delaware limited liability company, dba Hotel Hana-Maui Name\* 5031 Hana Highway Business Address Hana, Hawaii 96713 Phone: (808) 248-8211 (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):

Passport Resorts LLC, a California limited liability company; Peter Heinemann, Manager

Real Estate Broker\*: Hana Coast Realty, Inc. Rae M. Lindquist Name P.O. Box 507 Business Address Hana, Hawaii 96713 Phone: (808) 248-7002 (Business)

Escrow First American Title Company, Inc. Name 833 Queen Street, Suite 700 Business Address Honolulu, Hawaii 96813 Phone: (808) 536-3866 (Business)

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

Condominium Managing Agent\*: None Name Business Address Phone: (Business)

Attorney for Developer: Case Bigelow & Lombardi Dennis M. Lombardi/Stacey W.E. Foy, Esq. Name 737 Bishop Street, Suite 2600 Business Address Honolulu, Hawaii 96813 Phone: (808) 547-5400 (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. \_\_\_\_\_

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

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

The Condominium Map for this condominium project is:

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

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

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

The Bylaws for this condominium are:

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

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

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

The House Rules for this condominium are:

Proposed       Adopted       Developer does not plan to adopt House Rules

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

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

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

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

2. **Developer:**

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

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

See Exhibit A

III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

[ X ] Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple. There are two types of Apartments in the Project: Residential and Commercial. Developer intends to sell the Residential Apartments as (a) whole unit apartments, whereby the Purchaser acquires 100% of the ownership interest in a particular Residence Apartment, and (b) vacation ownership apartments, whereby the Purchaser acquires an undivided one-sixth fractional interest in a Residential Apartments. Forms of the Purchase Contracts and the Deeds for the whole unit apartments and the fractional interests are included in this Public Report.

[ ] 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 there negotiated 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: 5031 Hana Highway Tax Map Key (TMK): (2) 1-4-04-22  
Hana, Hawaii 96713

Address  TMK is expected to change because \_\_\_\_\_  
5031 Hana Highway, Hana, Hawaii 96713

Land Area: 14.647  square feet  acre(s) Zoning: H-1

Fee Owner: Ohana Hotel Company LLC, dba Hotel Hana-Maui  
 Name  
5031 Hana Highway  
 Address  
Hana, Hawaii 96713

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: 12 Floors Per Building: 1  
 Exhibit \_\_\_\_\_ contains further explanations.
3. Principal Construction Material:  
 Concrete  Hollow Tile  Wood  
 Other Wood, metal studs, cementious material, aluminum, glass, drywall, flooring, windows
4. Uses Permitted by Zoning:

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>10</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Commercial	<u>11</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Hotel *	<u>19</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Timeshare*	<u>19</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Ohana	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Industrial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Agricultural	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Recreational	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Other	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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

Apartments 1 through 11 are designated in the Declaration as Commercial Apartments.  
 Apartments 101 through 110 in Building 12 of the Project are designated as Residence  
 Apartments, which may be used for hotel, timeshare, vacation ownership or residential use.

\* Apartment 9 shall be used as the main lobby and is designated for commercial use only.  
 Apartments 1, 3 through 8, 10 and 11 may also be used for hotel, timeshare and vacation  
 ownership.

5. Special Use Restrictions:

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

[ X ] Pets: \_\_\_\_\_ See Exhibit B

[ X ] Number of Occupants: \_\_\_\_\_ See Exhibit B

[ X ] Other: \_\_\_\_\_ See Exhibit B

[ ] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: \_\_\_\_\_ Stairways: \_\_\_\_\_ Trash Chutes: \_\_\_\_\_

See Exhibit C

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

Total Number of Apartments: \_\_\_\_\_ 10 Residential, 11 Commercial

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

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

Boundaries of Each Apartment:

See Exhibit D

Permitted Alterations to Apartments:

See Exhibit E

Apartments Designated for Owner-Occupants Only: Not Applicable  
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. Developer has \_\_\_\_\_ elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 0 (Section 514A- 14.5(b) provides that no parking is required based on age of the Project.)

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

Each apartment will have the exclusive use of at least \_\_\_\_\_ 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: 3-hole pitch and putting green

Note: The tennis courts and putting greens are part of the Resort Area, which is a limited common element appurtenant to the Main Building Commercial Apartment. The Owner of the Main Building has the exclusive right to use and control the use by other Owners over the Resort Area. Owners shall have a non-exclusive right to use the Resort Area and the recreational facilities located therein, subject to the rights of the Main Building Owner set forth in the Declaration and upon entry into a Hotel Amenities Access and Use and Services Agreement with the Developer, in its capacity as the owner of the Main Building. This is a voluntary agreement requiring the payment of an access fee to defray the cost of repairing and maintaining the amenities and the grounds. The form of the Hotel Amenities Access and Use and Services Agreement is attached as Exhibit F.

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):

See Physical Condition Report and Summary of Reserve Study attached as Exhibit G.

11. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

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

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

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

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

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

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

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

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

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

described in Exhibit H.

as follows:

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

There are no limited common elements in this project.

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

described in Exhibit I.

as follows:

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

described in Exhibit C.

as follows:

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

Exhibit J describes the encumbrances against the title contained in the title report dated October 14, 2004 and issued by First American Title Company, Inc.

**Blanket Liens:**

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

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

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

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

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed <b>Prior to Conveyance</b></u>
Existing Mortgage	The Project is presently subject to that certain Mortgage, Leasehold Mortgage, Security Agreement, Assignment of Rents, Fixture Filing and Financing Statement dated December 19, 2001, made by Developer in favor of Fremont Investment & Loan, a California industrial loan association, filed as Land Court Document No. 2764473, and recorded as Regular System Document No. 2001-203115, as amended by instrument dated June 26, 2003, filed as Land Court Document No. 2959883, and recorded as Regular System Document No. 2003-145217. Upon conveyance of an apartment to a purchaser, the existing mortgage will be released with respect to the apartment being conveyed. If there is a default and foreclosure of the existing mortgage prior to conveyance, the purchaser may lose the right to buy the apartment.

**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:

As the Project was completed in the 1970's by a prior unrelated developer, the Developer makes no warranties, express or implied, about the Apartments or the Project, or about consumer products or anything else installed or contained in the Apartments or the Project. This includes, but is not limited to, warranties of merchantability, habitability, workmanlike construction, fitness for a particular purpose, or sufficiency of design. All rights and interests in the Project are sold by the developer "as is" and "where is", with all defects, whether visible or hidden, and whether not or not known.

2. Appliances:

The Developer makes no representation or warranties whatsoever as to any appliances, fixtures or furnishings conveyed together with an Apartment or otherwise used or owned in common by the Association or Apartment owners in the Project.

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

THE PROJECT WAS ORIGINALLY COMPLETED IN THE 1970'S. THE DEVELOPER HAS COMPLETED INTERIOR RENOVATIONS IN APARTMENTS 101 TO 103 LOCATED IN BUILDING 12 AND WILL COMMENCE INTERIOR RENOVATIONS ON THE REMAINING RESIDENCE APARTMENTS IN BUILDING 12. ALL EXTERIOR UPGRADES AND IMPROVEMENTS TO BUILDING 12 HAVE BEEN COMPLETED. THE DEVELOPER WILL ONLY CLOSE SALES ON RESIDENCE APARTMENTS IN WHICH RENOVATIONS HAVE BEEN COMPLETED. THE DEVELOPER INTENDS TO COMPLETE RENOVATIONS ON ALL UNITS IN BUILDING 12 IN GROUPS OF 3 APARTMENTS OR MORE, AND UPON SUCH COMPLETION INTENDS TO FILE A FINAL PUBLIC REPORT ***ON THE COMPLETED UNITS ONLY***. AS INTERIOR RENOVATIONS ON ADDITIONAL RESIDENCE UNITS ARE COMPLETED, THE DEVELOPER WILL SUPPLEMENT THE FINAL PUBLIC REPORT TO INCLUDE THE COMPLETED UNITS. NO MORE THAN 2 SUPPLEMENTAL REPORTS WILL BE MADE TO THE FINAL PUBLIC REPORT. NO PURCHASER SHALL BE REQUIRED TO CLOSE ON THE SALE OF AN APARTMENT UNLESS THE RENOVATIONS TO THE APARTMENT HAVE BEEN COMPLETED.

H. **Project Phases:**

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

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

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

**Note: Payment of Common Area Maintenance Expenses.** Pursuant to Chapter 514A-15(b) of the Hawaii Revised Statutes, the Developer shall be obligated to pay the share of common expenses related to apartments owned by the Developer from and after the date of the first conveyance of an Apartment or interest therein to a third party purchaser.

C. **Utility Charges for Apartments:**

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

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

Tie-in to the central switchboard is included in the Amenity License Fee charged under the Hotel Amenity Use and Services Agreement. Those Owners who choose not to enter into the Hotel Amenity Use and Services Agreement have the option of arranging for their own phone service and will be billed separately for telephone service.

**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 M contains a summary of the pertinent provisions of the sales contract.

Escrow Agreement dated November 5, 2004

Exhibit N contains a summary of the pertinent provisions of the escrow agreement.

Other: (A) Form of Apartment Deed

(B) Form of Residence Club Interest Deed

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

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

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

Supplementary Report to a Preliminary Report: 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.
- C) Bylaws of the Association of Apartment Owners.
- D) House Rules, if any.
- E) Condominium Map.
- 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: Reserve Study, a copy of which has been or will be given to the purchaser for examination.

Any documents listed on Exhibit J attached hereto

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

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

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

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

This Public Report is a part of Registration No. 5520 filed with the Real Estate Commission on November 10, 2004.

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

C. **Additional Information Not Covered Above**

The following additional disclosures are summaries only of certain disclosures set forth in the Sales Contract. Purchasers are advised to review such disclosures in full before deciding to purchase an Apartment in the Project.

1. **Limited use of the Resort Area.** All of the land in the Project, except for the land underneath the buildings, and the amenities in the Project, including the putting greens and tennis courts, have been designated in the Declaration as the "Resort Area". The Resort Area is a limited common element appurtenant to the Main Building (Apartment 9 which is a commercial unit). The Owner of the Main Building has the exclusive right to use and control the use by other Owners over the Resort Area; provided that Apartment Owners have the right to use the sidewalks and paths designated by the Main Building Owner from time to time for ingress and egress to their Apartments. Owners in the Project shall have the right to use and enjoy the Resort Area and the amenities located therein provided they enter into the Hotel Amenities Access and Use and Services Agreement, a specimen copy of which is attached as Exhibit F to this Public Report. That Agreement requires the payment of an Amenity License Fee to the Main Building Owner, which will be used to defray the cost of maintaining the Resort Area and repairing the facilities located therein. The Amenity License Fee charged to the Owners shall be calculated in a manner that reasonably reflects the use those Owners make or are likely to make of the Resort Area, taking into account the use made by hotel guests and invitees in the Project. The Amenity License Fee may be adjusted from time to time in order to reflect the number of Owners having the right to use the Resort Area. Neither the Board of Directors or the Association has any right to change the use of, to make alterations of any kind, or to lease or otherwise use the Resort Area, unless the consent of the Main Building Owner is first obtained. The Owner of the Main Building shall have no obligation to provide additional amenities in the Resort Area for the use and enjoyment of any other Owner or to continue to make available any amenity or service provided as of the date of this Declaration. The Owner of the Main Building may change or elect to discontinue for any reason any amenity or service or to restrict access to portions of the Resort Area, provided the Amenity License Fee is adjusted accordingly. Further, neither the Board nor the Association shall have the right to restrict the Main Building Owner's ability to alter or modify the Main Building or the Resort Area, or such Owner's right to construct new buildings or amenities in the Resort Area.

2. **Hana Ranch Easements.** The land upon which the Project is located, as well as other property owned by the Developer, is benefited by a series of easement agreements (the "Easement Agreements") pursuant to which hotel guests of the Hotel Hana-Maui may use designated areas located on property owned by Hana Acquisition Partners, LLC (an entity that is unrelated to the Developer) for horseback riding tours operated by Developer, and for walking and jogging. The Easement Agreements are more particularly described in the legal description attached to the Condominium Declaration and in Exhibit J to this Public Report. The Easement Agreements define hotel guests as people who pay a fee to Developer for transient accommodations. Consequently, Owners purchasing an Apartment or Residence Club Interest are not entitled to use the easement areas. The easement areas may only be used by the Developer, as part of its hotel operation, and Developer's hotel guests. In the Condominium Declaration, Developer has reserved the right as the Developer of the Project to amend or modify the Easement Agreement in Developer's sole discretion and without the consent of any other Owner. By acquiring an interest in the Project, each Purchaser agrees and approves of the Developer's exercise of this reserved right and the power of attorney each Purchaser gives to the Developer to deal with the Easement Agreements pursuant to the Condominium Declaration.

3. **Membership in the Residence Club Association and Condominium Association.** At Closing, each Purchaser will be a member of the Association of Apartment Owners of The Hotel Hana-Maui Condominiums. Purchasers of fractional interests will also be members of a Residence Club Association and have the right to use a Residence Club Apartment (which may not be the Residence Club Apartment described in the Purchaser's Deed). In addition to the Project Documents governing The Hotel Hana-Maui Condominiums, Residence Club purchasers will be governed by a Residence Club Declaration and Bylaws and other documents establishing and governing the Residence Club (the "Residence Club Governing Documents"), all of which will be made available for review by Purchasers. Additionally, Purchasers of Residence Club interests will (a) have to make reservations to use a Residence Club Apartment in accordance with Lodging Rules and Procedures of the Residence Club, and (b) pay a Proportional Interest in the cost of the operation, management, governance and maintenance of the Residence Club shall be assessed to each Purchaser annually as further described in the Residence Club Governing Documents. Pursuant to the Residence Club Declaration, by virtue of being a member in the Residence Club Association, each Purchaser covenants and agrees to abide by the terms and conditions of the Residence Club Governing Documents, including the payment of all fees and assessments set forth therein. Each Purchaser must be current in its payments of fees and assessments before such Purchaser may make a reservation in the Residence Club or exercise any rights afforded such Purchaser under the Residence Club Governing Documents and such fees and assessments may be increased subject to the limitations set forth in the Residence Club Governing Documents.

**4. Seller Makes No Warranties or Promises.** PURCHASER ACKNOWLEDGES THAT ALTHOUGH SELLER HAS UNDERTAKEN CERTAIN RENOVATIONS TO THE APARTMENTS AND COMMON ELEMENTS OF THE PROJECT, SELLER IS NOT THE ORIGINAL DEVELOPER OF THE PROJECT AND WAS NOT INVOLVED IN (AND IS NOT RESPONSIBLE FOR) THE ORIGINAL PLANNING OR CONSTRUCTION OF THE PROJECT. PURCHASER FURTHER ACKNOWLEDGES THAT THE PROJECT WAS SUBSTANTIALLY COMPLETED IN THE 1970s AND HAS BEEN USED OVER THE YEARS PRIMARILY FOR HOTEL PURPOSES. PURCHASER UNDERSTANDS AND AGREES THAT THE APARTMENT IS BEING SOLD **"AS IS, WHERE IS" WITH ALL FAULTS** AND THAT SELLER DISCLAIMS AND MAKES NO WARRANTIES OR PROMISES OF ANY KIND, EXPRESS OR IMPLIED, ABOUT THE APARTMENT, THE LAND UNDERLYING THE PROJECT (THE "LAND") OR THE PROJECT (INCLUDING THE COMMON ELEMENTS OF THE PROJECT), OR ABOUT ANY FURNISHINGS, FIXTURES, APPLIANCES OR OTHER CONSUMER PRODUCTS, MECHANICAL SYSTEMS, PLUMBING SYSTEMS, ELECTRICAL SYSTEMS, COOLING OR HEATING SYSTEMS OR ANYTHING ELSE INSTALLED, ATTACHED, AFFIXED OR OTHERWISE CONTAINED IN THE APARTMENT, THE LAND OR THE PROJECT (INCLUDING THE COMMON ELEMENTS OF THE PROJECT), INCLUDING ANY WARRANTIES OR PROMISES OF "HABITABILITY", "MERCHANTABILITY", "WORKMANSHIP" OR "FITNESS FOR A PARTICULAR USE OR PURPOSE".

WITHOUT LIMITING THE GENERALITY OF ANY OF THE FOREGOING, SELLER DISCLAIMS AND MAKES NO WARRANTIES OR PROMISES: (A) THAT THE PROJECT OR ANY IMPROVEMENTS IN THE APARTMENT, THE LAND OR THE PROJECT (INCLUDING THE COMMON ELEMENTS) WILL BE FREE FROM CRACKS IN OR OTHER DAMAGE TO, THE CONCRETE OR OTHER BUILDING MATERIALS; (B) REGARDING THE VALUE, QUALITY, GRADE OR USEFUL LIFE OF THE APARTMENT, THE PROJECT OR ANYTHING INSTALLED, ATTACHED, AFFIXED OR OTHERWISE CONTAINED IN THE APARTMENT, THE LAND OR THE PROJECT (INCLUDING THE COMMON ELEMENTS OF THE PROJECT); (C) REGARDING THE STRUCTURAL, PHYSICAL OR ENVIRONMENTAL HISTORY OR CONDITION OF THE PROJECT, INCLUDING, WITHOUT LIMITATION, ANY DEFERRED MAINTENANCE AT THE PROJECT; OR (D) REGARDING THE SUITABILITY, CONFORMANCE, COMPLIANCE OR LACK OF COMPLIANCE OF THE PROJECT WITH ANY STATE, FEDERAL, COUNTY OR LOCAL LAW, CODE, ORDINANCE, ORDER, PERMIT, ADMINISTRATIVE REQUIREMENT, OR REGULATION, INCLUDING, WITHOUT LIMITATION, THOSE RELATED TO THE CONSOLIDATION AND SUBDIVISION OF LAND, THE OPERATION AND USE OF THE PROJECT AND ACCESSIBILITY OF THE PROJECT BY PERSONS WITH DISABILITIES. IN OTHER WORDS, SELLER MAKES NO WARRANTIES OR PROMISES AT ALL.

**5. Seller Makes No Promises or Warranty About the Condominium Map.** The Condominium Map for the Project which is recorded in the Bureau of Conveyances of the State of Hawaii, is intended to show only the layout, location, apartment numbers and approximate dimensions of the apartments and the elevations of the Buildings. PURCHASER AGREES THAT NEITHER THE CONDOMINIUM MAP NOR THE BUILDING PLANS AND SPECIFICATIONS FOR THE PROJECT ARE INTENDED TO CONSTITUTE ANY WARRANTIES OR PROMISES BY SELLER.

**6. Seller Makes No Promises or Warranty About the Amount of Monthly Maintenance Fees.** Purchaser has examined and approved the estimate of monthly maintenance fees and assessments for the Project. Purchaser is aware that such amounts are only estimates and may change for reasons beyond the control of Seller, and Purchaser hereby specifically accepts and approves any changes in such estimate made by Seller or the Managing Agent. PURCHASER AGREES THAT SUCH ESTIMATES ARE NOT INTENDED TO BE AND DO NOT CONSTITUTE ANY WARRANTY OR PROMISE BY SELLER, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OR PROMISE AS TO THE ACCURACY OF SUCH ESTIMATES.

**7. Seller makes No Promises or Warranty About Third-Party Reports.** Seller makes no warranty or representation whatsoever that Seller has provided all studies, reports, tests or other written investigations that may pertain to the condition of the Apartments and the other areas of the Project. To the extent that Seller may have hired or commissioned any study, test or other investigation of the condition, useful life, legal compliance or any other matter relating to the Apartments, the Land, the Project, or any furnishings, fixtures, appliances or other consumer products or anything else installed, attached, affixed or otherwise contained in the Apartments, the Land or the Project, and to the extent Seller may make the results of any such study, test or investigation available to Purchaser in connection with the offer or sale of the Project, Seller disclaims and makes no warranty or promise regarding the accuracy, reliability or value of any statement or opinion expressed by such third-party. PURCHASER AGREES THAT PURCHASER'S USE OR CONSIDERATION OF ANY SUCH INFORMATION IN CONNECTION WITH THE OFFER OR SALE OF THE APARTMENT SHALL BE AT PURCHASER'S SOLE RISK.

**8. Lead-based paid disclosure.** (See Disclosure attached to Sales Contract).

**9. Payment of Common Area Maintenance Expenses.** Pursuant to Chapter 514A-15(b) of the Hawaii Revised Statutes, the Developer shall be obligated to pay the share of common expenses related to apartments owned by the Developer from and after the date of the first conveyance of an Apartment or interest therein to a third party purchaser.

**10. Special Management Area.** The Project is located within the Shoreline Management Area. Any future improvements to the Project may require application to and approval by the Maui County Planning Commission.

**11. Flood zone designation.** The Project is located in Zone C designated by FEMA, the Federal Emergency Management Agency. Properties in this zone correspond to areas outside the 1-percent annual chance floodplain, areas of 1-percent annual chance sheet flow flooding where average depths are less than 1 foot, areas of 1-percent annual chance stream flooding where the contributing drainage area is less than 1 square mile, or areas protected from the 1-percent annual chance flood by levees. No Base Flood Elevations or depths are shown within this zone. Insurance purchase is not required.

- 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.

OHANA HOTEL COMPANY LLC, a Delaware limited liability company, dba Hotel Hana-Maui  
Printed Name of Developer

PASSPORT RESORTS LLC, a California limited liability company

By: Peter M. Heinemann  
Duly Authorized Signatory\*

12/30/04  
Date

Peter M. Heinemann, Its 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

### RIGHTS RESERVED BY THE DEVELOPER

The following summary is not intended to be a complete and exhaustive explanation of all the rights reserved by the Developer under the documents governing the Project (the "Project Documents"). It is intended to be a general summary. If any conflict or difference exists between this summary and the Declaration, Bylaws or other Project Documents, the Project Documents shall control.

Among other rights set forth in the Declaration, Developer will have the following reserved rights with respect to the Project:

1. Reserved Rights with Respect to the Commercial Apartments and the Limited Common Elements. Developer has the reserved right, but not the obligation, to:

(a) convert any Commercial Apartment owned by the Developer into one or more Vacation Ownership Apartments and to further designate limited common elements appurtenant to such new Apartments,

(b) transfer the exclusive use rights associated with a Limited Common Element appurtenant to a Commercial Apartment owned by the Developer to another Apartment,

(c) convert Limited Common Elements to Common Elements, upon such conversion, the Association shall accept any such conversion, and shall not have any right to refuse or reject any such conversion,

(d) construct new Apartments on the Land located within the Resort Area envelope and to designate Common Elements or Limited Common Elements appurtenant to such new Apartments, as set forth in Paragraph U. of the Declaration,

(e) alter, maintain, repair, demolish and/or replace any Limited Common Element appurtenant to the Commercial Apartments,

(f) alter, maintain, repair, demolish and/or replace the Commercial Apartments,

(g) modify any of the uses associated with the Commercial Apartments or the Limited Common Elements appurtenant thereto, provided that any such use complies with applicable law, and

(h) discontinue the use and availability of certain Commercial Apartments or facilities in the Resort Area.

2. Reserved Right to Subdivide and Consolidate Apartments.

(a) Developer shall have the reserved right, without obtaining the approval of any party with an interest in the Project, including any other Apartment Owner and/or mortgagee, to: (a) alter the floor plan of any Apartment which it owns at any time provided that the Common Interest appurtenant to the Apartment shall not change, (b) cause the subdivision of any Apartment which it owns at any time to create two or more Apartments provided that the total Common Interest appurtenant to the newly created Apartments shall equal the Common Interest appurtenant to the original Apartment; and (c) convert certain portions of any existing Apartment to Common Element status or any Common Element to Apartment status to facilitate any subdivision provided that the total Common Interest appurtenant to the newly created Apartment or Apartments shall equal the Common Interest appurtenant to the original Apartment or Apartments.

(b) If Developer is the Owner of any two Apartments separated by a party wall, floor or ceiling, Developer shall have the right, without obtaining the approval of any party with an interest in the Project, including any other Apartment Owner and/or mortgagee to consolidate two or more Apartments and to alter or remove all or portions of the intervening wall, floor or ceiling at Developer's expense provided that: (a) the structural integrity of the Project is not thereby affected, (b) the finish of the Common Element then remaining is restored to a condition substantially compatible with that of the Common Element prior to such alteration, and (c) all construction activity necessary to any such alteration or removal shall be completed within a reasonable period of time after the commencement thereof, subject to delays beyond the control of Developer or its contractors, whether caused by strikes, the unavailability of construction materials or otherwise, in which case any such construction activity shall be completed in such additional time as may be reasonably necessary in the exercise of due diligence.

(c) Developer, in the process of consolidating Apartments, shall have the right to convert that area between Apartments into an Apartment (as opposed to the same remaining a Common Element) for so long as such Apartments shall remain consolidated or shall continue to be commonly used or owned.

3. Reserved Right to Annex Land. The Developer shall have the right, but not the obligation to develop one or more condominium projects, whether or not located on land immediately adjacent to the Land but in the same vicinity as the Project and to merge such condominium project(s) with the Project so as to permit the joint use of the common elements of the projects by all owners of apartments in the merged project. In connection with any such merger, the Common Interests appurtenant to each Apartment in the Project shall be recalculated in a manner consistent with Paragraph E.1 of the Declaration. Developer shall have the right to record a certificate of merger which shall, at minimum, set forth all of the apartments of the merged condominium projects, their new undivided interest, and their current certificate of title numbers, if applicable, in the common elements of the merged projects.

4. Reserved Right to Approve Alterations. The Developer shall have the right, but not the obligation, to approve any alteration of any kind that affects or may affect the appearance of all or any portion of the Project.

5. Reserved Right to Amend Declaration and Condominium Map. The Developer shall have the right to amend the Declaration and the Condominium Map to reflect alterations and changes made to the Project in the exercise of its reserved rights.

6. Reserved Right to Amend Recorded Deeds The Developer shall have the reserved right to amend any recorded deed or other document conveying or encumbering an Apartment or interest in an Apartment so that it conforms to amendments made to the Declaration or the Condominium Map, or the Developer may record a new deed for that purpose. For example, if the Developer creates new apartments in the Resort Area or on any adjacent lands, it may need to adjust the common interest of each existing apartment. In that event, the Developer may amend the deeds for existing Apartments to reflect the change in the common interest or it may issue replacement deeds reflecting the new common interest of each Apartment.

7. Reserved Right to Modify Project to Comply with Law. Developer shall have the reserved right, to effect such modifications to the Apartments and Common Elements in the Project and/or to execute, record and deliver any amendments to the Declaration, the Condominium Map as well as the Bylaws and rules and regulations promulgated thereunder, as may be necessary or required to effect compliance by the Project, the Association, the association created under a Vacation Ownership Declaration or Time Share Declaration, or by Developer with laws which apply to the Project, including, without limitation, the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 et seq., including any and all rules and regulations promulgated thereunder, and the Americans With Disabilities Act, as amended, 42 U.S.C. §§ 12101 et seq., including any and all rules and regulations promulgated thereunder.

8. Reserved Right Regarding Special Management Area Permit. Developer shall have the reserved right, to amend the Declaration, to enter into any agreements and to do all things necessary and convenient to satisfy the requirements of any Special Management Area Permit pertaining to the Project, and to execute, record and deliver any and all documents necessary to effect the same, including, but not limited to, any amendments to the Declaration and to the Condominium Map.

9. Reserved Right to Establish Special Use Program. Developer, its successors and assigns, shall have the reserved right to establish a program at the Project whereby non-owners of Apartments (as well as any owners of time share interests in the Project who do not have current use rights) have the right to utilize the Resort Area, including any recreational amenities thereof. Such a program may involve, without limitation, the use of certain Developer-controlled areas for check-in/checkout purposes, the provision of certain services and other purposes.

10. Reserved Right Regarding Special Management Area Permit. Developer shall have the reserved right, to amend the Declaration, to enter into any agreements and to do all things necessary and convenient to satisfy the requirements of any Special Management Area Permit pertaining to the Project, and to execute, record and deliver any and all documents necessary to effect the same, including, but not limited to, any amendments to the Declaration and to the Condominium Map.

11. Reserved Right to Establish Special Use Program. Developer, its successors and assigns, shall have the reserved right to establish a program at the Project whereby non-owners of Apartments (as well as any owners of time share interests in the Project who do not have current use rights) have the right to utilize the Resort Area, including any recreational amenities thereof. Such a program may involve, without limitation, the use of certain Developer-controlled areas for check-in/checkout purposes, the provision of certain services and other purposes.

12. Reserved Right to Modify or Cancel Hana Ranch Easements. Developer, its successors and assigns, shall have the exclusive reserved right to amend and modify in any way, or to cancel the easements more particularly identified in Exhibit "C" attached to the Declaration (collectively, the "Hana Ranch Easements"), pursuant to which hotel guests of the Developer (i.e. persons paying the Developer for transient accommodations) have the non-exclusive right to use property owned by Hana Acquisition Partners, LLC (not affiliated with Developer) for horseback riding tours operated by the Developer, jogging, walking and other activities made available by Developer in connection with the Hotel Hana-Maui. Each Owner, by acquiring an interest in the Project, agrees and acknowledges that such Owner is not a "hotel guest" and is therefore not entitled to the benefits of the Hana Ranch Easements, notwithstanding that the land is benefitted by the Hana Ranch Easements.

13. Reserved Right Regarding Resort Area. Developer, as the Main Building Owner, shall have the reserved right to control the use by other Owners of the Resort Area, to change the use of, to make alterations of any kind, to lease, restrict access or to discontinue the available facilities without the consent of any other Owner, subject to the provisions of the Amenity Use and Services Agreement.

14. Consent to Exercise of Developer's Reserved Rights Each and every party acquiring an interest in the Project, by such acquisition: (a) consents to the exercise by the Developer or the Commercial Apartment Owner, as the case may be, of each and every reserved right set forth in the Declaration, including without limitation, Paragraphs Q, S, T and U of the Declaration, such consent constituting the consent required by Section 514A-89 of the Act with respect to structural alterations and additions to the Project, and to the execution, delivery and recording (if necessary) of any and all documents necessary to effect the same, including any amendment or amendments of the Declaration and the Condominium Map; (b) agrees to execute, deliver and record such documents and instruments and do such other things as may be necessary or convenient to effect the same; and (c) appoints Developer and its assigns as such party's or parties' attorney-in-fact with full power of substitution to execute, deliver and record such documents and instruments and to do such things on such party's or parties' behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of such reserved rights of Developer, and shall not be affected by the disability of such party or parties.

**END OF EXHIBIT A**

## EXHIBIT B

### SPECIAL USE RESTRICTIONS

The following summary is not intended to be a complete and exhaustive explanation of all the rights reserved by the Developer under the documents governing the Project (the "Project Documents". It is intended to be a general summary. If any conflict or difference exists between this summary and the Declaration, Bylaws or other Project Documents, the Project Documents shall control.

1. All Apartments shall be used only for such purposes as provided in the Declaration and the Project Rules.

2. Rental. Owners shall have the right to sell, lease, rent, or otherwise transfer their respective Apartments subject to all provisions of the Act and the Project Documents; provided, however, that no Apartment Owner other than the Developer may lease or rent a Residence Apartment for a term of less than one hundred eighty (180) days and no Owner other than the Developer may rent any Residence Apartment in a manner by which the occupants of the Residence Apartment are provided customary hotel or similar services, such as room service, maid service, laundry or linen service or bell service. Any lease or rental agreement of an Apartment shall provide that it shall be subject in all respects to the provisions of the Project Documents and that the failure of the lessee or tenant to comply with the terms of the Project Documents shall be a default under the lease or rental agreement.

3. Use and Enjoyment. The Owners, their respective guests and Permitted Users shall not interfere with or prevent the use and enjoyment of any part of the Project by an Owner, guest or any other Permitted User. It is intended that the Project is for the use of the Owners, guests and other Permitted Users and the Association shall control access thereto by all persons whose presence the Association considers, in its reasonable discretion, to be prejudicial to the safety, character, reputation and interests of the Project and the Owners, guests and Permitted Users of the Project. The Association reserves the right to exclude or expel from the Common Elements any person who, in the judgment of Association, creates a disturbance or nuisance or who shall in any manner act in violation of any of the Rules.

4. Whole-Ownership Apartments. An Owner of a Whole-Ownership Apartment will notify the Association in advance of when such Owner will be in residence at its Whole-Ownership Apartment and will check-in with the front desk of the Hotel. An Owner of a Whole-Ownership Apartment may permit other persons to occupy its Apartment at the same time such Apartment is occupied by the Owner, or at different times, provided that the maximum allowable occupancy limit allowed by law is not exceeded. If a guest will be occupying a Whole-Ownership Apartment without the Owner, the Owner will provide the Association with the name and address of such person(s) in writing prior to such occupancy and such guest(s) will check-in with the front desk of the Hotel. When checking in, an Owner of a Whole-Ownership Apartment or any guest of such Owner will be required to show proof of identification, to sign a registration card and to provide a credit card imprint. Guests will comply with the Rules at all times during their presence at the Project. The Owner is responsible for all personal charges and/or damage to the Common Elements resulting from use by the Owner's guests.

5. Safety; Emergency.

- a. Owners, guests and Permitted Users shall comply with all safety, security, fire protection and evacuation procedures and rules established by the Association or any governmental agency.
- b. In case of an emergency, contact the Managing Agent or contact the appropriate authorities by dialing 911.

6. Parking. Owners, guests and Permitted Users will park their vehicles at such locations designated by the Association. The Association reserves the right to require Owners, guests and Permitted Users to park their vehicles with the valet parking service provided through the Hotel. The fee for valet parking, if any, will be established by the Hotel Owner from time to time. The valet parking fee, if any, is not included in any Assessment but is an incidental cost to be paid by the Owner, Guest or Permitted User, as the case may be, at the time of departure.

7. Fire; Outdoor Cooking. No fires, including barbecue fires, shall be allowed in any part of any Apartment or the Common Elements. Barbecuing shall include, but shall not be limited to, the cooking of any food items over a charcoal fire, gas grill or electrical grill.

8. Certain Activities. No Owner, guest or Permitted User shall do anything within the Project, or bring or keep anything therein, which would in any way (i) increase or tend to increase the risk of fire, (ii) result in the cancellation or the increase of the insurance or any part thereof which the Association is required to maintain pursuant to the Project Documents, (iii) conflict with any rules or ordinances established by any governmental agency, (v) materially threaten or destroy the vegetation or wildlife within the Project, (vi) result in unreasonable levels of sound or light pollution, (vii) emit foul or obnoxious odors, or (iv) causes an unclean, unhealthy, or untidy condition to exist.

9. Noise. All Owners and occupants shall exercise care so as not to make excess noise especially in the use of musical instruments, radios, televisions and other devices with sound amplification that may disturb other occupants.

10. Pets; Animals. No livestock or poultry, or animals of any kind shall be allowed or kept in any part of the Project, except for specially trained animals or animals that must be permitted on the Project pursuant to the Americans with Disabilities Act or any other law. For purposes of this section, "specially trained animals" means certified guide dogs, signal dogs, service animals and other animals specially trained to assist handicapped people. Any animal permitted to accompany an Owner pursuant to this Rule shall be kept on a leash when they are not in the Owner's Apartment and any animal being or causing a nuisance or an unreasonable disturbance to any other occupant of the Project may be permanently removed therefrom promptly upon notice given by the Board or Managing Agent. Owners shall be responsible for the immediate and proper disposal of all fecal matter of their pets.

11. Waste; Common Elements. No Owner or occupant shall make or suffer any strip of waste or unlawful, improper or offensive use of his or her Apartment, any Limited Common Element appurtenant thereto or any other part of the Project, nor shall any Owner or occupant alter or remove any furniture, furnishings or equipment from the Common Elements.

12. Electrical Equipment. No Owner or occupant shall, without the written approval of the Board install any wiring for electrical installations, television antenna, machines or air conditioning units, or other equipment or appurtenances whatsoever on the exterior of any Apartment or protruding through the walls, windows or roof thereof.

13. Storage. No Owner or occupant shall place, store or maintain in the landings, stairways, walkways, sidewalks, parking areas, driveways, roads, grounds or other Common Elements of similar nature any furniture, packages or objects of any kind or otherwise obstruct transit through such Common Elements.

14. Landscape. Each Owner shall be responsible for the landscaping, care and maintenance of any garden areas, including Private Garden Area appurtenant to his or her Apartment; provided, however, that any landscaping or other plantings within such areas shall be maintained by and at the expense of the respective Owners in neat and trim condition and shall be in accordance with the Resort Quality Standard and in substantial conformance or compatible with adjacent Common Element landscaping.

15. Utility Systems. No Owner, guest or Permitted User shall obstruct, alter or in any way impair the operation of the Project's plumbing, sprinkler, fire safety or lighting systems.

16. Business. No Owner, guest or Permitted User shall solicit business anywhere within the Project or use the Project for conducting any business or activity other than as specifically allowed by the Association; provided, however, that any retail establishments located within the Project shall be permitted to operate in such capacity.

17. Solicitation. Canvassing, soliciting, distribution of handbills or any other printed material, or peddling in on, or about the Project is prohibited, and the Owners shall cooperate and assist the Association to prevent same; provided, however, that the distribution of printed materials in connection with the sale of Apartments within the Project is permitted.

18. Signage. No sign (other than signs erected in connection with the operation of the Project), advertisement, notice (other than notices of meetings of the Association) or handbill shall be exhibited, distributed, painted or affixed by any, Owner guest or Permitted User on any part of the Project, without the prior written consent of the Association, which consent may be withheld in sole and absolute discretion of the Association. In the event of the violation of the foregoing, the Association may remove same without any liability, and may charge the expense incurred in such removal to a Owner, if such expense is attributable to an Owner. No Owner, without the prior written consent of the Board, may display any sign or place any other item in or upon any door, window, wall or other portion of an Apartment or the Common Elements so as to be visible from the outside.

19. Awnings, Shades. No awnings, shades, jalousies or other device shall be erected or placed on or projecting from the exterior of any Residence Apartment, so as to be visible from the outside without prior written permission from the Board. The Owners of the Commercial Apartments are excluded from this prohibition with respect to the Commercial Apartments and the Limited Common Elements appurtenant thereto.

20. Trash; Debris. The Owners, guests and Permitted Users shall not deposit any trash, refuse, cigarettes, or other substances of any kind within the Project, except in the refuse containers provided therefor. No material shall be placed in the trash boxes or receptacles if such material is of such a nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage within the Project.

21. Smoking. The Association reserves the right to prohibit smoking on any part of the Project (other than within the Apartments) at any time. The Association further reserves the right to designate, relocate or discontinue smoking areas within the Project (other than within the Apartments) at any time.

22. Garments; Rugs. No garments, rugs or other objects (including towels or swimsuits) shall be hung from the railings, window ledges, lanais or any exterior portion of any Apartment or other part of the Project. No rugs or other objects shall be dusted or shaken from the windows or lanais of any Apartment or other part of the Project or cleaned by beating or sweeping onto any exterior part of the Project.

23. Children. Parents and guardians are responsible for the conduct of their children. Children under thirteen (13) years of age must be accompanied by an adult. Parents and guardians will be held financially responsible for disturbances or damages caused by children. Failure to pay for damages caused by such behavior may affect the Owner's use privileges.

24. Personal Charges. Each Owner is responsible for the prompt payment of any fee or other charge which may be incurred by such Owner, its guests or Permitted Users. The Association will charge a minimum fee of \$10.00 for any personal charges required to be billed to an Owner after check-out. All personal charges, including, but not limited to, extra services or damages for Guests or Permitted Users are considered the responsibility of the Owner who requested access for such Guest or Permitted User. Any unpaid personal charges payable to the Association will bear interest at the maximum rate allowed by law.

25. Amenities. Each Owner of a Whole-Ownership Apartment may elect to enter into an Amenities Access and Services Agreement whereby such Owner and its guests may use the Amenities and receive services provided by the Hotel subject to and in accordance with the terms and conditions of the Amenities Access and Services Agreement. Such terms and conditions may impose fees and special restrictions or limitations on use by guests of the Owner.

**END OF EXHIBIT B**

**EXHIBIT C**

**APARTMENT SUMMARY AND CALCULATION OF COMMON INTEREST**

<b>Apt. No.</b>	<b>Apt. Type</b>	<b>Unit Type</b>	<b>Total Area</b>	<b>Common Interest</b>	<b>Description</b>
1	Commercial	N/A	2,140	2.4889%	A Commercial Apartment consisting of three guest rooms and lanais.
2/Spa	Commercial	N/A	7,232	8.4110%	A Commercial Apartment containing fifteen rooms used for spa treatments, locker rooms, a retail space and storage elements.
3	Commercial	N/A	3,119	3.6275%	A Commercial Apartment consisting of four guest rooms and lanais.
4	Commercial	N/A	4,568	5.3127%	A Commercial Apartment consisting of four guest rooms and lanais.
5	Commercial	N/A	4,568	5.3127%	A Commercial Apartment consisting of four guest rooms and lanais.
6	Commercial	N/A	2,254	2.6214%	A Commercial Apartment consisting of two guest rooms and lanais.
7	Commercial	N/A	5,517	6.4164%	A Commercial Apartment consisting of six guest rooms and lanais.
8	Commercial	N/A	2,254	2.6214%	A Commercial Apartment consisting of two guest rooms and lanais.
9/Main Building	Commercial	N/A	28,950	33.6694%	A Commercial Apartment consisting of front desk and reception area, retail shops, offices, restaurant, cocktail lounge, garden courtyard and lanais, porte cochere, and various back-of-house areas, such as employee dining room and restrooms.
10	Commercial	N/A	7,680	8.9320%	A Commercial Apartment consisting of retail shops.
11/Garden Pool Pavilion	Commercial	N/A	4,000	4.6521%	A Commercial Apartment consisting of nine rooms used for pool-related activities, bathrooms, open deck and storage.
101	Residence	I	1,495	1.7387%	One bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 538 square feet.
102	Residence	IR	1,296	1.5073%	One bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 335 square feet.
103	Residence	II	1,392	1.6189%	One bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 442 square feet.
104	Residence	IR	1,317	1.5317%	One bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 338 square feet.
105	Residence	II	1,392	1.6189%	One bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 442 square feet.
106	Residence	IR	1,317	1.5317%	One bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 338 square feet.
107	Residence	II	1,392	1.6189%	One bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 442 square feet.
108	Residence	IR	1,317	1.5317%	One bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 338 square feet.

109	Residence	II	1,392	1.6189%	One bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 442 square feet.
110	Residence	IR	1,391	1.6178%	Accessible one-bedroom unit consisting of a living room with kitchen, bedroom and bathroom. Lanai area comprises 441 square feet.
			85,983	100.0000%	

Additional Information concerning Apartments:

1. Location of Apartments. Each Apartment is identified on the Condominium Map by a number designation and is located as shown on the Condominium Map.
2. Construction Materials. All of the buildings in the Project are single-story, have no basements and are constructed principally of metal, wood, glass and related building materials.
3. Access to Common Elements. Subject to the Developer's reserved rights concerning control over the Resort Area, as more particularly set forth in Section 5 of Paragraph H, and to the provisions of the Amenity Use and Service Agreement, each Apartment has immediate access to the common elements of the Project or to a walkway leading to the Common Elements of the Project.

**END OF EXHIBIT C**

## EXHIBIT D

### BOUNDARIES OF APARTMENTS

(a) Boundaries of the Commercial Apartments. The Commercial Apartments include all walls, columns and partitions (both load bearing and not load bearing) which are within the Commercial Apartment's perimeter walls including, without limitation, the Commercial Apartment's perimeter walls, the foundation, all floors, ceilings, doors, windows, sliding glass doors, screen doors, door frames and window frames, the air space within the Commercial Apartment, the foundation, ceiling, doors, the lanais (whether or not enclosed), planters and any garden areas, shown on the Condominium Map, all rollers, locks, handles, tracks, and appurtenant hardware associated with all windows, doors and exterior automobile garage doors, if any, and all sliding or swinging screen doors and all glass window screens and all fixtures originally installed in the Commercial Apartments, and all pipes, plumbing (including water heaters), wires, conduits and other utility or service lines and facilities servicing only the Commercial Apartments. The Commercial Apartments shall also include all load-bearing columns, girders, beams, building components and other elements included within each Commercial Apartment. The Commercial Apartments shall not include any pipes, shafts, wires, conduits or other utility or service lines running through a Commercial Apartment which are utilized for or serve more than one Apartment, all of which are deemed Common Elements as provided in the Declaration.

(b) Boundaries of the Residence Apartments. Each Residence Apartment includes the air space within all perimeter walls of the Residence Apartment, excluding the walls, columns and partitions which are not load-bearing, but including the space within the inner decorated or finished surfaces of all walls, windows, floors, ceilings, doors, door frames and windows of the Residence Apartment, all rollers, locks, handles, tracks, and appurtenant hardware associated with all windows, doors, and all glass window screens and all fixtures originally installed in the Apartment, and all pipes, plumbing (including water heaters), wires, conduits, and other utility or service lines and facilities within the Apartment perimeter and servicing only the Residence Apartment. The Residence Apartments shall not include the undecorated or unfinished surfaces of the perimeter party or non-party walls, the undecorated or unfinished surfaces of the doors, door frames, and window frames along the perimeters (notwithstanding the obligation of the Owner of a Residence Apartment or the applicable Vacation Ownership Association, as the case may be, to maintain the same), the interior load-bearing columns, girders, beams, and walls, the undecorated or unfinished surfaces of the floors and ceiling surrounding each Residence Apartment, or any pipes, shafts, wires, conduits, or other utility or service lines running through a Residence Apartment which are utilized for or serve more than one Residence Apartment, all of which are deemed Common Elements as provided in the Declaration.

END OF EXHIBIT D

## EXHIBIT E

### PERMITTED ALTERATIONS

1. Consent Required for Alteration of the Project. Except as otherwise provided by the federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq.) as amended by the Fair Housing Amendments Act of 1988, and the rules and regulations promulgated thereunder, as the same may be amended from time to time in the future and except as otherwise provided herein, restoration or replacement of the Project or any building or other structure thereof or construction of any additional building or other structure or structural alteration or addition thereto, shall be undertaken by the Association or any Apartment Owner only pursuant to an amendment of the Declaration, duly executed by or pursuant to a vote or the written consent of seventy-five percent (75%) of the Apartment Owners together with the consent of all Apartment Owners whose Apartments or the Limited Common Elements appurtenant thereto are directly affected (as determined in a reasonable manner by the Board of Directors) and in accordance with complete plans and specifications therefor first approved in writing by the Board of Directors, and promptly upon completion of such restoration, replacement, construction, alteration or addition the Association shall duly record or file of record such amendment together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer; PROVIDED, HOWEVER, that:

(a) the foregoing consent requirement shall not apply to "nonmaterial structural additions to the common elements" as defined in Section 514A-89 of the Act, which shall require approval only by the Board and a majority of the Apartment Owners.

(b) the rights and easements reserved to the Developer set forth in the Declaration, including without limitation, the easements set forth in Section 7 of Paragraph F of the Declaration and the reserved rights set forth in Paragraph T of the Declaration may be exercised without the consent of the Board or any other person.

(c) any alterations or additions in respect of the Commercial Apartments and the Limited Common Elements appurtenant thereto shall require only the written approval thereof, including the plans therefor, by Owner of the Commercial Apartment in question, the holders of first mortgage liens affecting such Apartment (if the lien holders require such approval), and by the appropriate agencies of the State of Hawaii and the County of Maui (if such agencies so require). Upon completion of the alterations or additions, the Owner of the affected Commercial Apartment shall duly record an amendment to the Declaration together with the approved plans showing only such alterations and alterations made to the Commercial Apartment or the Limited Common Elements appurtenant thereto, and such amendment need only be executed by the Commercial Apartment Owner and its lien holder, if required by the lien holder.

(d) Any change or addition to the Project shall comply in all respect with all applicable governmental codes, statutes, ordinances and rules and regulations, or with all variances granted therefrom.

2. Developer's Reserved Rights Regarding Alterations. Notwithstanding any other provision in the Declaration to the contrary, prior to the time that all Apartments in the Project have been sold and recorded and the filing by Developer of the "as built" verified statement required by Section 514A-12 of the Act, Developer shall have the right, without the approval, consent or joinder of any Apartment Owner, (a) to make alterations in the Project (and/or to amend the Declaration and the Condominium Map accordingly) which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Apartment (and the Limited Common Elements appurtenant thereto) in the Project which is not sold and recorded; or (b) to make other alterations in the Project (and to amend the Declaration and the Condominium Map accordingly) which make minor changes in any Apartment in the Project or the Common Elements which do not affect the physical location, design or size of any Apartment which has been sold and recorded, PROVIDED, HOWEVER, that as to (a) above, any such changes shall be reflected in an amendment to the Declaration. As used herein the term "sold and recorded" shall mean and refer to the sale of Apartments in the Project, and the recording of the deed in the Recording Office from Developer to any party who is not the assignee or holder of the Developer's reserved rights under the Declaration.

END OF EXHIBIT E

EXHIBIT F

FORM OF HOTEL AMENITY ACCESS AGREEMENT  
ATTACHED

## HOTEL AMENITIES ACCESS AND USE AND SERVICES AGREEMENT

This **HOTEL AMENITIES ACCESS AND USE AND SERVICES AGREEMENT** (this "Agreement") is made and executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between OHANA HOTEL COMPANY LLC, a Delaware limited liability company ("Hotel Owner"), \_\_\_\_\_ ("Owner").

### RECITALS

- A. Hotel Owner owns and either directly or through its affiliates, operates and manages a luxury hotel known as the Hotel Hana-Maui (the "Hotel"), consisting of certain real property, a hotel facility and certain recreation facilities and amenities, including, but not limited to, open space, a beach facility, a swimming pool and a work out facility (the "Hotel Property Amenities") located in the City of Hana, the Island and County of Maui, State of Hawaii.
- B. Located on a portion of the Hotel property and owned by the Hotel Owner is a condominium project (the "Condominium") created pursuant to that certain Declaration of Condominium Property Regime of The Hotel Hana-Maui Condominiums, recorded on \_\_\_\_\_ with the Bureau of Conveyances of the State of Hawaii (the "Condominium Declaration"), consisting of twenty-one (21) apartments, comprised of ten (10) one-bedroom apartments contained in a single building to be dedicated to residential use ("Residence Apartments"); eleven (11) apartments in multiple buildings dedicated to residential and/or commercial use and certain recreation facilities and amenities, including but not limited to open space, a full service spa facility, two tennis courts, a swimming pool adjacent to a garden pool pavilion, a three hole putting green (the "Condominium Property Amenities").
- C. Owner has purchased a Residence Apartment located within the Condominium (referred to as a "Whole-Ownership Apartment" under the Condominium Declaration and the "Unit" herein).
- D. Hotel Owner has agreed to permit Owner and his or her guests ("Guests") access to and use of the Hotel Property Amenities and the Condominium Property Amenities (together, the "Hotel Amenities") and to provide certain services to Owner and his or her Guests in the manner described herein, all as subject to the terms and conditions of this Agreement.
- E. Any capitalized term used herein and not otherwise defined shall have the meaning assigned to such term in the Condominium Declaration.

## AGREEMENT

NOW THEREFORE in consideration of the covenants and agreements set forth in this Agreement, the parties agree that:

### ARTICLE I

#### TERM AND TERMINATION

##### 1.01 Term

The term of this Agreement shall commence as of the date hereof and have effect for a period of one (1) year from the date of execution hereof. Unless this Agreement has been sooner terminated pursuant to its terms (including the provisions of Section 1.02), this Agreement shall be automatically extended for successive periods of one (1) years each, unless, at least ninety (90) days prior to the expiration of the then-current term, either Owner or Hotel Owner gives written notice to the other of its election not to extend this Agreement.

##### 1.02 Termination

Notwithstanding anything to the contrary contained in this Agreement, Hotel Owner, or its agents on behalf of Hotel Owner, shall have the right but not the obligation to terminate this Agreement on written notice to Owner if Owner fails to pay any Amenities Access Fee (as defined in Section 2.02) within thirty (30) days after such amount is due, or fails to fulfill any material covenant, undertaking, obligation or condition set forth in this Agreement for a period of thirty (30) days after the date on which notice of failure has been given to Owner by Hotel Owner or such longer period of time as is reasonably necessary if Owner is diligently and continuously proceeding to cure such failure other than the failure to pay.

### ARTICLE II

#### ACCESS TO AND USE OF HOTEL AMENITIES

##### 2.01 Right to Access and Use Hotel Amenities

Hotel Owner hereby grants to Owner and his or her Guests (subject to payment of Guests Fees, as applicable) a non-exclusive right to access and use the Hotel Amenities and such other recreation facilities and amenities that are made available by Hotel Owner for owners of Whole-Ownership Apartments and their guests from time to time, in common with others entitled thereto, in accordance with and subject to the terms of this Agreement and any rules and regulations that may be promulgated by the Hotel and provided to the owners of Whole-Ownership Apartments from time to time. The Hotel Amenities are generally located as depicted on the map attached hereto as Exhibit A; provided, however, the facilities and amenities which comprise the Hotel Amenities are subject to change in the sole discretion of the Hotel Owner. Owner and his or her Guests are allowed access to and use of the Amenities only while in residence at Owner's Unit. No more than four (4) adults or three (3) adults and two (2) children in residence at Owner's Unit shall be permitted to use the Hotel Amenities per day.

## 2.02 Amenities Access Fee

a. Allocation to Owner's Unit. Hotel Owner or an affiliate of Hotel Owner, as manager of the Hotel Amenities, shall prepare an annual budget (the "Hotel Amenities Budget") which shall include all anticipated costs and expenses for the management, operation, maintenance and repair of the Hotel Amenities (referred to herein as the "Hotel Amenities Common Expenses"). Hotel Owner shall distribute to Owner the Hotel Amenities Budget for each fiscal year of the Hotel not less than thirty (30) days and not more than sixty (60) days prior to the beginning of each such fiscal year. The Hotel Amenities Budget shall include an allocation of the Owner's share of the Hotel Amenities Common Expenses (the "Amenities Access Fee") which shall be one-tenth of the Hotel Amenities Common Expenses allocated to the Residences Apartments, which allocation shall be determined by Hotel Owner in its reasonable discretion, based on anticipated and historical actual use of the Hotel Amenities by owners of Residence Apartments and their Guests, determined on an annual basis, or some other reasonable basis of allocation as determined by Hotel Owner.

b. Payment of the Amenities Access Fee. Hotel Owner shall fix the amount of the annual Amenities Access Fee at least sixty (60) days in advance of the beginning of each fiscal year of Hotel Owner, reserving the right, acting reasonably, on sixty (60) days notice to revise the amount of the annual fee from time to time to reflect changes in circumstances as more particularly set forth in Section 2.02(c) hereof. All installments of the Amenities Access Fee shall be collected in advance on a monthly basis and on such due dates as Hotel Owner shall determine from time to time.

c. Revised Hotel Amenities Budget. Except as otherwise provided below, Hotel Owner shall not exceed the aggregate expenditures set forth in the applicable Hotel Amenities Budget, including contingencies. Notwithstanding the foregoing, whenever, by reason of emergency or reasonably unforeseen circumstances beyond the control of Hotel Owner, Hotel Owner may make expenditures which are in the reasonable opinion of Hotel Owner required for:

- (i) the lawful or safe operation of the Hotel Amenities; or
- (ii) the maintenance of the Resort Quality Standard (including any such expenditures as may be required to maintain the requisite nature and amount of insurance for the Hotel Amenities).

Hotel Owner shall be entitled to make such expenditures and/or incorporate such expenditures in the Hotel Amenities Budget notwithstanding that such expenditures are not provided for in a Hotel Amenities Budget and/or may exceed the allowances set out in the Hotel Amenities Budget. In such circumstances, Hotel Owner shall use its reasonable efforts to give Owner advance notice prior to making any such expenditures. Whenever the giving of such advance notice or the obtaining of such approval is, however, impracticable, in Hotel Owner's opinion, Hotel Owner shall be entitled to make such expenditures without having to give such advance notice; so long as Hotel Owner provides Owner with notice of such expenditures as soon as practicable or together with the Hotel Amenities Budget for the following fiscal year when such budget is distributed pursuant to Section 2.02.

### **2.03 Failure to Pay**

Any amount of the Amenities Access Fee which is not paid within thirty (30) days after its due date shall bear interest from the due date at a rate of interest equal of ten percent (10%) not to exceed the maximum legal rate permitted by law. Such accrued interest shall become part of the Amenities Access Fee. If any installment of the Amenities Access Fee is not paid within sixty (60) days after it is due in addition to any other rights Hotel Owner has at law, Hotel Owner may bring an action at law against Owner. Owner may not waive or otherwise escape liability for the Amenities Access Fee provided herein by non-use of the Hotel Amenities or abandonment of his or her Unit.

### **2.04 Guest Fees**

The Hotel Owner may from time to time and in its sole discretion, establish fees for the use by Guests of any or all of the Hotel Amenities ("Guest Fees"). The right of any Guest to use any Hotel Amenities for which a Guest Fee has been established shall be conditioned upon the payment of the applicable Guest Fees prior to such use. Hotel Owner shall have the right to deny access to the Hotel Amenities to any Guest who has not paid the Guest Fee.

### **2.05 Operation, Repair and Maintenance of the Hotel Amenities**

Nothing in this Agreement is intended to limit, and shall be interpreted in a manner that limits, in any way, the interests of the Hotel Owner in the Hotel and the Hotel Amenities. Hotel Owner shall have from time to time in its sole discretion, the right to operate, repair and maintain the Hotel and the Hotel Amenities, including but not limited to, the right to:

- (i) alter or modify all or any of the Hotel Amenities;
- (ii) change the permitted use of any of the Hotel Amenities;
- (iii) cease the operation of or discontinue making available all or any of the Hotel Amenities;
- (iv) operate the Hotel (including the Hotel Amenities) either directly or through one or more agents, concessionaries and/or managers;
- (v) assign, pledge, mortgage, transfer or encumber its interests in the Hotel (including the Hotel Amenities);
- (vi) add additional structures to, alter, contract, expand, modify, reconstruct, remodel, or otherwise change the Hotel (including the Hotel Amenities), and in connection therewith, erect temporary scaffolding and other construction aids, limit or otherwise restrict access to or use of facilities and perform work at the Hotel, all of which may create dust, dirt, noise, visual obstruction or other temporary inconveniences;
- (vii) grant easements or licenses relating to, or other rights to use, any portion of the Hotel (including the Hotel Amenities);

- (viii) conduct special or limited admission events at the Hotel (including at the Hotel Amenities); and
- (ix) close the Hotel (including the Hotel Amenities) at such times and in such manner as the Hotel Owner, in its sole discretion, may determine is necessary for the operation and maintenance of the Hotel or to perform any of the foregoing, or for any other reason as determined by the Hotel Owner in its sole discretion.

## **2.06 Use of Hotel Amenities by Others**

Nothing in this Agreement is intended to limit, or shall be interpreted in a manner that limits, in any way, the right of Hotel Owner to make the Hotel Amenities available for use by other Persons.

## **ARTICLE III PROVISION OF SERVICES**

### **3.01 A la Carte Services**

a. Hotel Owner has agreed, subject to certain conditions as set forth below, to make available to Owner certain services (the "A la Carte Services") in conjunction with Hotel Owner's operation of the Hotel. All A la Carte Services shall be provided to Owner and/or his or her Guests, upon request by such Owner while Owner or his or her Guests are in residence and on the condition that Owner is responsible for paying for services requested and subject to reasonable procedures for requests and payment as the Hotel Owner may establish from time to time (including minimum notice requirements and mandatory prepayment or deposits for certain services, depending on the scope and character of such requested services). The Hotel Owner shall keep a list of available A la Carte Services and cost for such services at the Hotel, which will be provided to each Owner upon check-in. Hotel Owner may from time to time modify the list of available A la Carte Services. If Owner requests that the Hotel Owner provide any additional services not among the A la Carte Services and Hotel Owner is willing to provide such services, Hotel Owner will inform Owner of the cost for such requested additional service at such time.

b. Guests. Hotel Owner shall have no obligation to provide any A la Carte Services to any Guest of Owner unless the provisions of A la Carte Services for such Guest is requested by Owner. The provision of such A la Carte Services to persons occupying Owner's Unit at times when the Owner is not in residence may be subject to the payment of an additional service fee.

c. Payment. Owner shall pay Hotel Owner the then-current listed or quoted cost for any A la Carte Service requested of Hotel Owner by Owner or his or her Guests. Except with respect to any services that require pre-payment, Hotel Owner shall bill Owner's credit card on file with the Hotel. Receipts will be provided to Owner in a timely manner each time Owner's credit card is charged. The payment for A la Carte Services is separate and distinct from Owner's payment of the Amenities Access Fee. Any services provided by Hotel Owner at the request of Owner or a Guest of Owner shall be for and on account of Owner, and shall be included in the charges against Owner's credit card.

**ARTICLE IV  
LIABILITY AND INDEMNIFICATION**

**4.01 Liability for Obligations**

In the performance of its obligations under this Agreement, the Hotel Owner, its affiliates, and its respective directors, officers, employees, consultants, agents and representatives (collectively, the "Hotel Parties") shall not be liable to the Owner or any Guest (collectively the "Owner Parties") or any other Person for any act or omission (whether negligent, tortious or otherwise) of any of the Hotel Parties (including any liability resulting from the use and enjoyment of the Hotel Amenities or the A la Carte Services by the Owner Parties) except to the extent such liabilities, obligations, claims, costs and expenses arise out of or are caused by the gross negligence or wilful misconduct of one or more of the Hotel Parties (and, for clarity, (a) neither Hotel Owner nor its respective directors, officers, employees, consultants, agents or representatives shall be liable for the acts or omissions of the other party or its directors, officers, employees, consultants, agents or representatives, and (b) Hotel Owner shall have no liability under this Agreement and shall not be denied the benefits of the indemnity set forth in Section 4.02 below based on the acts or omissions of any individual performing services in the name of, or on behalf of, the Hotel, whether such individuals are employed by Hotel Owner, the Condominium, or any other Person ("Hotel Personnel"), except to the extent that such acts or omissions are caused by such Hotel Owner's own gross negligence or wilful misconduct in the hiring, training, direction or supervision of such Hotel Personnel).

**4.02 Indemnity**

Owner hereby indemnifies and holds Hotel Parties harmless from and against any and all liabilities, fines, suits, claims, obligations, damages, penalties, demands, actions, costs and expenses of any kind or nature, including, without limitation, legal fees (collectively, "Claims") arising out of any use or enjoyment of the Hotel Amenities or the Ala Carte Services by Owner or Guest, and any action or omission or course of action on the part of any of the Hotel Parties in its performance of its obligations under this Agreement; provided that this indemnity shall not apply to any Claims resulting from the wilful misconduct or gross negligence of the party being indemnified by this Section 4.02.

The Hotel Owner hereby indemnifies and holds harmless the Owner Parties from any Claims resulting from the wilful misconduct or gross negligence of any of the Hotel Parties.

**ARTICLE V  
GENERAL PROVISIONS**

**5.01 Assignment**

The Hotel Owner may assign all but not part of its respective right, title and interest in this Agreement to any person or entity and Owner hereby irrevocably gives its respective consent (as applicable) to any such assignment provided any such assignee executes an acknowledgement and agrees to assume and perform all obligations of Hotel Owner hereunder. Owner may not assign any of its respective right, title and interest in this Agreement. Any

assignment by Hotel Owner shall not release such party from any liability arising or incurred by such party prior to the date of such assignment.

If Hotel Owner's right, title and interest under this Agreement are conveyed or assigned to or acquired by any successor or assign of Hotel Owner, its lender(s), or by any successor or assign of such lender(s) or any other purchaser at a foreclosure sale by virtue of the exercise of a power of sale, by deed in lieu of foreclosure, or upon the appointment of a receiver (any such parties, a "Subsequent Owner") pursuant to the terms of the lender's mortgage, deed of trust or other security instrument (collectively, the "Mortgage") or by any other proceedings to enforce the Mortgage, Owner hereby irrevocably gives its consent to such conveyance, assignment or acquisition provided the Subsequent Owner agrees to assume and perform all obligations of Hotel Owner hereunder.

#### **5.02 Successors and Assigns**

Subject to Section 5.01, this Agreement shall be binding on the successors and assigns of the parties hereto and shall inure to the benefit of the successors and assigns of the parties hereto.

#### **5.03 Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter contemplated herein and supersedes all oral statements and prior writings with respect to the subject matter contemplated herein. This Agreement creates no other relationship between Hotel Owner and Owner other than a contractual relationship for purposes of this Agreement.

#### **5.04 Modification and Changes**

This Agreement cannot be changed or modified except by another agreement in writing signed by all the parties or by their respective duly authorized agents.

#### **5.05 Waivers**

No failure by a party to insist upon the strict performance of any provision of this Agreement, or to exercise any right or remedy consequent upon the breach thereof, shall constitute a waiver of any such breach or any subsequent breach of such provision. No provision of this Agreement and no breach thereof shall be waived, altered or modified except by written instrument. No waiver of any breach shall affect or alter this Agreement, but each and every provision of this Agreement shall continue in full force and effect with respect to any other breach then existing or subsequent breach thereof.

#### **5.06 Applicable Law**

This Agreement shall be construed, interpreted and applied in accordance with, and shall be governed by, the laws of the State of Hawaii.



IN WITNESS WHEREOF the parties have executed this Hotel Amenities Access and Use and Services Agreement as of the day and year first written above.

**“HOTEL OWNER”**

OHANA HOTEL COMPANY LLC,  
a Delaware limited liability company

By: Passport Resorts, LLC  
Its: Manager

By: \_\_\_\_\_  
Peter Heinemann, Manager

**“OWNER”**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

**EXHIBIT A**  
**HOTEL AMENITIES**

*Attach Map of Hotel Amenities*

EXHIBIT G

PHYSICAL CONDITION REPORT AND RESERVE STUDY  
ATTACHED

# **Roscoe O. Ford**

Structural/Civil Engineer

469 Ena Road #2604  
Honolulu, HI. 96815

Telephone (808)949-5784  
Facsimile (808)949-5784

September 13, 2004

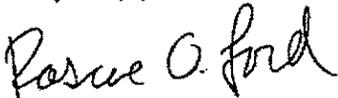
To Whom It May Concern

I have made a non-destructive inspection of the buildings at the Hana Hotel for structural concerns. The building are constructed using reinforced concrete foundations, some CMU walls and wood for roof framing and stud walls.

From the visual inspection, all buildings appear to be in good condition structurally. No obvious structural defects were observed. Renovation work was being performed in the building next to the golf course. Since the interior wall sheeting had been removed, it was recommended that hurricane straps be installed at the roof rafter/wall top plate to satisfy current building code requirements.

This report does not address the architectural, plumbing or electrical conditions of the project. Also, no statement or representations with regard to the expected useful life of the structures is made.

Very truly yours,



Roscoe O. Ford, P.E. 3731-S

2005  
RESERVE STUDY  
FOR

**The Hotel Hana Maui  
Condominiums**

*November 7, 2004*

*Prepared by*

**Armstrong Consulting, Inc.**

**HAWAII** 850 W. Hind Dr., Suite 208 • Honolulu, HI 96821 • Phone: (808) 377-8500 • Fax: (808) 377-8511  
**FLORIDA** 1333 Gateway Dr., Suite 1014 • Melbourne, FL 32901 • Phone: (321) 674-0196 • Fax: (321) 674-0197  
Toll Free Phone: (800) 561-7732 • E-mail: [sales@armstrongassoc.net](mailto:sales@armstrongassoc.net) • Toll Free Fax: (888) 332-4610

# Hotel Hana Maui Condominiums

## PROJECT DEFINITION REPORT

11/10/2004

### Project Information

Project:	Hotel Hana Maui Condominiums	Project Date:	6/01/2004
Address:	5031 Hana Highway	Number of Phases:	0
City:	Hana	Number of Units:	12
State:	HI	Number of Models:	0
Zip:	96713-0000		

### Property Description

The Hotel Hana Maui Condominiums consists of 14.647 acres located in Hana, Hawaii. There are twelve buildings on the project. The buildings are made of poured in placed concrete footings with concrete slabs. Framing is both wood and metal with a combination of wood and stucco siding.

Project amenities, that are deemed a limited common element to the Main Building commercial apartment, include but are not limited to tennis courts and putting greens. There is one swimming pool that is a limited common element to the Garden Pool Pavilion commercial apartment.

# Hotel Hana Maui Condominiums

## ANALYSIS DEFINITION REPORT

### Analysis 1

#### Project Information

Project: Hotel Hana Maui Condominiums  
Address: 5031 Hana Highway  
City: Hana  
State: HI  
Zip: 96713-0000

Project Date: 6/01/2004  
Analysis Date: 1/01/2005  
Number of Phases: 0  
Number of Units: 12  
Number of Models: 0

#### Analysis Parameters

Rate of Inflation: 3%  
Rate of Return on Investment: 2%  
Beginning Funds: \$0.00  
Loan/Special Assessment: No

Deferred Expenditures: No  
Contingency: 0%  
Contingency Time: None

#### Annual Contribution Factors

		2015:	0%
2006:	0%	2016:	0%
2007:	0%	2017:	0%
2008:	0%	2018:	0%
2009:	0%	2019:	0%
2010:	0%	2020:	0%
2011:	0%	2021:	0%
2012:	0%	2022:	0%
2013:	0%	2023:	0%
2014:	0%	2024:	0%

#### Additional Analysis Information

Analysis 1 indicates a zero beginning reserve balance for the 2005 budget year. An average rate of return on reserve fund investments used is 2%. A 3% inflation rate is used for future expenditures. The study encompasses a 20-year reporting period.

Under these parameters a \$7,300 reserve contribution is recommended in 2005 with no planned annual increase.

The Association meets Hawaii State reserve requirements under the cash flow method of calculations.

Please review the above financial parameters and the entire report for accuracy.

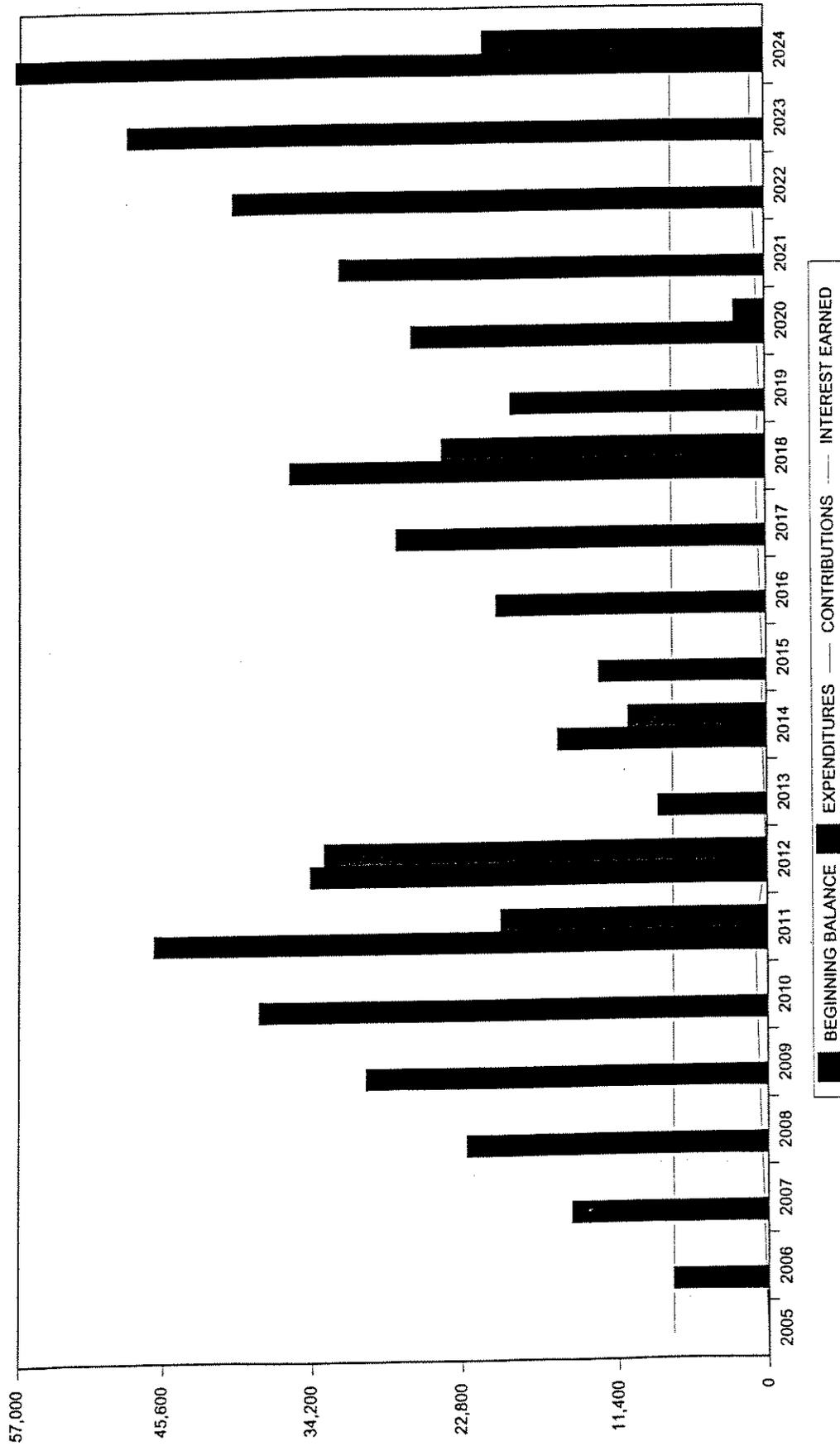
**Hotel Hana Maui Condominiums**  
**CASHFLOW PERCENT FUNDED SUMMARY PROJECTIONS**

Analysis 1

Year	Beginning Balance	Contribution	Interest Earned	Expenditures	Ending Balance
2005	0.00	7,300.00	79.59	0.00	7,379.59
2006	7,379.59	7,300.00	228.56	0.00	14,908.15
2007	14,908.15	7,300.00	380.55	0.00	22,588.70
2008	22,588.70	7,300.00	535.62	0.00	30,424.32
2009	30,424.32	7,300.00	693.80	0.00	38,418.12
2010	38,418.12	7,300.00	855.19	0.00	46,573.31
2011	46,573.31	7,300.00	952.51	20,173.00	34,652.82
2012	34,652.82	7,300.00	133.13	33,627.00	8,458.95
2013	8,458.95	7,300.00	250.37	0.00	16,009.32
2014	16,009.32	7,300.00	366.92	10,746.00	12,930.24
2015	12,930.24	7,300.00	340.63	0.00	20,570.87
2016	20,570.87	7,300.00	494.89	0.00	28,365.76
2017	28,365.76	7,300.00	652.24	0.00	36,318.00
2018	36,318.00	7,300.00	729.99	24,810.00	19,537.99
2019	19,537.99	7,300.00	474.01	0.00	27,312.00
2020	27,312.00	7,300.00	622.72	2,468.00	32,766.72
2021	32,766.72	7,300.00	741.07	0.00	40,807.79
2022	40,807.79	7,300.00	903.43	0.00	49,011.22
2023	49,011.22	7,300.00	1,069.05	0.00	57,380.27
2024	57,380.27	7,300.00	1,128.30	21,800.00	44,008.57
<b>Totals:</b>		<b>146,000.00</b>	<b>11,632.57</b>	<b>113,624.00</b>	

**Hotel Hana Maui Condominiums  
CASHFLOW PROJECTIONS GRAPH**

**Analysis 1**



**PROJECTED EXPENDITURES**

Analysis 1

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Cesspools-Repairs								31,679		
Hot Water Heaters										10,746
Irrigation System-Repair								1,948		
Painting-Exterior							20,173			
<b>Totals</b>							<b>20,173</b>	<b>33,627</b>		<b>10,746</b>

**PROJECTED EXPENDITURES**

Analysis 1

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Fire Alarm System										7,354
Hot Water Heaters										14,446
Irrigation System-Repair						2,468				
Painting-Exterior				24,810						
<b>Totals</b>				<b>24,810</b>		<b>2,468</b>				<b>21,800</b>

**Hotel Hana Maui Condominiums**  
**ACCOUNTANT'S REPORT**

Analysis 1

1/01/2005 - 12/31/2005

Component	Remaining Life (yr/mo)	Future Cost	Assigned Reserves	2005 Contribution Requirement	2005 Assigned Interest Earned	2005 Funding Requirement
Cesspools-Repairs	07/00	31,679	0	7,052	77	7,129
Fire Alarm System	19/07	7,354	0	45	0	45
Hot Water Heaters	09/10	10,746	0	52	1	53
Irrigation System-Repair	07/10	1,948	0	12	0	12
Painting-Exterior	06/10	20,173	0	140	2	142
<b>Totals:</b>		<b>71,900</b>	<b>0</b>	<b>7,301</b>	<b>80</b>	<b>7,381</b>

**Hotel Hana Maui Condominiums**  
**COMPONENT SUMMARY REPORT**

Analysis 1

<u>Description</u>	<u>Starting Date</u>	<u>Useful Life (yr/mo)</u>	<u>Adj. Life (yr/mo)</u>	<u>Sched. Rpl. (mo/yr)</u>	<u>Recur</u>	<u>Current Cost</u>	<u>Future Cost</u>
<b><u>Doors Bldg 12</u></b>							
Doors-Sliding	1/01/2005	25/00	00/00	01/05	Y	14,000	14,420
<b>Sub Total:</b>						<b>14,000</b>	<b>14,420</b>
<b><u>Doors-Bldg 12</u></b>							
Doors-Entry	1/01/2005	25/00	00/00	01/05	Y	4,000	4,120
<b>Sub Total:</b>						<b>4,000</b>	<b>4,120</b>
<b><u>Fire Control Bldg 12</u></b>							
Fire Alarm System	8/01/2004	20/00	00/00	08/24	Y	4,000	7,354
<b>Sub Total:</b>						<b>4,000</b>	<b>7,354</b>
<b><u>Landscaping Bldg 12</u></b>							
Irrigation System-Repair	11/01/2004	08/00	00/00	11/12	Y	1,500	1,948
<b>Sub Total:</b>						<b>1,500</b>	<b>1,948</b>
<b><u>Mechanical Bldg 12</u></b>							
Hot Water Heaters	11/01/2004	10/00	00/00	11/14	Y	7,800	10,746
<b>Sub Total:</b>						<b>7,800</b>	<b>10,746</b>
<b><u>Misc. Metals Bldg 12</u></b>							
Gutters And Downspouts	1/01/2003	25/00	00/00	01/28	Y	6,000	12,204
<b>Sub Total:</b>						<b>6,000</b>	<b>12,204</b>

**Hotel Hana Maui Condominiums  
COMPONENT SUMMARY REPORT**

Analysis 1

Description	Starting Date	Useful Life (yr/mo)	Adj. Life (yr/mo)	Sched. Rpl. (mo/yr)	Recur	Current Cost	Future Cost
<b><u>Painting Bldg 12</u></b>							
Painting-Exterior	11/01/2004	07/00	00/00	11/11	Y	16,000	20,173
<b>Sub Total:</b>						<b>16,000</b>	<b>20,173</b>
<b><u>Roofing Bldg 12</u></b>							
Roof-Mira Vista-Suites	1/01/2003	35/00	00/00	01/38	Y	96,000	262,418
Roof-Mira Vista-Walkways	1/01/2003	35/00	00/00	01/38	Y	33,000	90,206
<b>Sub Total:</b>						<b>129,000</b>	<b>352,624</b>
<b><u>Site Improvements Bldg 12</u></b>							
Cesspools-Repairs	1/01/1982	30/00	00/00	01/12	Y	25,000	31,679
<b>Sub Total:</b>						<b>25,000</b>	<b>31,679</b>
<b><u>Windows Bldg 12</u></b>							
Windows-Building	1/01/2004	35/00	00/00	01/39	Y	25,000	70,388
<b>Sub Total:</b>						<b>25,000</b>	<b>70,388</b>
<b>Grand Total:</b>						<b>232,300</b>	<b>525,656</b>

EXHIBIT H

COMMON ELEMENTS OF THE PROJECT

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

1. The Land in fee simple and any appurtenances thereto.
2. The building structure of Building 12, including all perimeter or party walls and the undecorated or unfinished surfaces thereof, any load-bearing walls and columns, and the undecorated or unfinished surfaces thereof, all structure components such as foundations, concrete sidewalks and curbs, floor slabs, columns, girders, beams, support, halls, corridors, main walls, roofs and ceiling, including without limitation all perimeter doors, door frames, door handles, door lock set, windows, window frames, and all hardware associated therewith, and the undecorated or unfinished interior surfaces thereof; whether at the perimeter of the building structure or at the perimeter of an Apartment.
3. All cables, conduits, ducts, trash chute, sewer lines, electrical equipment, wiring, pipes, catch basins and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one Apartment for services such as power, light, water, gas, sewer, storm water, refuse, cable television and television signal distributions.
4. All other apparatus and installations existing for common use, such as tanks, pumps, motors, fans, air-conditioning units including fan coil equipment located within an Apartment in Building 12, compressors, ducts, shafts, vents, water heating and distribution equipment, fire suppression equipment and other such installations and apparatus.
5. All other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.
6. All other areas designated on the Condominium Map as "Common Elements", or that are not designated as an Apartment or as a Limited Common Element appurtenant to an Apartment.

END OF EXHIBIT H

EXHIBIT I

LIMITED COMMON ELEMENTS OF THE PROJECT

Certain parts of the Common Elements, herein called the "Limited Common Elements" are hereby designated, set aside and reserved for the exclusive use of certain Apartments, and such apartments shall have appurtenant exclusive easements for the use of such Limited Common elements as set forth herein. The costs and expenses of every description pertaining to the Limited Common Elements, including, but not limited to, the costs of maintenance, repair, replacement, improvement or additions to the Limited Common Elements, shall be charged to the Owner of the Apartment to which the Limited Common Elements shall be appurtenant, and if there is more than one Apartment to which the Limited Common Element shall be appurtenant, then in proportion to the Common Interest, appurtenant to each of the respective Apartments, except as set forth in the Declaration.

1. **Residence Apartments (Building 12).** Each Residence Apartment designated as a condominium unit in Building 12 on the Condominium Map shall have appurtenant to it as Limited Common Element the Private Garden Area and Lanai as depicted in the Condominium Map. The Residence Apartments shall also have as a Limited Common Element the covered walkway, storage rooms and electrical rooms adjacent to Building 12 as depicted on Page CPR 03 of the Condominium Map and shall share in the Common Expenses attributable to those elements in proportion to the Common Interest appurtenant to each of the Residence Apartments in Building 12.
2. **Main Building.** The Commercial Apartment designated as Building 9/Main Building on the Condominium Map shall have appurtenant to it the Resort Area, which includes all of the Land (except for the portions upon which the buildings are located) and the improvements on the Land, including without limitation, the porte cochere serving the Main Building, tennis courts and three hole pitch and putting green, which Resort Area is shown on Page CPR 02 of the Condominium Map.
3. **Garden Pool Pavilion.** The Commercial Apartment designated as Building 11/Garden Pool Pavilion shall have as a Limited Common Element the Pool shown on the Condominium Map.

END OF EXHIBIT I

EXHIBIT J

SCHEDULE OF ENCUMBRANCES

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Grant in favor of Maui Electric Company, Limited and Verizon Hawaii, Inc., dated October 12, 1976, recorded in the Bureau of Conveyances of the State of Hawaii in Liber 11799, Page 248, granting a perpetual right and easement for utility purposes.
3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Agreement dated August 12, 1982, recorded in Liber 16748, Page 360, by and between County of Maui, Department of Water Supply, a political subdivision of the State of Hawaii, "County", and Hana Ranch, Inc., "Owner"; re building permit.
4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Private Water System Agreement dated May 30, 1985, recorded in Liber 18918, Page 776, by and between County of Maui and its Department of Water Supply, "County", and Hana Ranch, Inc., "Applicant".
5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Private Water System Agreement dated October 10, 1985, recorded in Liber 19057, Page 456, by and between County of Maui and its Department of Water Supply, "County", and Rosewood Hotels, Inc., "Applicant".
6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Private Water System Agreement dated December 18, 1985, recorded in Liber 19381, Page 268, by and between County of Maui and its Department of Water Supply, "County", and Rosewood Hotels, Inc., "Applicant".
7. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Private Water System Agreement dated September 23, 1986, recorded in Liber 19897, Page 380, by and between County of Maui and its Department of Water Supply, "County", and Rosewood Hotels, Inc., "Applicant".
8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Agreement recorded September 19, 1988 in Liber 22369, Page 675.
9. The following matters as shown on survey map prepared by Ryan M. Suzuki, Licensed Surveyor, with R. M. Towill Corporation, dated October 9, 1999, revised April 25, 2001, to-wit:
  - (1) Walkway crosses into Hauli Road.
  - (2) Hawaiian Telephone Company utility box located in the subject parcel near the west boundary which is not covered by an easement.
10. As to All Apartments: Declaration of Condominium Property Regime of the Hotel Hana-Maui Condominiums, dated \_\_\_\_\_, 2004, recorded as Document No. 2004-\_\_\_\_\_, and Bylaws of the Association of Apartment Owners of the Hotel Hana-Maui Condominiums, dated \_\_\_\_\_, 2004, recorded as Document No. 2004-\_\_\_\_\_.
11. As to Vacation Ownership Apartments Only: Declaration of Covenants, Conditions, Easements and Restrictions for Residence Club Hana-Maui, dated \_\_\_\_\_, 2004, recorded as Document No. 2004-\_\_\_\_\_, and Bylaws of the Association of Residence Club Owners, dated \_\_\_\_\_, 2004, recorded as Document No. 2004-\_\_\_\_\_.

The land upon which the Project is located is benefited by the following Easements, however, as set forth in the Purchase Contract and Declaration, the easement areas may only be used by hotel guests of the Seller and not purchasers of Apartments.

- A. Horseback Riding Staging Area License Agreement, dated January 12, 2001, recorded as Document No. 2001-005198.
- B. Mauka Horse Grazing License Agreement, dated January 12, 2001, recorded as Document No. 2001-005199.
- C. Makai Horse Grazing License Agreement, dated January 12, 2001, recorded as Document No. 2001-005200 as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128434.
- D. Makai Horseback Riding Trail Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005201, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128436.
- E. Makai Horseback Riding Trail Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005202, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128437.
- F. Makai Horseback Riding Trail Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005203, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128435.
- G. Mauka Horseback Riding Trail Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005204, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-12838.
- H. Jogging Trail Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005205, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128440.
- I. Jogging Trail Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005206, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128441.
- J. Jogging Trail Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005207, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128442.
- K. Jogging Trail Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005208, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128439.
- L. Jogging Trail Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005209, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128443.
- M. Hotel Walkway Easement Agreement, dated January 12, 2001, recorded as Document No. 2001-005210, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128444.
- N. Lehoula Beach Easement and License Agreement, dated January 12, 2001, recorded as Document No. 2001-005213, as amended by instrument dated July 24, 2002, recorded as Document No. 2002-128433.
- O. Hana Hotel/Town Center Employee Housing License Agreement, dated January 12, 2001, recorded as Document No. 2001-005216.

**END OF EXHIBIT J**

EXHIBIT K

DEVELOPER'S RESERVED RIGHT RE FUTURE PHASES

The following summary is not intended to be a complete and exhaustive explanation of all the rights reserved by the Developer under the documents governing the Project (the "Project Documents"). It is intended to be a general summary. If any conflict or difference exists between this summary and the Declaration, Bylaws or other Project Documents, the Project Documents shall control.

1. Developer's right of merger. Developer has the right, but not the obligation, to merge the Project with or annex to this Project certain improvements located on property adjacent to the Land or in the same vicinity as the Project. Upon such a merger, use of the common elements, the common expenses and the management of the respective properties will be shared under one integrated association of apartment owners. Ownership interests in the Project may be affected if the Developer elects an ownership merger, whereby the Common Interests appurtenant to each Apartment in the Project shall be recalculated in manner that reflects the total area of each Apartment divided by the sum of the areas of all Apartments in the merged project, rounded off so that the total of all Common Interests for the merged Project equals 1.0 (100%).

2. Developer's right to construct new Apartments. Subject to the limitations set forth in Paragraph U. of the Declaration, the Developer has the right, but not the obligation, to construct new Apartments on land within the Resort Area. In the exercise of this right, Developer may exercise all of the following rights and easements:

(a) The right to connect to, use or relocate or re-align utilities and to designate, grant, convey, transfer, cancel and otherwise deal with any easements over, under, across or through the common elements as necessary, provided that no interruption in service is experienced by other Owners, except temporary interruptions that do not materially interfere with the use and enjoyment of the Project by others;

(b) An easement over, under and across the common elements of the Project for the purposes of all work connected with or incidental to the development, construction and sale of the increments;

(c) The right in the nature of an easement over and upon the existing buildings and common elements of the Project to create and cause dust, noise, vibration and other nuisances created by and resulting from any work connected with or incidental to the development, construction and sale of the increments;

(d) The right to enter the common areas of the Project for the purpose of showing prospective purchasers Apartments in the Project;

(e) The right to place signs upon the Project in conjunction with sales of Apartments;  
and

(f) The right of the Developer to use any Apartment owned or rented by the Developer for sales or display purposes until all Apartments have been sold.

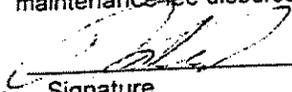
END OF EXHIBIT K

EXHIBIT L

**Estimate of Initial Maintenance Fee Disbursements  
Hotel Hana Maui Condominiums**

	Monthly Fee	Yearly Total
<b>Utilities</b>		
Electricity	2,400	\$28,800.00
Water	160	\$1,920.00
Sewer	107	\$1,280.04
Gas	500	\$6,000.00
Telephone	22.40	\$268.80
<b>Total</b>	<b>\$3,189.07</b>	<b>\$38,268.84</b>
<b>Contract Services</b>		
General Maint./Repairs	112	\$1,344
Refuse	500	\$6,000
Supplies Purchases	500	\$6,000
<b>Total</b>	<b>\$1,112</b>	<b>\$13,344</b>
<b>Professional Services</b>		
Admin Services	1000	\$12,000
Managing Agent	1500	\$18,000
Public Accounting	83.33	\$1,000
Legal Fees	200	\$2,400
<b>Total</b>	<b>\$2,783.33</b>	<b>\$33,400</b>
<b>Payroll / Benefits</b>		
Janitorial	5,199	\$62,388
Security	12131	\$145,572
Work Comp	500	\$6,000
TDI	500	\$6,000
Health Care	3000	\$36,000
Payroll Taxes	5003	\$60,036
<b>Total</b>	<b>\$26,333.00</b>	<b>\$315,996</b>
<b>Insurance / Taxes</b>		
Property Fire/Gen Liability	11666.67	\$140,000.04
Umbrella Liability	1866.67	\$22,400.04
D & O Liability	750	\$9,000
G.E. Tax	16.67	\$200
<b>Total</b>	<b>\$14,300.01</b>	<b>\$171,600.08</b>
<b>Total Expenses</b>	<b>\$47,717.41</b>	<b>\$572,608.92</b>

I, Dale Armstrong, as agent for/and/or employed by Armstrong Consulting, Inc., the agent for the developer for the Hotel Hana Maui Condominiums project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principals.

  
\_\_\_\_\_  
Signature

11-10-04  
Date

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

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

## ESTIMATE OF INITIAL MAINTENANCE FEES

Estimate of Initial Maintenance Fees	Basic Monthly Fee	Special Residence Hana Maui Fee	Monthly Total	Yearly Total
<b>Residence Hana Maui Apartments</b>				
101	\$766.48	\$414.64	\$1,181.12	\$14,173.40
102	\$664.47	\$359.46	\$1,023.92	\$12,287.09
103	\$713.67	\$386.07	\$1,099.74	\$13,196.82
104	\$675.22	\$365.27	\$1,040.50	\$12,485.99
105	\$713.67	\$386.07	\$1,099.74	\$13,196.82
106	\$675.22	\$365.27	\$1,040.50	\$12,485.99
107	\$713.67	\$386.07	\$1,099.74	\$13,196.82
108	\$675.22	\$365.27	\$1,040.50	\$12,485.99
109	\$713.67	\$386.07	\$1,099.74	\$13,196.82
110	\$713.18	\$385.81	\$1,098.99	\$13,187.85
<b>Commerical Apartments</b>				
1	\$921.64	N/A	N/A	\$11,059.68
2/Spa	\$3,114.59	N/A	N/A	\$37,375.12
3	\$1,343.26	N/A	N/A	\$16,119.16
4	\$1,967.29	N/A	N/A	\$23,607.51
5	\$1,967.29	N/A	N/A	\$23,607.51
6	\$970.70	N/A	N/A	\$11,648.45
7	\$2,375.99	N/A	N/A	\$28,511.92
8	\$970.70	N/A	N/A	\$11,648.45
9/Main Bldg	\$12,467.78	N/A	N/A	\$149,613.35
10	\$3,307.52	N/A	N/A	\$39,690.24
11/Garden Pool Pavillion	\$1,722.67	N/A	N/A	\$20,672.07
				\$503,447.06

I, Dale Armstrong, as agent for/and/or employed by Armstrong Consulting, Inc., the agent for the developer for the Hotel Hana Maui Condominiums project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principals.

  
Signature

11-10-04  
Date

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

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

## EXHIBIT M

### SUMMARY OF SALES CONTRACT

A specimen Sales Contract ("Agreement"), has been submitted to the Real Estate Commission. ALL PURCHASERS AND PROSPECTIVE PURCHASERS SHOULD CAREFULLY READ THE AGREEMENT IN FULL since this summary is NOT A COMPLETE DESCRIPTION of its contents. The Agreement contains, among other things, the following terms and conditions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

A. The Seller (Developer) has engaged First American Title Company, Inc. ("Escrow") to handle Purchaser's funds and to close the transaction in accordance with the terms of the Agreement.

B. The Purchase Price does not include closing costs which include among other things, the escrow fee, cost of a preliminary title report, cost of preparation of the Apartment Deed, real property tax, maintenance fees and other prorations, all acknowledgment fees, conveyance taxes, title insurance, if requested by Purchaser, cost of any lender's title insurance, appraisal fees, costs for drafting of any notes and mortgages, all recording costs or fees, loan fees, credit report costs and all other applicable mortgage costs. Purchaser shall pay as additional sums the Association start-up fees, estimated reserves and other fees, as provided in the Agreement.

C. If the Purchaser intends to finance part of the Purchase Price, Purchaser agrees to deliver, within fifteen (15) days after Seller's acceptance of the offer, written evidence of Purchaser's financing.

D. The "Closing Date" shall be the date, which is 15 days after the date Purchaser waives its right to cancel the Purchase Agreement or is deemed to have waived its right to cancel the Purchase Agreement, as set forth in Paragraph B of the Additional Terms and Conditions attached to the specimen form of Purchase Contract. If, on the date the Purchaser executes the Purchase Contract the interior renovations to the Apartment have not yet been completed, the Closing Date shall be a date selected by Seller. Purchasers will not be required to consummate their sales unless and until the interior renovations to their Apartments have been completed by Seller.

E. The Purchaser specifically acknowledges and agrees that the Declaration contains reservations of certain rights in favor of Seller, the Association and other owners and contains certain other provisions to which the Purchaser consents.

F. If Purchaser, after the delivery by Seller of a copy of the Final Public Report, either personally or by registered or certified mail with return receipt requested, shall fail to execute a form of receipt and notice of Purchaser's right to cancel the Agreement (or shall fail to give his or her written approval or acceptance to any material change to the Project as requested by Seller pursuant to the provisions of Hawaii Revised Statutes, Section 514A-63, as amended) within thirty (30) days of such receipt, Seller may at its option: (i) cancel the Agreement upon ten (10) days' written notice to Purchaser of such cancellation and upon such cancellation Seller shall cause Escrow to refund to Purchaser all payments previously made by Purchaser without interest and less any escrow cancellation fees and other costs, up to \$250; or (ii) elect (by its failure to give said written notice of cancellation) to treat such failure as a deemed acceptance ("Deemed Receipt") of such Public Reports and as a waiver of the right to cancel this Agreement (or as a Deemed Receipt of such material change, as the case may be). In the event that Purchaser shall close the purchase of the Property within said thirty (30) day period (and prior to the time the Purchaser shall have executed a waiver of the right to cancel or approve of material change), such closing shall also constitute a Deemed Receipt of the Final Public Report and/or material change (as applicable).

G. Purchaser agrees that it will not assign the Agreement to anyone. Seller may, without any consent of Purchaser, freely assign Seller's interests therein.

H. Purchaser agrees to intentionally waive, relinquish and subordinate the priority of any interest under the Agreement in favor of the liens or charges upon the Project of the Seller's lenders mortgage loans.

I. Purchaser expressly acknowledges, consents to and approves all of the disclaimers, disclosures, and other matters described in the Agreement, and Purchaser assumes any and all risks in connection with each of those matters.

J. Purchaser shall not be entitled to possession of the Apartment as the owner thereof until Purchaser has completed all required payments and has executed all documents relating to the purchase, and Purchaser has performed the remaining terms and conditions of the Agreement which are to be performed as of the Closing.

L. Seller, in its sole discretion, and in addition to any other rights of cancellation or termination reserved to Seller, may elect to cancel the Agreement if Purchaser defaults under the Agreement. Purchaser may lose its deposit with Escrow and Seller. Seller may, at its option, pursue other legal remedies. If Seller defaults under the Agreement, and Purchaser is not in default, Purchaser shall be entitled to specific performance of the Agreement or, if specific performance is unavailable, shall have the right to cancel the Agreement and a refund of Purchaser's deposit, including interest, as set forth in the Agreement.

M. Notices to either party may be delivered personally or mailed.

N. The Purchaser acknowledges that Purchaser has entered into the Agreement without any reference or representation by Seller or any sales person that the Seller, or any managing agent of the Project or anyone else affiliated with the Seller will provide, directly or indirectly, any services relating to the rental or sale or management of the Apartment purchased.

O. The laws of the State of Hawaii shall govern all matters with respect to the Agreement.

P. Purchaser specifically acknowledges that Seller has reserved the right for itself, its sales representatives and prospective purchasers to utilize the common elements of the Project for ingress and egress and to show the common elements to prospective purchasers.

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

**END OF EXHIBIT M**

## EXHIBIT N

### SUMMARY OF ESCROW AGREEMENT

The Hotel Hana-Maui Condominiums Escrow Agreement dated November 5, 2004, contains among others, the following terms and conditions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

A. When Seller (Developer) shall enter into a Sales Contract for the conveyance of an apartment or other interest in the Project ("Sales Contract"), it shall require the payments of deposits due thereunder to be promptly made to Escrow, and shall deliver an executed copy of the Sales Contract to Escrow together with the address of the Purchaser. Seller shall also promptly pay over to Escrow all monies (including checks) received by Seller from or on behalf of the Purchasers, including those received on any Sales Contract, and all payments made on loan commitments from lending institutions on account of any apartment in the Project, other than funds received from interim financing.

B. Escrow shall receive, deposit and hold in separate escrow accounts and disburse as set forth in the Agreement: (a) all payments received by it under Sales Contracts, and (b) such sums received by it under the Agreement from or for the account of Seller. Escrow shall not at any time commingle or permit the commingling of any Purchaser's funds with funds belonging to or held for the benefit of Seller. All funds and instruments received from Purchasers or prospective Purchasers shall be held by Escrow in accordance with the provisions contained in Chapter 514A of the Hawaii Revised Statutes. All monies received by Escrow hereunder shall be deposited, within a reasonable time of the receipt by Escrow and in reasonably convenient and practical sums, in an interest-bearing account with a federal insured bank or savings and loan company under an escrow arrangement, and shall be held in immediately available funds in accordance with the terms the Agreement.

C. Escrow shall make no disbursements of Purchasers' funds or proceeds from the sale of apartments in the Project (including any payments made on loan commitments from lending institutions), except by way of refunds thereof as provided in the Agreement, until Escrow has received written certification from Seller stating that the Sales Contracts have "become binding" and "the requirements of Sections 514A-39.5, 514A-40 and 514A-63" of the Hawaii Revised Statutes have been met, as said phrases are used in Section 514A-65, Hawaii Revised Statutes, and further, that a Final Public Report for the Project has been issued by the Real Estate Commission and Escrow has received a copy of Purchaser's receipt for Final Public Report and waiver of right to cancel, or thirty (30) days have elapsed since Purchaser receipted for such Final Public Report.

D. Each Purchaser shall be entitled to a return of his or her funds, without interest and less any cancellation fee, and Escrow shall pay such funds to such Purchaser, promptly after request for return by the Purchaser if one of the following has occurred:

(1) Escrow receives a written request from Seller to return to the Purchaser the funds of the Purchaser then being held by Escrow;

(2) Seller notifies Escrow in writing of Seller's exercise of the option to rescind the Sales Contract pursuant to any right of rescission stated therein or otherwise available to Seller;

(3) Purchaser's funds were obtained prior to the issuance of a Final Public Report and the Final Public Report is not issued within thirteen (13) months of the date of issuance of the Preliminary Public Report;

(4) There is any material change in the Project which directly, substantially and adversely affects the use or value of Purchaser's Apartment, the limited common elements appurtenant to such Apartment, or the amenities of the Project available for Purchaser's use which Purchaser has not approved in writing, and Purchaser has not accepted the Apartment or occupied it for more than ninety (90) days, or Purchaser is otherwise entitled to rescind as provided in H.R.S. Section 514-A-63; or

(5) After the Final Public Report is delivered, the Purchaser notifies Seller in writing that Purchaser has decided to cancel the Sales Contract within thirty (30) days of Purchaser's receipt of the Final Public Report.

Upon the return of said funds to the Purchaser as aforesaid, Escrow shall return to Seller such Purchaser's Sales Contract and any conveyancing documents theretofore delivered to Escrow pursuant to such Sales Contract; and thereupon the Purchaser shall no longer be obligated under the Sales Contract. Other documents delivered to Escrow relating to the sale of the apartment identified in such Sales Contract will be returned to the person from whom or entity from which they were received.

Upon the cancellation of any Sales Contract as specified above, Escrow shall be entitled to a cancellation fee of up to \$50. Notwithstanding anything contained in the Sales Contract or Escrow Agreement to the contrary, the cancellation fee is the sole expense of the individual Purchaser and not the obligation of Seller.

\* \* \* \* \*

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

END OF EXHIBIT N