

AMENDED
DEVELOPER'S PUBLIC REPORT
FOR A CONDOMINIUM

CONDOMINIUM PROJECT NAME	KE KAILANI PHASE III
Project Address	68-1045, 68-1047, 68-1049, 68-1051 Ke Kailani Drive, Kohala Coast, Hawaii 96743
Registration Number	6139
Effective Date of Report	December 11, 2008
Developer(s)	Ke Kailani Development LLC

Preparation of this Report

The Developer prepared this report to disclose relevant information, including "material facts", that are reasonably known to the Developer about the condominium project covered by this report. This report has been prepared pursuant to the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, as amended from time to time. The law defines "material facts" to mean "any fact, defect, or condition, past or present that to a reasonable person, would be expected to measurably affect the value of the project, unit, or property being offered or proposed to be offered for sale."

This report has not been prepared or issued by the Real Estate Commission or any other governmental agency. The issuance by the Commission of an effective date for this Developer's Public Report (1) does not mean that the Commission approves or disapproves of the project; (2) does not mean that the Commission thinks that either all material facts or all pertinent changes, or both, about the project have been fully or adequately disclosed; and (3) is not the Commission's judgment of the value or merits of the project.

This report may be used by the Developer for promotional purposes only if it is used in its entirety. No person shall advertise or represent that the Commission has approved or recommended the project, this report or any of the documents submitted with Developer's application for registration of this project.

This report will be amended if, after the effective date of this report, any changes, either material or pertinent changes, or both, occur regarding the information contained in or omitted from this report. In that case, the Developer is required to submit immediately to the Commission an amendment to this report or an amended Developer's Public Report, clearly reflecting the changes, including any omitted material facts, together with such supporting information as may be required by the Commission. In addition, the Developer may choose at any time to change or update the information in this report. Annually, at least thirty days prior to the anniversary date of the Effective Date of this report, the Developer shall file an annual report to update the material contained in this report. If there are no changes, the Developer is required to state that there are no changes. The Developer's obligation to amend this report or to file annual reports ends when the initial sales of all units in the project have been completed.

Purchasers are encouraged to read this report carefully and to seek professional advice before signing a sales contract for the purchase of a unit in the project.

Signing a sales contract may legally bind a purchaser to purchase a unit in the project, though a purchaser may have rights to cancel or rescind a sales contract under particular circumstances that may arise.

This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.

SPECIAL ATTENTION

[Use this page for special or significant matters which should be brought to the purchaser's attention and that are not covered elsewhere in this report.]

See pages 18 - 18b.

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EXHIBIT A:	Developer's Reserved Rights and Future Development Plans
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EXHIBIT K:	Summary of Pertinent Provisions of Escrow Agreement
EXHIBITS L THRU S	WERE DELETED AS EXHIBITS AND SUBMITTED SEPARATELY

General Information On Condominiums

A condominium is a special form of ownership of real property. To create a condominium in Hawaii after July 1, 2006, the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, must be followed. 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 and/or the building(s) and other improvements are leased to the purchaser. The lease for the land usually requires that at the end of the lease term, the lessees (unit owners) deliver their interest in the land to the lessor (fee property owner).

If you are a typical condominium unit owner, you will have two kinds of ownership: (1) ownership in your individual unit; and (2) a percentage interest in the common elements.

You will be entitled to exclusive ownership and possession of your unit. Subject to the documents governing them, condominium units may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift or operation of law.

Your unit will, however, be part of the group of units that comprise the condominium project. Study the project's Declaration of Condominium Property Regime, Bylaws of the Association of Unit Owners, Condominium Map and House Rules, if any, which are being concurrently delivered to you with this report. These documents contain important information on the use and occupancy of the units and the common elements of the project, as well as the rules and regulations of conduct for unit owners, tenants and guests.

Operation of the Condominium Project

The Association of Unit Owners is the entity through which unit owners may take action with regard to the administration, management and operation of the condominium project. Each unit 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 a unit owner. The Board and officers can take certain actions without the vote of the unit owners. For example, the Board may hire and fire employees, increase or decrease maintenance fees, adopt budgets for revenues, expenses and reserves and regulate the use, maintenance, repair and replacement of common elements. Some of these actions may significantly impact the unit owners.

Until there is a sufficient number of purchasers of units to elect a majority of the Board, it is likely at first 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 purchasers should understand that it is important to all unit owners that the transition of control from the Developer to the unit owners be accomplished in an orderly manner and in a spirit of cooperation.

1. THE CONDOMINIUM PROJECT

1.1 The Underlying Land

Fee Simple or Leasehold Project	<input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner	N/A
Address of Project	68-1045, 68-1047, 68-1049, 68-1051 Ke Kailani Drive, Kohala Coast, Hawaii 96743
Address of Project is expected to change because	N/A
Tax Map Key (TMK)	(3) 6-8-036-016
Tax Map Key is expected to change because	N/A
Land Area	8.14 acres
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	

1.2 Buildings and Other Improvements

Number of Buildings	2 in Phase III; 6 in Project
Floors Per Building	2
Number of New Building(s)	2
Number of Converted Building(s)	0
Principle Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	Wood

1.3 Unit Types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc)	Total Area
A	2	3/31/2	3,121	593	Garage	
				834	Lanais	
				17	Mech. Rooms	
B	1	3/31/2	3,059	593	Garage	
				846	Lanais	
				17	Mech. Rooms	
C	1	3/31/2	3,121	593	Garage	
				834	Lanais	
				17	Mech. Rooms	
See Exhibit	N/A					

4	Total Number of Units
---	------------------------------

Note: Net Living Area is the floor area of the unit measured from the interior surface of the perimeter walls of the unit. Other documents and maps may give floor area figures that differ from those above because a different method of determining floor area may have been used.

1.4 Parking Stalls

Total Parking Stalls in Phases I, II and III of the Project:	48 (4 per Villa)
Number of Guest Stalls in Phases I, II and III of the Project:	24 (2 per Villa)
Number of Parking Stalls Assigned to Each Unit:	2
Attach Exhibit N/A specifying the Parking Stall number(s) assigned to each unit and the type of parking stall(s) (regular, compact or tandem and indicate whether covered or open.)	
If the Developer has reserved any rights to assign or re-assign parking stalls, describe such rights.	

1.5 Boundaries of the Units

Boundaries of the unit: See Exhibit C
--

1.6 Permitted Alterations to the Units

Permitted alterations to the unit (if the unit is defined as a non-physical or spatial portion of the project, also describe what can be built within such portion of the project): See Exhibit D
--

1.7 Common Interest

<u>Common Interest</u> : Each unit will have a percentage interest in the common elements appurtenant to each unit. This interest is called the "common interest". It is used to determine each unit'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 unit owners. The common interest for each unit in this project, as described in Declaration, is:
Described in Exhibit G
As follows: N/A

1.8 Recreational and Other Common Facilities (Check if applicable):

<input type="checkbox"/>	Swimming pool
<input type="checkbox"/>	Laundry Area
<input type="checkbox"/>	Storage Area
<input type="checkbox"/>	Tennis Court
<input type="checkbox"/>	Recreation Area
<input type="checkbox"/>	Trash Chute/Enclosure(s)
<input type="checkbox"/>	Exercise Room
<input type="checkbox"/>	Security Gate
<input type="checkbox"/>	Playground
<input checked="" type="checkbox"/>	Other (describe): Owners of apartments are entitled to use the Oceanfront Grotto, Park, Kipuka Entry, and jogging path located outside the boundaries (and therefore the common areas) of the condominium project, but within the Ke Kailani subdivision where the condominium project is located

1.9 Common Elements

Common Elements: Common elements are those parts of the condominium project other than the individual units and any other real estate for the benefit of unit owners. Although the common elements are owned jointly by all unit owners, those portions of the common elements that are designated as limited common elements (see Section 1.10 below) may be used only by those units to which they are assigned. In addition to the common facilities described in Section 1.8 above, the common elements for this project, as described in the Declaration, are set forth below.

Described in Exhibit E.

Described as follows:

Common Element	Number
Elevators	
Stairways	
Trash Chutes	

1.10 Limited Common Elements

Limited Common Elements: A limited common element is a portion of the common elements that is reserved for the exclusive use of one or more but fewer than all units in the project.

Described in Exhibit F.

Described as follows:

1.11 Special Use Restrictions

The Declaration and Bylaws may contain restrictions on the use and occupancy of the units. Restrictions for this project include, but are not limited to, those described below.

<input checked="" type="checkbox"/>	Pets: Exhibit B
<input type="checkbox"/>	Number of Occupants:
<input checked="" type="checkbox"/>	Other: Exhibit B
<input type="checkbox"/>	There are no special use restrictions.

1.12 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 a unit in the project. Encumbrances shown may include blanket liens which will be released prior to conveyance of a unit (see Section 5.3 on Blanket Liens).

Exhibit H describes the encumbrances against title contained in the title report described below.

Date of the title report: October 15, 2008

Company that issued the title report: Title Guaranty of Hawaii Incorporated

1.13 Uses Permitted by Zoning and Zoning Compliance Matters

Uses Permitted by Zoning				
	Type of Use	No. of Units	Use Permitted by Zoning	Zoning
<input checked="" type="checkbox"/>	Residential	4 in Phase III, 12 in Project	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	RM-4
<input type="checkbox"/>	Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Mix Residential/Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Hotel		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Timeshare		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Ohana		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Industrial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Agricultural		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Recreational		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Other (specify)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is/Are this/these use(s) specifically permitted by the project's Declarations or Bylaws?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Variances to zoning code have been granted.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Describe any variances that have been granted to zoning code.				

1.14 Other Zoning Compliance Matters

Conforming/Non-Conforming Uses, Structures and Lots
<p>In general, a non-conforming use, structure or lot is a use, structure or lot that was lawful at one time but that does not now conform to present zoning requirements. Under present zoning requirements, limitations may apply to extending, enlarging or continuing the non-conformity and to altering and repairing non-conforming structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.</p> <p>If a variance has been granted or if uses, structures or lots are either non-conforming or illegal, the purchaser should consult with county zoning authorities as to possible limitations that may apply in situations such as those described above.</p> <p>A purchase may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure or lot.</p>

	Conforming	Non-Conforming	Illegal
Uses	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Structures	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>If a non-conforming use, structure or lot exists in this project, this is what will happen under existing laws or codes if the structure is damaged or destroyed:</p>
--

1.15 Conversions

<p>Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.</p>	<p><input type="checkbox"/> Applicable</p> <p><input checked="" type="checkbox"/> Not Applicable</p>
<p>Developer's statement, based upon a report prepared by a Hawaii-licensed architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the units:</p>	
<p>Developer's statement of the expected useful life of each item reported above:</p>	
<p>List of any outstanding notices of uncured violations of any building code or other county regulations:</p>	
<p>Estimated cost of curing any violations described above:</p>	

<p>Verified Statement from a County Official . N/A</p>
<p>Regarding any converted structures in the project, attached as Exhibit ___ is a verified statement signed by an appropriate county official which states that either:</p>
<p>(A) The structures are in compliance with all zoning and building ordinances and codes applicable to the project at the time it was built, and specifying, if applicable:</p> <ul style="list-style-type: none"> (i) Any variances or other permits that have been granted to achieve compliance; (ii) Whether the project contains any legal non-conforming uses or structures as a result of the adoption or amendment of any ordinances or codes; and (iii) Any violations of current zoning or building ordinances or codes and the conditions required to bring the structure into compliance; <p style="text-align: center;">or</p>
<p>(B) Based on the available information, the county official cannot make a determination with respect to the foregoing matters in (A) above.</p>
<p>Other disclosures and information:</p>

1.16 Project in Agricultural District

<p>Is the project in an agricultural district as designated by the land use laws of the State of Hawaii? If answer is "Yes", provide information below.</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable state and county land use laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation.</p>	
<p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable county real property tax laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation and state whether there are any penalties for noncompliance.</p>	
<p>Other disclosures and information:</p>	

1.17 Project with Assisted Living Facility

<p>Does the project contain any assisted living facility units subject to Section 321-11(10), HRS? If answer is "Yes", complete information below.</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Licensing requirements and the impact of the requirements on the costs, operations, management and governance of the project.</p>	
<p>The nature and the scope of services to be provided.</p>	
<p>Additional costs, directly attributable to the services, to be included in the association's common expenses.</p>	
<p>The duration of the provision of the services.</p>	
<p>Other possible impacts on the project resulting from the provision of the services.</p>	
<p>Other disclosures and information.</p>	

2. PERSONS CONNECTED WITH THE PROJECT

<p>2.1 Developer(s)</p>	<p>Name: Ke Kailani Development LLC</p> <p>Business Address: 1099 Alakea Street, Suite 1601 Honolulu, HI 96813</p> <p>Business Phone Number : (808) 521-6000</p> <p>E-mail Address:</p>
<p>Names of officers and directors of developers that are corporations; general partners of a partnership; partners of a limited liability partnership (LLP); or a manager and members of a limited liability company (LLC) (attach separate sheet if necessary).</p>	<p>The sole member of Ke Kailani Development LLC is Michael Fuchs of New York, New York.</p>
<p>2.2 Real Estate Broker</p>	<p>Name: Ke Kailani Realty LLC</p> <p>Business Address: 65-1227 A Opelo Road, Suite 1 Kamuela, Hawaii 96743</p> <p>Business Phone Number: (808) 886-2000</p> <p>E-mail Address: shurwitz@kekailanirealty.com</p>
<p>2.3 Escrow Depository</p>	<p>Name: Title Guaranty Escrow Services, Inc.</p> <p>Business Address: 65-1230 Mamalahoa Highway, Suite F101 Kamuela, Hawaii 96743</p> <p>Business Phone Number: (808) 887-6027</p>
<p>2.4 General Contractor</p>	<p>Name: Tinguely Development, Inc.</p> <p>Business Address: 73-4257 Hulikoa Drive Kailua-Kona, HI 96740</p> <p>Business Phone Number: (808) 329-8775</p>
<p>2.5 Condominium Managing Agent</p>	<p>Name: Certified Management, Inc.</p> <p>Business Address: 75-169 Hualalai Road, Kailua-Kona, Hawaii 96740</p> <p>Business Phone Number: (808) 329-6063</p>
<p>2.6 Attorney for Developer</p>	<p>Name: Edward E. Case, Of Counsel</p> <p>Business Address: 1099 Alakea Street, Suite 1600 Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 523-9000</p>

3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances (Regular System) or filing in the Office of the Assistant Registrar of the Land Court, or both, a Declaration of Condominium Property Regime, a Condominium Map and the Bylaws of the Association of Unit Owners. The Condominium Property Act (Chapter 514B, HRS), the Declaration, Bylaws and House Rules control the rights and obligations of the unit owners with respect to the project and the common elements, to each other, and to their respective units.

3.1 Declaration of Condominium Property Regime

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

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	June 28, 2006	2006-119582

Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	August 31, 2006	2006-170717
Bureau of Conveyances	November 9, 2006	2006-205607
Bureau of Conveyances	November 9, 2006	2006-205608
Bureau of Conveyances	February 22, 2007	2007-034293

Bureau of Conveyances September 8, 2008 2008-141706

3.2 Bylaws of the Association of Unit Owners

The Bylaws of the Association of Unit Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Unit 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 that affect how the condominium project will be governed.

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	June 28, 2006	2006-119583

Amendments to Bylaws of the Association of Unit Owners

Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	September 19, 2006	2006-171708
Bureau of Conveyances	February 22, 2007	2007-034293
Bureau of Conveyances	September 8, 2008	2008-141705

3.3 Condominium Map

The Condominium Map contains a site plan and floor plans, elevations and layout of the condominium project. It also shows the floor plan, unit number and dimensions of each unit.

Land Court Map Number	
Bureau of Conveyances Map Number	4278

Dates of Recordation of Amendments to the Condominium Map:

3.4 House Rules

The Board of Directors may adopt rules and regulations (commonly called "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. Changes to House Rules do not need to be recorded to be effective.

The House Rules for this project:	
Are Proposed	<input type="checkbox"/>
Have Been Adopted and Date of Adoption	<input checked="" type="checkbox"/> June 21, 2006; Amendment adopted Sept. 12, 2008
Developer does not plan to adopt House Rules	<input type="checkbox"/>

3.5 Changes to the Condominium Documents

Changes to Condominium Documents: Changes to the Declaration, Bylaws and Condominium Map are effective only if they are duly adopted and recorded. Where permitted, the minimum percentages of the common interest that must vote for or give written consent to changes to the Declaration, Bylaws and Condominium Map are set forth below. The percentages for any individual condominium project may be more than the minimum set by law if the Declaration or Bylaws for the project so provide.

Document	Minimum Set by Law	This Condominium
Declaration	67%	75%
Bylaws	67%	67%

3.6 Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents

<input type="checkbox"/>	No rights have been reserved to the Developer to change the Declaration, Bylaws, Condominium Map or House Rules (if any).
<input checked="" type="checkbox"/>	Developer has reserved the right to change the Declaration, Bylaws, Condominium Map and House Rules (if any) and to add to or merge the project or to develop the project in one or more phases, and such rights are summarized as follows: <u>See Exhibit A</u>

4. CONDOMINIUM MANAGEMENT

4.1 Management of the Common Elements

Management of the Common Elements: The Association of Unit 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.

The initial Condominium Managing Agent for this project is (check one):

<input checked="" type="checkbox"/>	Not affiliated with the Developer
<input type="checkbox"/>	None (self-managed by the Association)
<input type="checkbox"/>	The Developer or an affiliate of the Developer
<input type="checkbox"/>	Other (explain)

4.2 Estimate of the Initial Maintenance Fees

Estimate of the Initial Maintenance Fees: The Association will make assessments against your unit 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 unit and the unit 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 1 contains a breakdown of the estimated annual maintenance fees and the monthly estimated maintenance fee for each unit, certified to have been based on generally accepted accounting principles, with the Developer's statement as to when a unit owner shall become obligated to start paying the unit owner's share of the common expenses.

4.3 Utility Charges to be Included in the Maintenance Fee

If checked, the following utilities are included in the maintenance fee:	
<input type="checkbox"/>	Electricity for the common elements
<input type="checkbox"/>	Gas for the common elements
<input type="checkbox"/>	Water
<input checked="" type="checkbox"/>	Sewer
<input type="checkbox"/>	TV Cable
<input checked="" type="checkbox"/>	Other (specify) green waste; pest control

4.4 Utilities to be Separately Billed to Unit Owner

If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fee:	
<input checked="" type="checkbox"/>	Electricity for the Unit only
<input checked="" type="checkbox"/>	Gas for the Unit only
<input checked="" type="checkbox"/>	Water
<input type="checkbox"/>	Sewer
<input checked="" type="checkbox"/>	TV Cable (basic & additional services billed separately)
<input checked="" type="checkbox"/>	Other (specify) internet services will be billed separately; refuse

5. SALES DOCUMENTS

5.1 Sales Documents Filed with the Real Estate Commission

Sales Documents on file with the Commission include, but are not limited to, the following:	
<input checked="" type="checkbox"/>	Specimen Sales Contract Exhibit J contains a summary of the pertinent provisions of the sales contract.
<input checked="" type="checkbox"/>	Escrow Agreement dated: August 30, 2006 Name of Escrow Company: Title Guaranty Escrow Services Inc. Exhibit K contains a summary of the pertinent provisions of the escrow agreement.
	Other

5.2 Sales to Owner-Occupants

If this project contains three or more residential units, the Developer shall designate at least fifty percent (50%) of the units for sales to Owner-Occupants.

<input type="checkbox"/>	The sales of units in this project are subject to the Owner-Occupant requirements of Chapter 514B.
<input type="checkbox"/>	Developer has designated the units for sale to Owner-Occupants in this report. See Exhibit
<input checked="" type="checkbox"/>	Developer has or will designate the units for sale to Owner-Occupants by publication.

5.3 Blanket Liens

Blanket Liens: A Blanket lien is an encumbrance (such as a mortgage) on the entire condominium project or more than one unit that secures some type of monetary debt (such as a loan) or other obligation. Blanket liens (except for improvement district or utility assessments) must be released as to a unit before the developer conveys the unit to a purchaser. The purchaser's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the unit to the purchaser.

<input type="checkbox"/>	There are <u>no blanket liens</u> affecting title to the individual units.
<input checked="" type="checkbox"/>	There are <u>blanket liens</u> that may affect title to the individual units.

Type of Lien	Effect of Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
Mortgages	The lien is superior to the interests of the buyers of apartments, and foreclosure of the lien would foreclose buyer's interest. If a buyer's interest is foreclosed, the buyer's deposit will be returned, less any escrow cancellation fee.

5.4 Construction Warranties

Construction Warranties: Warranties for individual units and the common elements, including the beginning and ending dates for each warranty (or the method of calculating them), are as set forth below:

<p>Building and Other Improvements:</p> <p>Developer will assign all construction, manufacturer and vendor warranties for the buildings and other improvements given by or to the contractor. The nature and extent of such warranties are not yet known.</p>
<p>Appliances:</p> <p>Developer will assign all appliance and vendor warranties for fixtures installed in the apartments. The nature and extent of such warranties are not yet known.</p>

5.5 Status of Construction, Date of Completion or Estimated Date of Completion

<p>Status of Construction: Construction has not yet commenced.</p>
<p>Completion Deadline: If a sales contract for a unit is signed before the construction of the unit has been completed, or, in the case of a conversion, completion of any repairs, does not occur by the completion deadline set forth below, one of the remedies available to a purchaser is a cancellation of the purchaser's sales contract. The sales contract may include a right of the Developer to extend the completion deadline for force majeure as defined in the sales contract. The sales contract may also provide additional remedies for the purchaser.</p>
<p>Completion Deadline for any unit not yet constructed, as set forth in the sales contract: The Completion Deadline for any unit not yet constructed, as set forth in the sales contract is 547 days after the sales contract becomes binding, subject to Developer's right to extend the Completion Deadline for force majeure, as defined in the sales contract.</p>
<p>Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract: N/A</p>

5.6 Developer's Use of Purchaser Deposits to Pay for Project Construction Costs Before Closing or Conveyance

The Developer is required to deposit all moneys paid by purchasers in trust under a written escrow agreement with a Hawaii licensed escrow depository. Escrow shall not disburse purchaser deposits to the Developer or on behalf of the Developer prior to closing, except if a sales contract is canceled or if Developer has met certain requirements, which are described below.

5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance

<input type="checkbox"/>	<p>The Developer hereby declares by checking the box to the left that it shall use its own funds to complete the construction of the condominium project by the date indicated in Section 5.5 of this report, and the Developer, pursuant to its own analysis and calculations, certifies that it has sufficient funds to complete the construction of the condominium project.</p> <p><i>If this box is checked, Section 5.6.2, which follows below, will not be applicable to the project.</i></p>
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5.6.2 Purchaser Deposits Will Be Disbursed Before Closing

<p>Hawaii law provides that, if certain statutory requirements are met, purchaser deposits in escrow under a binding sales contract may be used before closing to pay for certain project costs. For this project, the Developer indicates that purchaser deposits may be used for the following purposes (check applicable box):</p>	
<input checked="" type="checkbox"/>	<p>For new construction: to pay for project construction costs described in the Developer's budget and approved by the Developer's lender or an otherwise qualified, financially disinterested person; or</p>
<input type="checkbox"/>	<p>For conversions: to pay for repairs necessary to cure violations of county zoning and building ordinances and codes, for architectural, engineering, finance and legal fees, and for other incidental expenses.</p>

In connection with the use of purchaser deposits (check Box A or Box B):

<p>Box A</p> <p><input type="checkbox"/></p>	<p>The Developer has submitted all information and documents required by law and the Commission prior to the disbursement of purchaser deposits before closing. This means that the Developer may use such deposits before closing. If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>If Box A is checked, you should read and carefully consider the following notice, which is required by law:</p> <p><u>Important Notice Regarding Your Deposits:</u> Deposits that you make under your sales contract for the purchase of the unit may be disbursed before closing of your purchase to pay for project costs, construction costs, project architectural, engineering, finance, and legal fees, and other incidental expenses of the project. While the developer has submitted satisfactory evidence that the project should be completed, it is possible that the project may not be completed. If your deposits are disbursed to pay project costs and the project is not completed, there is a risk that your deposits will not be refunded to you. You should carefully consider this risk in deciding whether to proceed with your purchase.</p>
<p>Box B</p> <p><input checked="" type="checkbox"/></p>	<p>The Developer has <u>not</u> submitted all information and documents required by law and the Commission, and, until all such information and documents are submitted, thus, the Developer cannot use purchaser deposits.</p> <p>If the Developer later submits all information and documents required by law and the Commission for the use of purchaser deposits, then the Developer must provide an amendment to this report or an amended developer's public report to each purchaser who has signed a sales contract. At such time, the <u>Important Notice Regarding Your Deposits</u> set forth immediately above will apply to all purchasers and will be restated in the amendment to this report or an amended developer's public report. When an effective date for such an amendment or an amended developer's public report is issued, <u>you will not have the right to rescind or cancel the sales contract by reason of such submission and amendment.</u> (This, however, does not affect your right to rescind for material changes or any other right you may have to rescind or cancel the sales contract, as described in Section 5.8 below.) If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>You should understand that, although the <u>Important Notice Regarding Your Deposits</u> set forth above does not currently apply to you, it might apply to you in the future, and, therefore, you should read and carefully consider it now to ensure that you understand the risk involved in deciding whether to proceed with your purchase.</p>

Material House Bond. If the Developer has submitted to the Commission a completion or performance bond issued by a material house instead of a surety as part of the information provided prior to the use of purchaser deposits prior to closing or conveyance of a unit, the Developer shall disclose the same below and disclose the impact of any restrictions on the Developer's use of purchaser deposits.

5.7 Rights Under the Sales Contract

<p>Before signing the sales contract, prospective purchasers should carefully review all documents relating to the project. These include but are not limited to the documents listed below. Items 2, 3 and 4 are made a part of this public report, as well as Item 5, if any, and are being delivered to you with this report.</p>	
1.	Developer's Public Report
2.	Declaration of Condominium Property Regime (and any amendments)
3.	Bylaws of the Association of Unit Owners (and any amendments)
4.	Condominium Map (and any amendments)
5.	House Rules, if any
6.	Escrow Agreement
7.	Hawaii's Condominium Property Act (Chapter 514B, HRS, and Hawaii Administrative Rules (Chapter 16-107, adopted by the Real Estate Commission, as amended), provided that rules and regulations under Chapter 514B have not yet been adopted.
8.	Other: (a) Fourth Amendment to the Mauna Lani Resort Association Declaration of Covenants and Restrictions dated January 8, 1987, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 1432988, and recorded in said Bureau in Liber 20284, Page 384, as amended from time to time ("Mauna Lani CC&Rs"). See page 18 paragraph 6.3. (b) Declaration of Protective Covenants, Conditions and Restrictions for Ke Kailani recorded in said Bureau as Document No. 2005-2001116 ("Ke Kailani CC&Rs"). See page 18 paragraph 6.3.
<p>Copies of the condominium and sales documents and amendments made by the Developer are available for review through the Developer or through the Developer's sales agent, if any. The condominium Property Regime law (Chapter 514B, HRS) and the Administrative Rules (Chapter 107, HAR), are available online. Please refer to the following sites:</p>	
Website to access official copy of laws: www.capitol.hawaii.gov	
Website to access rules: www.hawaii.gov/dcca/har	

5.8 Purchaser's Right to Cancel or Rescind a Sales Contract

A purchaser's right to cancel a sales contract or to rescind a sales contract may arise under varying circumstances. In the sections below some circumstances that will give rise to a purchaser's right to cancel or rescind are described, together with what a purchaser must do if the purchaser wishes to exercise any of the rights.

5.8.1 When a Sales Contract becomes Binding and Purchaser's 30-Day Right to Cancel a Sales Contract

A sales contract signed by a purchaser and the developer will not become binding on a purchaser or the Developer until the following events have taken place:

(1) The purchaser has signed the sales contract.

(2) The Developer has delivered to the purchaser a true copy of the developer's public report with an effective date issued by the Commission, together with all amendments to the report as of the date of delivery, and the project's recorded Declaration, Bylaws, House Rules (if any), the Condominium Map and any amendments to them to date (all of which are a part of the developer's public report). If it is impracticable to include a letter-sized Condominium Map, the Developer must provide written notice of an opportunity to examine the Condominium Map.

(3) The Developer has delivered to the purchaser a notice of the purchaser's 30-day cancellation right on a form prescribed by the Commission.

(4) The purchaser does at least one of the following:

(a) Waives the purchaser's right to cancel the sales contract within 30 days from receipt of the notice of the purchaser's 30-day cancellation right; or

(b) Allows the 30-day cancellation period to expire without exercising the right to cancel; or

(c) Closes the purchase of the unit before the 30-day cancellation period expires.

The purchaser or the Developer may cancel the sales contract at any time during the 30-day cancellation period, and the sales contract will be canceled and the purchaser's deposits returned to the purchaser, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.

5.8.2 Right to Cancel a Sales Contract if Completion Deadline Is Missed

In addition to the purchaser's 30-day cancellation right described in Section 5.8.1 above, when a sales contract is signed before completion of construction of a project, the purchaser will have the right to cancel if the unit is not completed by certain deadlines. In conversion projects, there must be a deadline for completion of any required repairs. Every sales contract shall contain an agreement of the Developer that the completion of construction shall occur on or before the completion deadline, and that completion deadline is set forth in this report in Section 5.5. The sales contract shall provide that the purchaser may cancel the sales contract at any time after the specified completion deadline, if completion of construction does not occur on or before the completion deadline, as the same may have been extended. Upon a cancellation, the purchaser's deposits shall be refunded, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.00.

5.8.3 Purchaser's Right to Rescind a Binding Sales Contract After a Material Change

If a "material change" in a project occurs after a purchaser has signed a sales contract that has become binding, the purchaser will have a 30-day right to rescind after notification and description of the material change. A material change is defined in the Condominium Property Act to be any change that "directly, substantially and adversely affects the use or value of (1) a purchaser's unit or appurtenant limited common elements; or (2) those amenities of the project available for the purchaser's use."

The purchaser will be informed of the material change by the developer on a form prescribed by the Commission containing a description of the material change.

After notice of the material change, the purchaser may waive the right to rescind by:

- (1) Checking the waiver box on the rescission form; or
- (2) Letting the 30-day rescission period expire, without taking any action to rescind; or
- (3) Closing the purchase of the unit before the 30-day rescission period expires.

The rescission form must be signed by all purchasers of the affected unit and delivered to the developer no later than midnight of the 30th calendar day after the purchasers received the rescission form from the developer. Purchasers who validly exercise the right of rescission shall be entitled to a prompt and full refund of any moneys paid.

A rescission right shall not apply in the event of any additions, deletions, modifications and reservations including, without limitation, the merger or addition or phasing of a project, made pursuant to the terms of the project's Declaration.

These provisions shall not preclude a purchaser from exercising any rescission rights pursuant to a contract for the sale of a unit or any applicable common law remedies.

6. MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT

6.1 Application of HRS Chapter 514B to the Ke Kailani Condominium Project. The Ke Kailani Condominium project was initially created on June 28, 2006 pursuant to Chapter 514A, Hawaii Revised Statutes. On July 1, 2006, Chapter 514B became effective and replaced 514A as the new Condominium Property Act for Hawaii. On November 9, 2006, after 514B became effective, Phase II was created within the Ke Kailani project. HRS Section 514B-23(a) of the new Condominium Property Act, which is entitled "Amendments to governing instruments," provides that:

"The declaration, bylaws, condominium map or other constituent documents of any condominium created before July 1, 2006 [like Ke Kailani] may be amended to achieve any result permitted by this Chapter [i.e. 514B], regardless of what applicable law provided before July 1, 2006."

Pursuant to said HRS Section 514B-23(a) and its Reserved Rights, Developer amended the Declaration by the recorded First Amendment to the Declaration dated August 31, 2006, to provide, among other things, that Developer, or any persons designated by Developer, may appoint and remove the officers and member of the Board of Directors of the Association for a period no later than as specified in HRS Section 514B-106(d) (the "Period of Developer Control").

HRS Section 514B-22 of the new Condominium Property Act, which is entitled "Applicability to preexisting condominiums," mandates, among other things, that:

"Sections 514B-4 [entitled "Separate title and taxation"], 514B-5 [entitled "Conformance with county land use laws"], 514B-35 [entitled "Unit Boundaries"], Section 514B-41(c) [regarding "Common profits and expenses"], 514B-46 [entitled "Merger of projects or increments"], 514B-72 [entitled "Condominium education trust fund; payment by associations and developer"] and part VI [which is entitled "Management of Condominium"] and the section 514B-3 [which is entitled "Definitions"] to the extent definitions are necessary in construing any of those provisions, and all amendments thereto, apply to all condominiums created in this State [of Hawaii] before July 1, 2006 [such as the Condominium], provided that those sections (i) apply only with respect to events and circumstances occurring on or after July 1, 2006, and (ii) shall not invalidate existing provisions of the declaration, bylaws, condominium map, or other constituent documents of those condominiums if to do so would invalidate the reserved rights of the developer or be an unreasonable impairment of contract."

To avoid any misinterpretation or confusion regarding the effect of said HRS Section 514B-22 on the Condominium and the Condominium Documents and pursuant to HRS Section 514B-23(a) and its Reserved Rights, Developer amended and supplemented the By-laws by the recorded First Amendment to By-laws dated September 19, 2006 and the recorded Supplement to Condominium Documents dated December 15, 2006, to establish and declare, among other things, that:

- (a) Said Part VI applies to the Condominium, the By-laws are amended accordingly, and specifically that pursuant to HRS Section 514B-108(e) of said Part VI that "[t]he bylaws may be amended at any time by the vote or written consent of at least 67% of all unit owners."
- (b) The unit boundaries for all Villas as stated in the Condominium Declaration conform to and shall be governed by HRS Section 514B-35; and that
- (c) The Condominium and the Condominium Documents are subject to and shall be otherwise governed by said HRS Sections 514B-4, 514B-5, 514B-35, Section 514B-41(c), 514B-46, 514B-72 and part VI and the section 514B-3 to the extent definitions are necessary in construing any of those provisions, and all amendments thereto, provided that those sections (i) apply only with respect to events and circumstances occurring on or after July 1, 2006, and (ii) shall not invalidate existing provisions of the declaration, bylaws, condominium map, or other constituent documents of those condominiums if to do so would invalidate the reserved rights of the developer or be an unreasonable impairment of contract.

6.2 Incorporation of the Association of Villa Owners of Ke Kailani. The Association was incorporated as a Hawaii non-profit corporation on September 29, 2006 and therefore is also subject to and governed by HRS Chapter 414D [entitled "Hawaii Nonprofit Corporation Act"].

6.3 Mauna Lani Resort and Ke Kailani Community Associations, Mauna Lani Resort and Ke Kailani Community CC&Rs, and Association Dues. The project is within the Mauna Lani Resort and Ke Kailani Community developments and is also subject to covenants, conditions and restrictions for each of these developments, see the "Mauna Lani CC&Rs" and the "Ke Kailani CC&Rs" referred to at item 8, Section 5.7, page 16 of this Public Report. Pursuant to these CC&Rs, each Villa Owner will also be a member of and must pay monthly dues to each of the Mauna Lani Resort Association and the Ke Kailani Community Association. The monthly dues are now estimated at \$102 and \$1,650, respectively. These estimates are, of course, not guaranteed and are subject to change and increase over time.

6.4 Common Interest Set Forth in Title Report. The title report described in Section 1.12, page 5 above sets forth the common interest for each of twelve (12) Villas. Unless and until Phase II is complete, the common interest for all Villas then in the Condominium shall be as follows:

Apartment	Type	Common Interest
1A	A	25.00%
1C	C	25.00%
2A	A	25.00%
2C	C	25.00%
		100.00%

If and when Phase II is complete, the common interest for all Villas then in the Condominium shall be adjusted as follows, provided that there are no further recorded amendments to the Condominium Declaration affecting the adjustment of the common interests appurtenant to such Villas. Upon the completion of Phase II, the common interest for the Villas in both Phases I and II shall be adjusted accordingly:

Apartment	Type	Common Interest
1A	A	12.5311%
1C	C	12.5311%
2A	A	12.5311%
2C	C	12.5311%
3A	A	12.5311%
3B	B	12.2823%
4A	A	12.5311%
4C	C	12.5311%
		100.00%

Upon the completion of Phase III, the common interest for the Villas in Phases I, II and III shall be adjusted accordingly:

Apartment	Type	Common Interest
1A	A	8.361%
1C	C	8.361%
2A	A	8.361%
2C	C	8.361%
3A	A	8.361%
3B	B	8.195%
4A	A	8.361%
4C	C	8.361%
5A	A	8.361%
5C	C	8.361%
6A	A	8.361%
6B	B	8.195%
		100.00%

6.5 Current Condominium Managing Agent. Section 2.5 Condominium Managing Agent on page 9 has been deleted in its entirety and replaced with the following:

Name: Certified Management, Inc.
Business Address: 75-169 Hualalai Road
Kailua-Kona, Hawaii 96740

Business Phone Number: (808) 329-6063.

6.6 Attorney for Developer. Section 2.6 Attorney for Developer on page 9 has been deleted in its entirety and replaced with the following:

Name: Edward E. Case, Of Counsel
Business Address: 1099 Alakea Street, Suite 1600
Honolulu, Hawaii 96813

Business Phone Number : (808) 523-9000.

The Developer declares subject to the penalties set forth in Section 514B-69, HRS, that this project conforms to the existing underlying county zoning for the project, zoning and building ordinances and codes and all applicable permitting requirements adopted by the county in which the project is located, all in accordance with Sections 514B-5 and 32(a)(13), HRS.

For any conversion, if any variances have been granted, they are specified in Section 1.14 of this report, and, if purchaser deposits are to be used by the Developer to cure any violations of zoning, permitting requirements or rules of the county in which the project is located, the violation is specified in Section 1.15 of this report, along with the requirements to cure any violation, and Section 5.5 specifies the date by which the cure will be completed.

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 purchasers 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. The Developer hereby agrees promptly to amend this report to report and include either or all material facts, material or pertinent changes to any information contained in or omitted from this report and to file annually a report to update the material contained in this report at least 30 days prior to the anniversary date of the effective date of this report.

KE KAILANI DEVELOPMENT LLC

Printed Name of Developer

By: William L. Beaton 10/20/08
Duly Authorized Signatory* Date

William L. Beaton, Chief Executive Officer

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Hawaii

Planning Department, County of Hawaii

***Must be signed for a corporation by an officer; for a partnership or limited liability partnership (LLP) by the general partner; for a limited liability company (LLC) by the manager or an authorized member; and for an individual by the individual.**

EXHIBIT A

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

I. Developer' Reserved Rights. The Developer grants, reserves to and preserves for itself, and its successors and assigns the easements and other rights (the "**Developer's Reserved Rights and Easements**") or simply the "**Reserved Rights**") in and with respect to the Property and Project as described in Section 19 and elsewhere in the Declaration and in the Bylaws. Each of the Reserved Rights: is granted, shall be reserved and preserved and may be exercised over the entire term of the Development Period, which expires June 27, 2027, unless with respect to any particular Reserved Right, an earlier termination date is expressly stated; may be exercised separately or in combinations with one or some or all of the Reserved Rights and at one or more times; includes the right to do anything necessary or convenient, including without limitation the right to use each such Reserved Right in conjunction with any one or more of the other Reserved Rights; and may be exercised and transferred without any further notice to or the consent or joinder of anyone else. The Developer has the right, but not the obligation, to exercise any of the Reserved Rights. By way of example and not limitation, the Developer shall not be obligated to create any New Villas, build any New Improvements, subdivide any of the Land, delete any of the Land, annex any Adjacent Parcel, or merge the Project with any Adjacent Condominium. Conversely, the Developer's exercise of any of such rights on any occasion shall not limit or otherwise affect the Developer's right to utilize any such right from time to time.

All Villas and their appurtenant Common Interests and all Common and Limited Common Elements are subject to each and every one of the Reserved Rights. By acquiring any interest in the Property or the Project, each Owner shall be deemed conclusively and absolutely: to consent to each of the Reserved Rights and to each exercise and each transfer of each such Rights; and to authorize the Developer, as such Owner's Representative and/or attorney-in-fact and/or otherwise on such Owner's behalf and without any further authorization from such Owner, to join in and execute such Documents as the Developer may deem necessary or convenient to evidence further and give each such consent. Specifically, if and when any Villa Owner or other Interested Person acquires any Villa or any other interest in the Project, such Villa Owner or Interested Person shall be deemed to have conclusively agreed to the following:

(1) to have taken such Owner's interest in the Villa or Project subject to the Reserved Rights, and each and every exercise and/or assignment of them;

(2) to have acknowledged, approved, and agreed that: (a) the Developer shall possess and may from time to time exercise the Developer's Reserved Rights; (b) the exercise of any of the Reserved Rights may result in the recalculation of the Common Interest of some or all Villas; and (c) the Developer can file and/or record any and all documents that the Developer deems necessary or convenient to the exercise of such rights, including, but not limited to, amendments to some or all of the Condominium Documents, subject only to such express and explicit limitations as are stated in the Condominium Documents;

(3) to have appointed the Developer as such Owner's or Person's attorney-in-fact to join in, consent to, sign, have notarized, deliver and record all documents and to do all other acts and things on his, her or its behalf, and to do all things necessary or desirable to exercise the Reserved Rights and to make and confirm the agreements, consents, waivers and releases of such Owner or Person contained in the Condominium Declaration. Such appointment shall be deemed to have been made pursuant to a durable power of attorney, with full power of substitution, and shall not be affected by any disability of such Owner or other Interested Person. The term "documents" refers to all documents and instruments of any kind including acknowledgements, agreements, consents, waivers, releases and discharges of each Owner as stated in the Declaration, as well as deeds and other conveyance instruments; powers of attorney; grants of easements; amendments to the Condominium Documents; and applications to governmental agencies or authorities, as well as such acknowledgements, agreements, consents, waivers, releases and discharges themselves;

(4) to have agreed that such Owner or Person, promptly upon request therefor made by the Developer from time to time, shall join in, consent to, execute (and if requested, acknowledge before a notary public), deliver, and record a power of attorney in favor of the Developer, including without limitation a power of attorney in the attached form and all other documents, and do all other acts and things, which the Developer, in its sole discretion, determines to be necessary for or convenient to each and every exercise of the Developer's Reserved Rights or to accomplish the purposes for which such Rights were reserved and preserved. The Developer shall not use the power of attorney to do any of the following: (a) to waive or release any right of any Owner under the Condominium Property Act which

permits such Villa Owner to cancel the purchase of a Villa; **(b)** to mortgage such Villa; or **(c)** to otherwise encumber any Villa unless this Declaration expressly permits the Developer to do so.

By acquiring any interest in a Villa, each Villa Owner and other Interested Person shall be also conclusively deemed to have acknowledged and agreed that all of the activities resulting from any exercise of the Reserved Rights above may result in traffic, noise, dust, soot, smoke, odors, surface water runoff, vibrations and other inconveniences, nuisances and hazards, and with respect thereto: to have consented to such activities; to have waived any rights, claims, or actions that such Owner or Person may have, either at the time of such acquisition or at any time thereafter, against the Developer and/or its Representatives, licensees, invitees, successors and assigns; and to have released and discharged Developer and its Representatives, licensees, invitees, successors and assigns from any and all such rights, claims, and actions. Each Villa Owner and every other Interested Person by accepting any interest in any Villa also: agrees to stay out of the Undeveloped Land Area and any specifically fenced area thereof and to comply with all other rules and regulations that the Developer may establish for the Undeveloped Land Area; accepts that from time to time there may be construction and other activities ongoing within the Undeveloped Land Area which may detract from the appearance of the Project; and waives and releases any rights, claims or actions such Villa Owner may have arising from or with respect to the foregoing as against the Developer and its Representatives, licensees and invitees.

The Reserved Rights include the following rights and easements as stated in Section 19 of the Declaration, and Buyers are encouraged to read this Section of the Declaration carefully:

- To change the Project or a Villa prior to Recording a First Deed.
- To modify easements and grant additional easements.
- For sales activities.
- To complete Improvements and correct defects.
- For traffic, noise, dust, etc.
- To use and control the Undeveloped Land Area.
- To create New Villas.
- To design, develop, build, add to and complete New Improvements.
- To subdivide and consolidate the Land.
- To withdraw Undeveloped Land Area from the Project.
- To annex Adjacent Land and Improvements.
- To build Adjacent Condominium Projects and to merge them with the Project.
- To change the Project to comply with law.
- To amend the Condominium and other Documents.
- To transfer one or more of the Reserved Rights

II. Developer's Future Development Plans. The Developer's present plan includes Phases I, II and III, each containing four (4) Villas. The Developer may add additional Phases but has not yet determined or established them. If Phase II is developed as presently planned, the Villas in Project would be described as follows:

If Phases II and III are developed as presently planned, the Villas in Project would be described as follows:

Villa	Type	Common Interest	Rooms	Net Living Area	Covered Lanai	Garage	Mechanical	
1A	A	8.361%	10 ½	3,121	834	593	17	
1C	C	8.361%	10 ½	3,121	834	593	17	
2A	A	8.361%	10 ½	3,121	834	593	17	
2C	C	8.361%	10 ½	3,121	834	593	17	
3A	A	8.361%	10 ½	3,121	834	593	17	
3B	B	8.195%	10 ½	3,059	846	593	17	
4A	A	8.361%	10 ½	3,121	834	593	17	
4C	C	8.361%	10 ½	3,121	834	593	17	
5A	A	8.361%	10 ½	3,121	834	593	17	
5C	C	8.361%	10 ½	3,121	834	593	17	
6A	A	8.361%	10 ½	3,121	834	593	17	
6B	B	8.195%	10 ½	3,059	846	593	17	
		100.00%						

NOTE: APARTMENTS 1A, 1C, 2A AND 2C ARE LOCATED IN PHASE I;
 APARTMENTS 3A, 3B, 4A, AND 4C ARE LOCATED IN PHASE II;
 APARTMENTS 5A, 5C, 6A, AND 6B ARE LOCATED IN PHASE III.

However, there is no guarantee, representation, warranty or other assurance that proposed Phase II, proposed Phase III or any other proposed Phase will be developed, or if and when Phases II and/or III are developed, that the Project will be as described above, or that proposed Phase II or proposed Phase III or any other proposed Phase will be similar to Phase I or to the phase plan described above. For example, the Developer may determine to develop some but not all of the Phase II or Phases III Units or to develop each of Phases II or III in two or more separate increments of one, two or three Units per increment. The Common Interests for each Villa are subject to adjustment each time an additional Phase (or increment of a Phase) containing a New Villa is added to the Project.

III. Form of Special Power of Attorney:

SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That _____, being the owner (the "Owner") of Villa No. _____ in the Ke Kailani Condominium Project (the "Project"), whose residence and post office address is _____, does hereby appoint **KE KAILANI DEVELOPMENT LLC ("KKD")**, the principal place of business and post office address of which is _____, as the Owner's true and lawful attorney, for Owner in Owner's name, place and stead and for Owner's use and benefit to act for Owner in connection with the rights reserved (the "**Reserved Rights**") by KKD as the Declarant and Developer of the under, and as more fully set forth in, that certain Declaration of Condominium Property Regime of Ke Kailani and Creation of Phase I dated June 27, 2006, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 2006-119582, as the same may be lawfully amended from time to time (the "**Declaration**"), and the By-Laws of the Association of Villa Owner of Ke Kailani Condominium dated June 27, 2006, and recorded in said Bureau as Document No. 2006-119583, as the same may be lawfully amended from time to time (the "**By-Laws**"). The Project is depicted on Condominium Map No. 4278 as the same may be lawfully amended from time to time (the "**Condominium Map**"). The Declaration, the By-Laws and the Condominium Map are sometimes called the "**Condominium Documents**." Terms that are used herein with capitalized initial letters shall have the meaning given to them in the Condominium Documents. All relevant provisions of the Condominium Documents with respect to the "**Reserved Rights**" are incorporated herein and made a part of this Special Power of Attorney.

Without limiting the generality of the foregoing appointment and grant of powers of attorney, the Owner does hereby grant to KKD the full power to sign, execute, acknowledge, convey, deliver, and set over all documents and instruments and otherwise to do all acts and things necessary or convenient for any and all transactions in connection with the following Reserved Rights:

1. **RESERVED RIGHT TO MODIFY EASEMENTS AND GRANT ADDITIONAL EASEMENTS.** KKD's rights to modify any easements and grant additional easements in accordance with Section 19.3 of the Declaration.
2. **RESERVED RIGHTS AND EASEMENTS FOR SALES ACTIVITIES.** KKD's rights and easements to conduct, within the Undeveloped Land Area and/or the Common Elements and from any Villa (including, but not limited to, its Limited Common Elements) owned and/or leased by the Declarant, extensive promotion of the Project and extensive sales activities in connection with the initial sale as well as resale of any Villa in the Project, including any New Villa and any Villa in any Adjacent Condominium Project, in accordance with Section 19.4 of the Declaration.
3. **RESERVED RIGHTS AND EASEMENTS TO COMPLETE IMPROVEMENTS AND CORRECT DEFECTS.** KKD's rights and easements over, under and upon the Project, including, without limitation, the Common Elements, Limited Common Elements, and all Villas, as may be reasonably necessary or convenient to complete any Improvements and correct any defects and other punch list items in the Common Elements, Limited Common Elements, or any Villa, or for the exercise of any of the other Reserved Rights, in accordance with Section 19.5 of the Declaration.
4. **RESERVED RIGHTS AND EASEMENT FOR NOISE, DUST, ETC.** KKD's rights and easements over, under and upon the Project and each and all of its parts, to create and cause noise, dust, soot, smoke, odors, surface water runoff, vibrations, and other nuisances or hazards in connection with the exercise of any and all of the Reserved Rights, in accordance with Section 19.6 of the Declaration.
5. **RESERVED RIGHTS AND EASEMENTS TO CONTROL AND USE THE UNDEVELOPED LAND AREA.** KKD's rights and easements of control over the Undeveloped Land Area and the exclusive right and an exclusive easement to use the Undeveloped Land Area for any lawful purpose, in accordance with Section 19.7 of the Declaration.

6. **RESERVED RIGHTS AND EASEMENTS TO CREATE NEW VILLAS.** KKD's rights and easements to create one or more New Villas in the Project and to designate Limited Common Elements appurtenant to any New Villa at any time and from time to time before the Development Period ends, in accordance with Section 19.8 of the Declaration.

7. **RESERVED RIGHTS AND EASEMENTS TO DESIGN, DEVELOP, BUILD, ADD TO, AND COMPLETE NEW IMPROVEMENTS.** KKD's rights and easements to design, develop, build, add, and complete New Improvements on the Land, in accordance with Section 19.9 of the Declaration.

8. **RESERVED RIGHTS TO SUBDIVIDE AND CONSOLIDATE THE LAND.** KKD's rights and easements to subdivide the Land and/or to consolidate and re-subdivide the Land with any one or more Adjacent Parcels, in accordance with Section 19.10 of the Declaration.

9. **RESERVED RIGHT TO WITHDRAW UNDEVELOPED LAND AREA FROM THE PROJECT.** KKD's rights and easements to withdraw and delete from the Project all or any part of the Undeveloped Land Area, in accordance with Section 19.11 of the Declaration.

10. **RESERVED RIGHTS AND EASEMENT TO ANNEX LAND AND IMPROVEMENTS.** KKD's rights and easements to change the Project by annexing any or all interests in any Adjacent Parcel and Improvements located on such Adjacent Parcel into the Project, in accordance with Section 19.12 of the Declaration.

11. **RESERVED RIGHT TO BUILD ADJACENT CONDOMINIUM PROJECTS AND TO MERGE THEM WITH THE PROJECT.** KKD's rights to develop one or more Adjacent Condominium Projects on any Adjacent Parcel and to merge any Adjacent Condominium Project with the Project, in accordance with Section 19.13 of the Declaration.

12. **RESERVED RIGHT TO CHANGE THE PROJECT TO COMPLY WITH LAW.** KKD's rights to change the Villas, the Common Elements, the Limited Common Elements, and/or to amend the Condominium Documents as required to comply with any laws that apply to the Project, the Association, or the Declarant, in accordance with Section 19.14 of the Declaration.

13. **RESERVED RIGHTS TO AMEND THE CONDOMINIUM AND OTHER DOCUMENTS.** KKD's rights to amend the Condominium Documents and other documents as is permitted or required by any other part or Section of the Declaration, in accordance with Section 19.15 of the Declaration.

14. **TRANSFER OF RESERVED RIGHTS.** KKD's right to transfer and assign from time to time any one or more of its Reserved Rights in accordance with Section 19.16 of the Declaration.

This appointment and grant of powers of attorney by the Owner to KKD includes the power to substitute for KKD the transferee of any of the Reserved Rights. The Owner agrees and consents to each such substitution by KKD, and agrees to recognize the transferee as "KKD" under this document.

It may be necessary to recalculate the common interests appurtenant to the Villas in the Condominium upon the exercise of certain of KKD's reserved rights set forth above. The right of KKD to recalculate common interests and the method by which the common interests will be recalculated are set forth in Section 6 of the Declaration.

WITH FULL POWER to sign, execute, acknowledge, convey, deliver and set over all documents and instruments and do all other acts and things necessary or convenient for any and all transactions in connection with any or all of the foregoing, including, without limitation, any and all amendments to the aforesaid Condominium Documents or to any deed, and any and all grants, deletions, relocations, realignments, reservations or acceptance of any easement, license and/or right-of-way.

GIVING AND GRANTING UNTO ___ attorney full power, authority and discretion to do and perform all and every act and thing whatsoever which it may deem necessary or proper to accomplish the foregoing, all as fully for all intents and purposes as ___ might or could do if ___ was personally present; and ___ hereby ratifies and confirms all that ___ said attorney lawfully do or cause to be done by virtue of these presents.

IN WITNESS WHEREOF, the undersigned has executed these presents this ____ day of _____, 200__.

"Owner"

END OF EXHIBIT A

EXHIBIT B
Special Use Restrictions

1. Pets. No livestock, poultry, or other animals whatsoever shall be allowed or kept in any part of Ke Kailani, except dogs, cats, or other typical household pets such as guinea pigs, rabbits, fishes, or birds, may be kept by buyers. Except for fishes and birds, no more than two (2) pets per apartment shall be allowed without the express consent of the Board of Directors of the Association, which consent shall not be unreasonably withheld.

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

(a) The apartments and their limited common elements shall not be used to carry on any business, trade or profession;

(b) The apartments and their limited common elements shall not be used for sales of any articles or goods; and

(c) No apartment owner, lessee, tenant or other occupant of an apartment shall bring clients, customers or other business invitees onto the condominium project on a regular basis for business purposes.

3. Restrictions on Right to Sell, Lease or Rent. Apartment rentals shall be subject to the provisions of the Declaration, the By-laws of the Association of Villa Owners of Ke Kailani Condominium, the Ke Kailani CC&Rs, the By-laws of the Ke Kailani Community Association, the Mauna Lani CC&Rs (the "Project Documents"), and applicable law. Apartment owners may not rent their apartments as a transient vacation rental for rental periods of less than seven (7) days. 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 thereof shall constitute a default under such lease or rental agreement.

4. Landscaping of Limited Common Elements.

(a) The Developer reserves an easement over, under, and above the limited common element land areas appurtenant to the apartments for the installation and maintenance of landscaping, including grasses, trees, shrubs, other vegetation, and natural and artificial landscaping elements and materials.

(b) Landscaping in the limited common element land areas shall be installed and maintained by the Association as a Common Expense. Apartment owners shall not install or maintain landscaping within an apartment's limited common element land area except in compliance with the Design Requirements and Design Guidelines for the Subdivision, and/or any landscaping guidelines adopted by Developer, and no such installation or maintenance shall materially interfere with installation or maintenance of landscaping in the limited common element land areas by the Association. Any landscaping installed by buyers in the limited common element land areas shall be first approved by the Ke Kailani Design Committee and shall not exceed six (6) feet in height. To the extent permitted, landscaping installed by a buyer shall be maintained by the buyer.

5. Prohibition Against Time Share Use. No apartment owner, lessee, tenant, occupant, or other interested person may, directly or indirectly, use the condominium project or any part thereof for bed and breakfast establishments; boarding facilities, rooming, or lodging houses; multiple-family dwellings other than Villas; group living facilities; the promotion or sale of time share or interval ownership interests, interests in any fractional ownership plan, or sale, transfer or contribution to any membership club or plan; or for the operation of a tour or activity desk or any other business that directly or indirectly promotes the sale of time share or interval ownership interests, interests in a fractional ownership plan, or interests in a membership club or plan.

END OF EXHIBIT B

EXHIBIT C

Part 1: General Description of Apartments (called Villas)

A. The Declaration provides that the boundaries of each Villa shall include the following:

1. The interior unfinished surfaces of the perimeter and party walls, doors, ground floors and roofs of the Main House, Guest Cottage (if applicable) and Garage comprising such Villa and the spaces bounded by such walls, doors, ground floors and roofs;
2. All windows and window frames, louvers (if any), and shutters (if any);
3. All walls and partitions which are not load-bearing and which are within the perimeter or party walls of the apartment;
4. All movable lanai doors and their door frames;
5. The lanais shown on the Condominium Map to the inner decorated or finished surfaces of the exterior perimeter walls of such lanais, and to the interior edge of the exterior fence or other boundaries of such lanais; and
6. All fixtures originally installed therein.

Part 2: Boundaries of Apartments (Villas)

B. Section 514B-35 of the Condominium Property Act supplements these provisions of the Declaration on the boundaries of each Villa as follows:

"Unit boundaries. Except as provided by the declaration:

1. If walls, floors, or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings, are a part of the common elements;
2. If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element appurtenant solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements;
3. Subject to paragraph (2), all spaces, interior non-loadbearing partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit; and
4. Shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, lanais, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but are located outside the unit's boundaries, are limited common elements appurtenant exclusively to that unit."

END OF EXHIBIT C

EXHIBIT D
Permitted Alterations to Apartments (Villas)

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

- (a) Installing, maintaining, removing and rearranging partitions and other walls from time to time within such owner's apartment;
- (b) Finishing, changing or substituting any plumbing, electrical or other fixtures attached to the ceilings, floors or walls of such owner's apartment;
- (c) Decorating, painting, repainting, wallpapering or otherwise changing the appearance of the walls, floors and ceilings of such owner's apartment;
- (d) Tiling, finishing, carpeting, re-carpeting, and installing, changing, or removing other flooring in such owner's apartment; and
- (e) Making such changes, additions and improvements to such owner's apartment or limited common elements to facilitate handicapped accessibility within such owner's apartment or limited common element.

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

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

- (b) Any owner who owns any two adjacent apartments may do any of the following:
 - (i) consolidate such apartments into a single apartment;
 - (ii) make any common element walls, floors or ceilings between such apartments part of such apartments or their limited common elements; and
 - (iii) change the designation of the limited common elements appurtenant to such apartments so that one or more limited common elements appurtenant to one apartment shall be appurtenant to the other apartment or to both of the apartments; subject, however, to the prior written consent of each Lender holding a recorded mortgage encumbering either apartment.

(c) The common interest of the newly created apartment will be equal to the sum of the common interests of the apartments which were consolidated.

END OF EXHIBIT D

EXHIBIT E
Description of Common Elements

The Common Elements include:

1. The Land in fee simple; provided, however, that the Land is subject to change from time to time pursuant to the exercise of the Reserved Rights).
2. All roadways, including shoulder areas, rights of way and Landscaping in roadway areas, and driveways;
3. All yards, grounds, trees, gardens, Landscaping and refuse facilities not located within the Limited Common Element Land Area appurtenant to a Villa;
4. All Limited Common Elements to one or more of the Villas (see Exhibit F); and
5. Any and all other apparatus and installations existing for common use by more than one Villa, and any and all other parts of the Project necessary or convenient to its existence, maintenance or safety, or normally in common use or not included within the limits of ownership of each Villa.

EXHIBIT F
Description of Limited Common Elements

The following are Limited Common Elements that appurtenant solely to each Villa:

- (a) the Limited Common Element Land Area identified by the same number as such Villa on the First Amended & Restated Map as well as the pool, whirlpool spa and water features located within such Limited Common Element Land Area, including, without limitation, all pumps, filters, pipes, and other equipment connected to or relating to the pool, whirlpool spa or water feature.
- (b) the driveway leading to the Garage of any such Villa.
- (c) such Villa's trash enclosure and mechanical room.
- (d) such Villa's sewer system, grinder pumps and related equipment.
- (e) any chute, flue, wire, or any other fixture that lies outside the designated boundaries of such Villa and serves only that Villa.
- (f) all exterior perimeter walls and the exterior fences or other improvement bounding the lanais of such Villa (excluding the inner decorated or finished surfaces thereof which are part of such Villa)
- (g) all perimeter non-party walls of the Main House, Guest Cottage (if applicable) and Garage of such Villa (excluding the interior finished or decorated surfaces thereof which are part of such Villa).
- (h) all the foundations, columns, girders, beams, ground floor slabs, supports, ground floors and roofs of the Main House, Guest Cottage (if applicable) and Garage supporting and/or surrounding each Villa (excluding the interior finished or decorated surface thereof which are part of such Villa).
- (i) an exclusive easement for the use of one (1) mailbox located in the common areas of the Subdivision, as assigned. No Villa Owner shall construct or install a mailbox at the Villa or arrange for mail delivery at any other location in the Project other than the mailbox located in the common areas of the Subdivision.

The following are Limited Common Elements that appurtenant to two or more Villas as stated below:

- (a) the party wall between the two (2) Villas in the same Building, and the exterior extension thereof separating the Limited Common Element Land Areas of those Villas shall be a Limited Common Element appurtenant to both of such Villas.
- (b) any pipes, wires, vents, shafts, ducts, conduits or other utility or service lines or enclosed spaces for wiring, pipes, air exhaust, or air conditioning which are utilized for or serve two or more Villas, whether or not running through or otherwise located within a Villa, shall be Limited Common Elements appurtenant to such Villas.

END OF EXHIBIT F

EXHIBIT G

Apartment	Type	Common Interest
1A	A	8.361%
1C	C	8.361%
2A	A	8.361%
2C	C	8.361%
3A	A	8.361%
3B	B	8.195%
4A	A	8.361%
4C	C	8.361%
5A	A	8.361%
5C	C	8.361%
6A	A	8.361%
6B	B	8.195%
		100.00%

NOTE: APARTMENTS 1A, 1C, 2A AND 2C ARE LOCATED IN PHASE I;
APARTMENTS 3A, 3B, 4A, AND 4C ARE LOCATED IN PHASE II;
APARTMENTS 5A, 5C, 6A, AND 6B ARE LOCATED IN PHASE III.

However, there is no guarantee, representation, warranty or other assurance that proposed Phase II, proposed Phase III or any other proposed Phase will be developed, or if and when Phases II and/or III are developed, that the Project will be as described above, or that proposed Phase II or proposed Phase III or any other proposed Phase will be similar to Phase I or to the phase plan described above. For example, the Developer may determine to develop some but not all of the Phase II or Phases III Units or to develop each of Phases II or III in two or more separate increments of one, two or three Units per increment. The Common Interests for each Villa are subject to adjustment each time an additional Phase (or increment of a Phase) containing a New Villa is added to the Project.

END OF EXHIBIT G

EXHIBIT H
Encumbrances Against Title

Part A. Permitted Encumbrances

The following now encumber title to the land, will remain as encumbrances on the title to a Villa conveyed to the Buyer, and together with such other encumbrances as may be placed on the title that do not materially and adversely affect the use or value of a Villa, are sometimes called the “**Permitted Encumbrances.**”

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

2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Certificate dated April 22, 1986, recorded in said Bureau in Liber 19452, Page 724, made by MAUNA LANI RESORT, INC., a Hawaii corporation, regarding reclassification of the land described herein from the Agricultural and Conservation districts to the Urban district.

3. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration of Covenants and Restrictions (Mauna Lani Resort Association) dated June 3, 1982, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Land Court Document No. 1120889, recorded in said Bureau in Liber 16425, Page 203, as the same are and may hereafter be lawfully amended. Said Declaration was amended and restated by instrument dated January 8, 1987, filed as Land Court Document No. 1432988, recorded in Liber 20284 at Page 384, and was amended and/or supplemented by instruments dated August 13, 1982, filed in said Office as Land Court Document No. 1129996, recorded in said Bureau in Liber 16545, Page 345, dated May 22, 2002, recorded in said Bureau as Document No. 2002-101491, and dated February 2, 2005, filed in said Office as Land Court Document No. 3228828, recorded in said Bureau as Document No. 2005-026122. Said above Declaration, as amended by the First, Second and Third Amendments, was amended in its entirety by the Fourth Amendment dated January 8, 1987, shown above. In the event of any conflict between the terms and conditions contained in the Declaration, or the First, Second and Third Amendments, and this Fourth Amendment, the Fourth Amendment shall be controlling. The foregoing includes, but is not limited to, matters relating to Association liens which may be superior to certain mortgages.

By Designation of Declarant and Co-Declarant of The Mauna Lani Resort Association Declaration of Covenants and Restrictions and Acceptance dated March 10, 1998, effective January 30, 1998, filed in said Office as Land Court Document No. 2445165, recorded in said Bureau as Document No. 98-033812, Mauna Lani Service, Inc., a Hawaii corporation, is designated as Declarant, and Mauna Lani Resort (Operation), Inc., a Hawaii corporation, is designated as Co-Declarant.

4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Limited Warranty Deed dated June 6, 2002, recorded in said Bureau as Document No. 2002-101498.

5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Declaration of Protective Covenants, Conditions and Restrictions for Ke Kailani dated October 4, 2005, recorded in said Bureau as Document No. 2005-201116. The foregoing includes, but is not limited to, matters relating to restrictions on use, further subdivision, consolidation and timesharing.

6. The Declaration of Condominium Property Regime of Ke Kailani and Creation of Phase I dated July 27, 2006, recorded at the Bureau on June 28, 2006, as Document No. 2006-119582, as amended by a First Amendment dated August 31, 2006 and recorded in the Bureau on September 18, 2006 as Document No. 2006-170717, as amended by a Second Amendment dated November 9, 2006 and recorded in the Bureau on November 9, 2006 as Document No. 2006-205607, as amended by a Third Amendment dated November 9, 2006 and recorded in the Bureau on November 9, 2006 as Document No. 2006-205608, as amended by a Fourth Amendment dated September 8, 2008 and recorded in the Bureau on September 9, 2008 as Document No. 2008-141706, the By-Laws of the Association of Villa Owners of Ke Kailani Condominium, recorded in said Bureau on June 28, 2006, as Document No. 2006-119583, as amended by a First Amendment dated September 19, 2006 and recorded in the Bureau on September 19, 2006 as Document No. 2006-171708, as amended by a Second Amendment dated September 8, 2008 and recorded in the Bureau on September 9, 2008 as Document No. 2008-141705, Supplement to the Condominium Documents for the Ke Kailani Condominium With Respect to Part VI of Chapter 514B, HRS, dated February 22, 2007, and recorded in the Bureau on February 23, 2007 as Document No. 2007-034293, and the Condominium Map recorded on June 28, 2006 as Map No. 4278, as the same may be lawfully amended from time to time, including without limitation as amended pursuant to the Developer's Reserved Rights so as to create additional Phases of the Project.

Part B. Blanket Liens

The title is also presently encumbered by the following blanket liens which must be released with respect to each Villa on or before the conveyance of that Villa to a Buyer:

A. Mortgage, Fixture Filing and Financing Statement made by Michael Fuchs Development (Hawaii) LLC, a Hawaii limited liability company, as Mortgagor, and Michael Fuchs, as Mortgagee, dated December 1, 2003, recorded in said Bureau as Document No. 2003-287335 in the amount of \$72,000,000.00 - covers the land described herein, besides other land.

Note: Subordination Stand-Aside Agreement dated July 31, 2006, recorded in said Bureau as Document No. 2006-1442903, which subordinates said above Mortgage to the lien of that certain Mortgage dated July 31, 2006, recorded in said Bureau as Document No. 2006-144291, which is Item B below.

Note: The above Mortgage was amended by Instrument dated Effective as of January 1, 2005, recorded in said Bureau as Document No. 2005-235419, to decrease the principal sum to \$48,600,000.00 and change the maturity date under the Note.

B. Mortgage, Security Agreement and Financing Statement made by Ke Kailani Development LLC, a Hawaii limited liability company, as Mortgagor, and Bank of Hawaii, a Hawaii corporation, as Agent for Bank of Hawaii, Central Pacific Bank, and Finance Factors, Limited, dated July 31, 2006, recorded in said Bureau as Document No. 2006-144291, in the amount of \$28,372,500.00 – covers the land described herein, besides other land.

Note: The above Mortgage was amended by instrument dated Effective as of February 15, 2007, recorded in said Bureau as Document No. 2007-031133, which decreased the principal sum to \$25,602,500.00, and an additional loan was made in the principal amount of \$26,490,000.00.

C. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Assignment of Sales Contracts and Sale Proceeds dated July 31, 2006, recorded in said Bureau as Document No. 2006-144292, made by Ke Kailani Development LLC, a Hawaii limited liability company, "Assignor", and Bank of Hawaii, a Hawaii corporation, as Agent for Bank of Hawaii, Central Pacific Bank, and Finance Factors, Limited, "Assignee" to secure the repayment of that certain Note in the principal amount of \$28,372,500.00 – covers the land described herein, besides other land.

D. Financing Statement made by Ke Kailani Development LLC, as Debtor, and Bank of Hawaii, as Agent, as secured party recorded on August 7, 2006, in the Bureau as Document No. 2006-144294.

END OF EXHIBIT H

EXHIBIT I

**ESTIMATE OF INITIAL MAINTENANCE FEES
AND
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS
IF PROJECT INCLUDES 12 APARTMENTS**

Estimate of Initial Maintenance Fees:

Apartment	Common Interest	Monthly Fee	Fee x 12 Months = Yearly Total
1A	8.361%	\$2,472.60	\$29,671.20
1C	8.361%	\$2,472.60	\$29,671.20
2A	8.361%	\$2,472.60	\$29,671.20
2C	8.361%	\$2,472.60	\$29,671.20
3A	8.361%	\$2,472.60	\$29,671.20
3B	8.195%	\$2,423.51	\$29,082.12
4A	8.361%	\$2,472.60	\$29,671.20
4C	8.361%	\$2,472.60	\$29,671.20
5A	8.361%	\$2,472.60	\$29,671.20
5C	8.361%	\$2,472.60	\$29,671.20
6A	8.361%	\$2,472.60	\$29,671.20
6B	8.195%	\$2,423.51	\$29,082.12
	100.00%	\$29,573	\$354,876

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

Revenue	Monthly Fee x 12 months	Yearly Total
Maintenance Fees	\$29,573	\$354,876
Utilities		
Electricity	\$0	\$0
Television	\$0	\$0
Water	\$0	\$0
Sewer	\$513	\$6,156
<i>Subtotal Utilities</i>	\$513	\$6,156
Repairs and Maintenance		
Building, Landscaping	\$10,325	\$123,900
Supplies	\$80	\$960
Pool and Spa Maintenance	\$3,750	\$45,000
Pest Control	\$315	\$3,780
Rubbish Removal	\$400	\$4,800
<i>Subtotal Repairs and Maintenance</i>	\$14,870	\$178,440
Administrative		
Audit and Tax Fees	\$300	\$3,600
Management Fee	\$1,250	\$15,000
Accounting Fee	\$0	\$0
Legal	\$100	\$1,200
Office Supplies	\$40	\$480
Insurance	\$12,000	\$144,000
<i>Subtotal Administrative</i>	\$13,690	\$164,280
Reserves	\$500	\$6,000
Total Expenses	\$29,573	\$354,876

I, Linda Morabito, as agent
 condominium managing agent/developer for the _____, employed by Certified Management, Inc., the
 Ke Kailani condominium project, hereby certify that

the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.



 Signature

8/21/08

 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 §514B-148, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to §514B-148, HRS, a new association, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.

EXHIBIT J
Summary of Pertinent Provisions of the Sales Contract

The contract document used is entitled "Purchase Contract" and will be called a "Purchase Contract" in this Exhibit J and provides as follows:

1. **When Purchase Contract Will Become Binding; Cancellation Before The Contract Becomes Binding.** A Purchase Contract signed by a Buyer and the Developer will not become binding on a Buyer or the Developer until the events described in Section 5.81 of this Public Report above have taken place as provided for by Section 514B-86, HRS. Before a Purchase Contract becomes binding, it may be cancelled at any time, with or without cause, by the Buyer or the Developer, by written notice of such termination delivered to the other party. In this case, the Developer shall cause Escrow to refund all payments previously made by the Buyer, without interest, unless the Buyer has elected to have interest accrue to the benefit of the Buyer under Section 9.2.2 of the General Terms of the Purchase Contract, and neither the Buyer nor the Developer shall have any other or further liability under such Purchase Contract or with respect to the condominium project. However, if a Buyer terminates, then, Escrow shall deduct from the refund to the Buyer the escrow cancellation fee and all costs, up to a maximum of Two Hundred Fifty Dollars (\$250), incurred by the Developer, Escrow, or any lending institution in processing a Purchase Contract or the loan application. If the Developer terminates, then, the Developer shall pay any and all escrow cancellation fees and costs.
2. **Buyer's Qualifying for Purchase; Developer's Rights to Cancel.** Within twenty (20) days after receipt by the Buyer of written notice that Buyer's Purchase Contract has been accepted by the Developer, a bank or brokerage statement, the Buyer shall submit to the Developer, financial data in form and content sufficient to provide proof of funds in the amount of the purchase price for the Villa which is the subject of the Purchase Contract, and/or any further financial data reasonably requested by the Developer. The Developer shall have fifteen (15) days after receipt of such financial data to notify Buyer of its acceptance or rejection of said financial data. If the Developer rejects such financial data, the Developer may, in its sole discretion, terminate the Purchase Contract and cause Escrow Agent to refund to Buyer all amounts paid pursuant to the Purchase Contract, without interest and regardless of whether Buyer has elected to have interest accrue to the benefit of Buyer pursuant to Section 9.2.2 of the Purchase Contract, less the cost of any credit report, cancellation fees of Escrow Agent, if any, and other costs incurred by the Developer in reviewing such financial statement.
3. **Credit Inquiries.** Each Buyer authorizes the Developer to make credit inquiries about the Buyer, including, but not limited to, obtaining credit reports on the Buyer and verifying by any legal means any financial information submitted to the Developer.
4. **Confirmation of Financial Ability; Developer's Option to Cancel.**
 - a. Each Buyer is required to submit to the Developer within ninety (90) calendar days prior to the estimated Closing Date, such written evidence as the Developer may reasonably request from the Buyer's bankers or accountants or other persons to reconfirm that the Buyer is still able to pay the Purchase Price in cash or has a binding commitment for financing.
 - b. If the Developer, in its sole discretion, after reviewing the written evidence referenced in 4.a above, is not satisfied as to a Buyer's continued ability to make such cash payments or has a binding commitment for financing, and if the Developer determines that the Buyer has not acted in good faith or otherwise complied with the requirements of the Purchase Contract entered into by the Buyer, then, and in such event, the Buyer shall be in default under said Purchase Contract, and the Developer may then cancel Escrow, terminate the Purchase Contract, and exercise its remedies for breach of the Purchase Contract.
 - c. If the Developer determines that a Buyer does not have the continued ability to make cash payments of the Purchase Price, but has at all times acted in good faith in seeking to fully comply with the Buyer's obligations, then, the Developer shall have the right to cancel the Purchase Contract upon written notice to the Buyer, but upon such cancellation, the Developer shall direct Escrow Agent to refund to the Buyer (without interest, unless Buyer has elected to have interest accrue for the benefit of the Buyer pursuant to Section 9.2.2 of the Purchase Contract), all sums paid by the Buyer under the Purchase Contract, less any cancellation fees of Escrow Agent and any other actual expenses incurred by the Developer by reason of the Buyer entering into the Purchase Contract.
5. **Interest on Funds Deposited with Escrow Agent.**
 - a. All interest on a Buyer's deposits shall accrue to the benefit of the Developer unless the Buyer elects to have interest accrue to it pursuant to Section 9.2.2 of the Purchase Contract entered into by the Buyer.
 - b. If a Buyer elects to have interest accrue to the benefit of the Buyer, all funds received by Escrow Agent may be deposited into an interest bearing account or accounts in a federally insured bank or savings and loan institution selected by the Developer, in its sole discretion, with its principal place of business in Honolulu, Hawaii.

c. If a Buyer elects to have interest accrue to the benefit of the Buyer, then, the Buyer shall pay all costs and expenses of Escrow Agent incurred or charged for the purpose of opening, maintaining and closing such interest bearing account or accounts, including, but not limited to, a fee of Twenty-Five Dollars (\$25) for each such account.

d. Except as provided in Sections 2, 4.b.above, and Sections 6.b., 6.c , and 9.c below of this Exhibit J, all interest earned from an account or accounts under which interest accrues for a Buyer's benefit shall be credited to the Buyer's account from the date of the Developer's acceptance of the Purchase Contract entered into by the Buyer; provided, however, that no interest shall be credited to the Buyer for the period prior to the Developer's acceptance of the Purchase Contract, or on funds held by Escrow Agent for less than sixty (60) calendar days after the Developer's acceptance of the Purchase Contract.

6. Buyer's Default; Developer's Rights Including Cancellation and Liquidated Damages; Delays in Closing.

a. **Default by Buyer.** A Buyer shall be in default under a Purchase Contract entered into by the Buyer if any of the following occurs:

- (i) Such Buyer fails to make a payment when due; or
- (ii) Such Buyer fails to furnish to the Developer satisfactory evidence of the Buyer's ability to pay the purchase price, as required in Section 7 of this Exhibit J above; or
- (iii) Such Buyer fails to perform any other obligation required under the Purchase Contract and such failure continues for fifteen (15) days after the Developer gives written notice to the Buyer of such failure.

b. **Default by Buyer Prior to Purchase Contract Becoming Binding.** If a Buyer defaults before a Purchase Contract entered into by the Buyer becomes a binding contract in accordance with § 514B-86, Hawaii Revised Statutes, the Developer may, at the Developer's option, cancel the Purchase Contract by written notice to the Buyer, and the following shall apply:

- (i) All deposits made under the Purchase Contract shall be refunded or the check returned to the Buyer (without interest, unless the Buyer elected to have interest accrue to it pursuant to Section 9.2.2. of the Purchase Contract), less any cancellation fee imposed by Escrow Agent and any other actual expenses incurred by the Developer by reason of the Buyer having signed the Purchase Contract; and
- (ii) All costs, including, without limitation, reasonable attorneys' fees, incurred by reason of the default by the Buyer shall be paid by the Buyer promptly upon the Developer's demand.

c. **Default by Buyer After Purchase Contract Becomes Binding; Liquidated Damages.** If a Buyer defaults after a Purchase Contract entered into by the Buyer becomes a binding contract in accordance with HRS § 514B-86, Hawaii Revised Statutes, then, the Developer may at its option terminate the Purchase Contract. As a reasonable estimate of the Developer's damages resulting from any such default occurring after the Purchase Contract becomes a binding contract, the deposits previously made by the Buyer under the Purchase Contract together with all accrued interest thereon (regardless of whether the Buyer has elected to have interest accrued to it pursuant to Section 9.2.2 of the Purchase Contract) shall become, at the Developer's option, the sole property of the Developer as liquidated damages.

7. **Default by Developer Before Closing; Developer's Cure Rights.** If the Developer shall fail to perform any obligation required of the Developer under a Purchase Contract prior to Closing, including the obligation to execute promptly all documents necessary to close, the Buyer shall notify the Developer in writing by certified or registered mail of such default. The Developer shall have fifteen (15) days after the date of the notice to cure such default. If the Developer does not cure the default within such fifteen (15) day period, the Buyer may elect, at the Buyer's sole discretion, to either cancel the Purchase Contract, or seek specific performance. Such Buyer shall give written notice of Buyer's election to the Developer. If a Buyer elects to cancel, the full amount of the Buyer's deposits and all interest actually accrued thereon shall be paid to the Buyer as the Buyer's sole and exclusive remedy, and the Developer shall be released and discharged from any further obligation under the Purchase Contract. If the Buyer seeks specific performance of the Purchase Contract, the Buyer shall not be entitled to recover any damages from the Developer in such action.

8. **Right to Cancel a Purchase Contract if Completion Deadline Missed.** The Buyer will also have the right to cancel, but shall not have any other right or remedy against the Developer, if the Villa is not completed by the extended completion deadline as stated in Section 5.5 of this Public Report, see also Section 5.8.2 of this Public Report for more information. The completion deadline shall be extended for delays caused by "force majeure," which generally means acts of God or nature, including but not limited to floods, hurricanes, earthquakes, tsunamis, or other nature disasters, and also acts of people, including but not limited to riots, strikes, and wars, or any other event or occurrence that may result in shortages of labor, materials, or availability of transportation, or any event or occurrence outside the Developer's control that may render performance of developer impracticable or improbable. Upon a cancellation, the Buyer's deposits shall be refunded, with interest and without any deduction.

9. **Buyer's Right to Rescind a Binding Purchase Contract After a Material Change.** If a "material change" occurs after a Buyer's Purchase Contract has become binding, the Buyer will have a 30-day right to rescind after notification and description of the material change, see Section 5.8.3 of this Public Report for more information. A material change is defined as any change that "directly, substantially and adversely affects the use or value of (1) a Buyer's Villa or its appurtenant limited common elements; or (2) those amenities of the project available for the Buyer's use."

10. **Cancellation in the Event of Buyer's Death.** If a Buyer, or, if there is more than one Buyer, any one or more of the Buyers, dies prior to Closing, the Developer reserves the right to return all deposits paid under the Purchase Contract entered into by the Buyer or Buyers (without interest, unless the Buyer or Buyers have elected to have interest accrue for the benefit of the Buyer or Buyers, less Escrow's cancellation fee), whereupon the Purchase Contract shall be deemed to have been canceled and both Developer and Buyer shall be released from all obligations and liabilities under the Purchase Contract.

END OF EXHIBIT J

EXHIBIT K
Summary of Pertinent Provisions of the Escrow Agreement

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

2. Receipt of Funds by Escrow.

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

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

(i) all payments made by the Developer under Purchase Contracts to the extent received by Escrow;

(ii) all funds from any lending institution disbursed pursuant to a mortgage loan made to a Buyer for the purchase of an apartment; and

(iii) all sums received by Escrow from any other source on account of the sale to a Buyer of an apartment.

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

4. Interest on Escrowed Funds. Any interest earned on deposits shall accrue to the credit of the Developer unless Buyer elects, pursuant to Section 9.2.2 of the Purchase Contract entered into by the Buyer, to cause interest on the Buyer's deposits to accrue for the benefit of the Buyer. If the Buyer so elects, all Deposits received by Escrow may be deposited into an interest bearing account or accounts in a federally insured bank or savings and loan institution selected by the Developer, in its sole discretion, provided that such bank or savings and loan institution's principal place of business shall be located in Honolulu, Hawaii. Buyer shall pay all costs and expenses of Escrow incurred or charged for the purpose of opening, maintaining and closing such interest bearing account or accounts, including, but not limited to, a fee of Twenty-Five Dollars (\$25.00), for each such account.

5. General Conditions to be Satisfied Prior to Disbursement. Escrow shall make no disbursements of Deposits held in escrow, except by way of refunds as provided for below unless and until:

(a) Binding Contract. Escrow has evidence that the requirements for binding Purchase Contracts stated in Section 514B-86, HRS have been satisfied, see Section 5.8.2 of this Public Report, as amended.

(b) No Rescission. Escrow has evidence that:

(1) there have been no subsequent events that have occurred which would give Buyer the right to rescind because of a material change to the project (meaning a change in the Project which directly, substantially and adversely affects the use or value of either the Villa or appurtenant Limited Common Elements, or the amenities of the Project available for Buyer's use; provided that any change, addition, deletion or modification, or any merger of the Project pursuant to the terms of the Declaration, including without limitation the exercise of the Developer's Reserved Rights shall not be a material change); or

(2) if such a material change has occurred, upon being properly informed of the material change, the Buyer has either waived Buyer's 30-day right to rescind, or such right to rescind expired without being exercised by Buyer, or before Buyer exercises this right and before the 30 days expires, Buyer's Villa is conveyed to Buyer by recording the Villa Conveyance.

(c) No Other Cancellation. Escrow has evidence that all other rights to cancel or rescind provided for in the Contract have been waived or as of the then applicable date have not been exercised, including without limitation Buyer's right, pursuant to HRS Section 514B-89, to cancel if completion of construction does not occur on or before the completion deadline as extended by force majeure, see Section 5.5 and 5.8.2 of the Public Report, as amended.

These conditions are sometimes called "General Conditions to Disbursement."

(d) Disbursement of Buyers' Funds Before Closing to Pay for Construction and Related Costs. Upon request from Seller, Escrow shall disburse Buyers' Funds before closing to pay for construction and other costs, including architectural, engineering, finance, legal fees, and other incidental expenses of the applicable Phase of the Project, see Section 5.6.2 of this Public Report, as amended for more information.

6. Disbursement of Buyer's Funds Upon Closing—Closing Conditions Including Title Insurance. Upon receipt by Escrow of a conveyance document for Buyer's Unit executed by Seller, all releases of liens and other encumbrances other than the Permitted Encumbrances, and from the Buyer, the full amount of the purchase price for such Villa, and Buyer's share of closing costs, Escrow shall proceed promptly to close the purchase and sale of the Villa by recording in the Bureau the release of all blanket liens with respect to the Buyer's Villa and the Buyer's Villa Conveyance and Financing Documents, if any (or coordinating with Buyer's Lender for the recording of Buyer's Financing Documents), paying all closing costs from Buyer's Funds and disbursing the remainder of Buyer's Funds to or as directed by Seller; provided that:

- (a) The General Condition to Disbursement are satisfied with respect to that Buyer's Purchase Contract;
- (b) The Notice of Completion covering the Buyer's Unit has been published pursuant to Chapter 507, Part II, HRS;

(c) Escrow has committed itself, or has received a written commitment from a title company licensed in Hawaii ("Title Commitment"), to issue a title policy to Buyer after recordation insuring: (a) that Buyer has title to such Buyer's Villa; and (b) against blanket and mechanic's or materialman's lien or any other encumbrances on such Buyer's Villa, except for the Permitted Encumbrances as defined or listed in Exhibit H to this Public Report, as amended. Even if construction of Phase II of the Project has not yet been entirely completed and even if the period for filing mechanic's and materialman's liens pursuant to Chapter 507, Part II, HRS has not expired, Escrow shall close as long as the Title Commitment provides coverage against any liens that may be filed; *provided, however*, if any notice of a mechanic's or materialman's lien has been filed and the Title Commitment does not protect Buyer against such lien, Escrow shall close only when such lien has been released, or sufficient funds have been set aside to cover the amount of such noticed lien.

Unless otherwise stated in any Contract, title insurance shall be at Buyer's expense. Buyer shall be free at Buyer's expense to choose any title company Buyer wants that is licensed in Hawaii to issue the policy. But unless Buyer tells Escrow in writing differently, Escrow will either issue the policy to Buyer itself, or on its own make other arrangements for title insurance for Buyer.

7. Return of Funds and Documents.

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

- (i) The Developer and the Buyer shall have instructed Escrow in writing to return such funds to the Buyer; or
- (ii) The Developer has notified Escrow of the Developer's exercise of any right it has to cancel the Purchase Contract provided for in the Purchase Contract, or otherwise available to the Developer, pursuant to which the Buyer is entitled in accordance with the Purchase Contract to a return of funds deposited by the Buyer with Escrow; or
- (iii) The Buyer has exercised any right to cancel or rescind that is described in Section 5.8 of this Public Report, as amended.

8. Buyer's Default.

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

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

- (c) Disbursement of Funds To Developer. In the event of the Buyer's Default, and upon the written request of the Developer:
- (i) Escrow shall pay to the Developer the Buyer's Deposits held in escrow, less any escrow cancellation fee;
- (ii) shall return to the Developer any partially executed conveyance documents theretofore delivered to Escrow by the Developer; and
- (iii) shall hold all other documents delivered to Escrow in connection with such Buyer's purchase of Buyer's unit for any applicable statutory period.

END OF EXHIBIT K