

**DEVELOPER'S PUBLIC REPORT  
FOR A CONDOMINIUM**

CONDOMINIUM PROJECT NAME	KOLOA LANDING AT POIPU BEACH
Project Address	2641 Poipu Road Koloa, Hawaii 96756
Registration Number	6174
Effective Date of Report	<b>February 20, 2007</b>
Developer	Poipu Beach Villas, 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; or (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, 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.

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*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.]

The Declaration, Bylaws and Condominium Map for the project have not yet been recorded. As such, there may be substantial changes to such documents prior to recordation. Prospective purchasers will be provided and should carefully review such documents after recordation.

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## **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 <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	2641 Poipu Road, Koioa, Hawaii 96756
Address of Project is expected to change because	N/A
Tax Map Key (TMK)	(4) 2-8-15:25-37, 45-74 & 81
Tax Map Key is expected to change because	The lots are in the process of being consolidated and a CPR number will be added for each unit
Land Area	24.59 acres
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	N/A

**1.2 Buildings and Other Improvements**

Number of Buildings	19 (4 floors); 1 (2 floors); 1 (1 floor); 1 (1 floor)*
Floors Per Building	See above
Number of New Building(s)	22
Number of Converted Building(s)	0
Principal Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	Steel, glass, drywall, concrete, natural stone & wood floors

\* This includes buildings containing the residential and commercial units in the Project, but does not include the 44 free-standing, 4-stall parking garages and 106 carports located throughout the Project, or the West Parking Structure and East Parking Structure (see Condominium Map).

**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
See Exhibit "A"						

329	<b>Total Number of Units</b>
-----	------------------------------

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 the Project:	560
Number of Guest Stalls in the Project:	TBD
Number of Parking Stalls Assigned to Each Unit:	1
Attach Exhibit _____ 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.	
All of the parking stalls will initially be designated as Limited Common Elements to Commercial Unit 3. The Developer will assign parking stalls, one per unit, prior to closing of a unit by redesignating such stall as a Limited Common Element to such Unit. Owners will be advised of their assigned parking stall prior to closing.	

**1.5 Boundaries of the Units**

Boundaries of the unit:  See Exhibit "B"
--

**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 "C"
--

**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 _____ "A" _____.
As follows:

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

X	Swimming pool
	Laundry Area
	Storage Area
	Tennis Court
X	Recreation Area
	Trash Chute/Enclosure(s)
	Exercise Room
	Security Gate
	Playground
X	Other (describe): It is anticipated that the Project will contain certain recreational facilities such as swimming pool areas and a spa, however, such areas will be within the Resort Amenities which will be a limited common element appurtenant to Commercial Unit 3 that will be owned by the Developer, an affiliate of the Developer or an unrelated third-party. Owners will have the ability to utilize the Resort Amenities pursuant to a license between the Developer, its affiliate or such third-party and the Association, as set forth in the Declaration, and, in return, Owners shall be required to pay a equitable license fee for such usage, which shall be part of the Common Expenses. Buyers should review Section 6 of this report for further information about the use of the Resort Amenities of the Project.

**1.9 Common Elements**

<p><b>Common Elements:</b> 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.</p>									
<p>Described in Exhibit <u>      "D      </u></p>									
<p>Described as follows:</p>									
<table border="1"> <thead> <tr> <th>Common Element</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>Elevators</td> <td>42</td> </tr> <tr> <td>Stairways</td> <td>84</td> </tr> <tr> <td>Trash Chutes</td> <td>0</td> </tr> </tbody> </table>		Common Element	Number	Elevators	42	Stairways	84	Trash Chutes	0
Common Element	Number								
Elevators	42								
Stairways	84								
Trash Chutes	0								

**1.10 Limited Common Elements**

<p><b>Limited Common Elements:</b> 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.</p>	
<p>Described in Exhibit <u>      "E      </u>.</p>	
<p>Described as follows:</p>	

**1.11 Special Use Restrictions**

<p>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.</p>	
<b>X</b>	Pets: As set forth in the House Rules
<b>X</b>	Number of Occupants: As set forth in the House Rules
<b>X</b>	Other: See Exhibit "F" for Special Use Restrictions
	There are no special use restrictions.

**1.12 Encumbrances Against Title**

<p>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).</p>	
<p>Exhibit <u>      "G      </u> describes the encumbrances against title contained in the title report described below.</p>	
<p>Date of the title report: <u>October 27, 2006</u></p>	
<p>Company that issued the title report: <u>Title Guaranty of Hawaii, Inc.</u></p>	

**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
	Residential		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
X	Commercial	6	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	R-20, VDA
	Mix Residential/Commercial		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
	Hotel		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
	Timeshare		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
	Ohana		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
	Industrial		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
	Agricultural		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
	Recreational		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
X	Other (specify) Resort/Residential	323	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	R-20, VDA
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 purchaser 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	X		
Structures	X		
Lot	X		

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:

**1.15 Conversions**

<p><b>Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.</b></p>	<p>_____ Applicable  <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>N/A</p>	
<p>Developer's statement of the expected useful life of each item reported above:</p> <p>N/A</p>	
<p>List of any outstanding notices of uncured violations of any building code or other county regulations:</p> <p>N/A</p>	
<p>Estimated cost of curing any violations described above:</p> <p>N/A</p>	

<p><b>Verified Statement from a County Official</b></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"> <li>(i) Any variances or other permits that have been granted to achieve compliance;</li> <li>(ii) Whether the project contains any legal nonconforming uses or structures as a result of the adoption or amendment of any ordinances or codes; and</li> <li>(iii) Any violations of current zoning or building ordinances or codes and the conditions required to bring the structure into compliance;</li> </ul> <p>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> <p>N/A</p>

**1.16 Project In Agricultural District**

<p><b>Is the project in an agricultural district as designated by the land use laws of the State of Hawaii?</b>  <b>If answer is "Yes", provide information below. ____</b></p>	<p>____ <b>Yes</b>  <input checked="" type="checkbox"/> <b>No</b></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? ____ Yes ____ 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? ____ Yes ____ 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> <p>N/A</p>	

**1.17 Project with Assisted Living Facility**

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

## 2. PERSONS CONNECTED WITH THE PROJECT

<p><b>2.1 Developer</b></p>	<p>Name: Poipu Beach Villas, LLC          Business Address: 1245 Brickyard Road, Suite 70          Salt Lake City, Utah 84106</p> <p>Business Phone Number: (801) 433-2200          E-mail Address: ryan@theritchiegroup.com</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>Poipu Beach Management, LLC, Manager</p> <p>Its Managers:</p> <p>Nathan Hale          Michael Thompson          Richard Bennion          Ryan Ritchie          Richard Olson</p>
<p><b>2.2 Real Estate Broker</b></p>	<p>Name: Kauai Brokers Inc.          Business Address: 4-1621 Kuhio Highway, Apt. A          Kapaa, Hawaii 96746</p> <p>Business Phone Number: (808) 346-1895          E-mail Address: kuaibrokers@gmail.com</p>
<p><b>2.3 Escrow Depository</b></p>	<p>Name: Title Guaranty Escrow Company Services, Inc.          Business Address: 235 Queen Street          Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 521-0211</p>
<p><b>2.4 General Contractor</b></p>	<p>Name: Resort Construction Managers, Inc.          Business Address: 9090 S. Sandy          Sandy, Utah 84070</p> <p>Business Phone Number: (808) 652-4334</p>
<p><b>2.5 Condominium Managing Agent</b></p>	<p>Name: Regency Resorts, LLC          Business Address: 320 West 500 South, Suite 200          Bountiful, Utah 84010</p> <p>Business Phone Number: (801) 298-1000</p>
<p><b>2.6 Attorney for Developer</b></p>	<p>Name: Imanaka Kudo &amp; Fujimoto          Attn: Mitchell Imanaka          Business Address: 745 Fort Street, 17<sup>th</sup> Floor          Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 521-9500</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
Land Court	October 17, 2006	Not recorded

#### Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number
N/A		

#### 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
Land Court	October 17, 2006	Not recorded

#### Amendments to Bylaws of the Association of Unit Owners

Land Court or Bureau of Conveyances	Date of Document	Document Number
N/A		

#### 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	Not recorded
Bureau of Conveyances Map Number	

Dates of Recordation of Amendments to the Condominium Map:

N/A

**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	X
Have Been Adopted and Date of Adoption	
Developer does not plan to adopt House Rules	

**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%	67%
Bylaws	67%	67%

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

[ ]	No rights have been reserved to the Developer to change the Declaration, Bylaws, Condominium Map or House Rules (if any).
[X]	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:  See Exhibit "H"

## 4. CONDOMINIUM MANAGEMENT

### 4.1 Management of the Common Elements

<p><u>Management of the Common Elements:</u> 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.</p>	
<p>The Initial Condominium Managing Agent for this project is (check one):</p>	
	Not affiliated with the Developer
	None (self-managed by the Association)
	The Developer or an affiliate of the Developer
X	Other (explain) One of the managers of Poipu Beach Villas, LLC owns the management company

### 4.2 Estimate of the Initial Maintenance Fees

<p><u>Estimate of the Initial Maintenance Fees:</u> 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.</p>	
<p>Exhibit “I” 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.</p>	

### 4.3 Utility Charges to be Included in the Maintenance Fee

<p>If checked, the following utilities are included in the maintenance fee:</p>	
X	Electricity for the common elements
X	Gas for the common elements (if any)
X	Water
X	Sewer
X	TV cable (basic)
X	Other (specify) refuse collection; telephone (for the common elements)

### 4.4 Utilities to be Separately Billed to Unit Owner

<p>If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fee:</p>	
X	Electricity for the Unit only
	Gas for the Unit only (if any)
	Water
	Sewer
X	TV cable (enhanced)
X	Other (specify) telephone

## 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:	
X	Specimen Sales Contract Exhibit "J" contains a summary of the pertinent provisions of the sales contract.
X	Escrow Agreement dated: November 13, 2006 Name of Escrow Company: Title Guaranty Escrow Services, Inc. Exhibit "K" contains a summary of the pertinent provisions of the escrow agreement.
X	Other Unit Deed; Exhibit "L" contains a summary of the Unit Deed

### 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 sale to Owner-Occupants.

X	The sales of units in this project are subject to the Owner-Occupant requirements of Chapter 514B.
	Developer has designated the units for sale to Owner-Occupants in this report. See Exhibit _____.
X	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 on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
Mortgage (acquisition/construction)	If there is a default and foreclosure of the mortgage prior to conveyances, the buyer may lose the right to buy the Unit, but will be refunded his/her deposit(s)

### 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:

Building and Other Improvements: The Developer will provide a two (2) year "fit and finish" warranty and a one (1) year warranty on the common elements from the date of turnover.

Appliances: Developer will pass on the manufacturer's or other vendor's warranties, if any, on any appliances included as part of the unit being conveyed.

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

Status of Construction:
Construction has not yet commenced
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.
Completion Deadline for any unit not yet constructed, as set forth in the sales contract:
December 2017
Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract:
N/A

**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>If the box to the left is checked, Sections 5.6.2 and 5.7, which follow below, will not be applicable to the project.</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><b>Box A</b> <hr/></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><b><u>Important Notice Regarding Your Deposits: 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.</u></b></p>
<p><b>Box B</b> <u>  X  </u></p>	<p>The Developer has <b>not</b> 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 <b><u>Important Notice Regarding Your Deposits</u></b> 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, <b><u>you will not have the right to rescind or cancel the sales contract by reason of such submission and amendment.</u></b> (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 <b><u>Important Notice Regarding Your Deposits</u></b> 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

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.

1.	<b>Developer's Public Report</b>
2.	<b>Declaration of Condominium Property Regime (and any amendments)</b>
3.	<b>Bylaws of the Association of Unit Owners (and any amendments)</b>
4.	<b>Condominium Map (and any amendments)</b>
5.	House Rules, if any
6.	Escrow Agreement
7.	Hawaii's Condominium Property Act (Chapter 514B, HRS, as amended) 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:

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:

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

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

1. Consolidation of Lots. Subsequent to condominiumization of the Property, developer intends to consolidate the lots underlying the Project. Such areas are depicted in the Condominium Map and on the attached Exhibit "M" and the developer's right to perform such subdivision and withdrawal and/or consolidation is further described in the Declaration.
2. Commercial Units. The developer owns the six (6) Commercial Units in the Project, as further depicted in the Condominium Map. The developer may, at its sole discretion, either a) operate the Commercial Units it owns to provide revenue generating services to Owners, their invitees, occupants and guests and potentially the public and may retain any compensation paid to the developer by such activity or by any vendors operating services in such units in such area; b) convey the Commercial Units to the association or another third party upon condominiumization pursuant to its right to do so in accordance with the declaration; c) lease out the Commercial Unit to other vendors to operate revenue generating activities; or (d) use the Commercial Units as office space.

The developer intends to lease Commercial Unit 3 (or Front Desk Unit) to Managing Agent or the Resort Manager together with all of the Limited Common Elements appurtenant thereto, including the Limited Common Element Resort Amenities, for use in its management, administration and operation of the Project at a First Class Standard, as further described in the Declaration.

Patrons of the Commercial Units may also have an easement to access and utilize the Limited Common Element Resort Amenities and any accompanying services provided thereon; provided that such patrons pay an equitable fee for such use.

3. Public Access and Parking. Since the Project is in close proximity to the beach, there may be a public beach access located directly adjacent to the Project. The Developer will also be dedicating eight (8) parking stalls located next to Commercial Unit 6, as depicted on the Condominium Map, to the County for public beach parking as required in its Special Management Area Permit (see 4. below). Owners are aware that the public's exercise of its access rights to the Commercial Units (see 2. above), the beach, and use of the public parking stalls may produce some noise and nuisance at the Project.
4. Special Management Area Permit (SMA(U)-2004-6). The project is located within a Special Management Area under Hawaii Revised Statutes, Chapter 205A, Part II, which generally requires that certain types of development on or near the shoreline may require application and issuance of a Special Management Area use permit. Such permit will be available for review upon request.
5. Construction and Marketing in Phases. The Developer, for registration purposes, may eventually separate the total units in the Project into groups covered by multiple Public Reports in order to accommodate changing construction and/or marketing strategies. This Report, however, currently covers all of the Units in the Project.

**The Developer hereby discloses that although separate Public Reports may eventually be filed and issued for each phase of the Project, all 329 units, or lesser number actually constructed, still legally comprise a single condominium project. In other words, the act of separating the various units into different marketing and sales phases does not create separate and distinct condominium projects, but only creates separate "projects" for public report purposes. Accordingly, the common elements described in Exhibit "D" attached serve each of the 329 units.**

6. Use of Resort Amenities. The Resort Amenities within the Project, including, without limitation, the pool areas, are not common elements of the Project. Instead, such Resort Amenities are Limited Common Elements appurtenant to Commercial Unit 3 or the Front Desk Unit of the Project that will be owned by the Developer, its Affiliate or a third-party. The Owners will be permitted to use the Resort Amenities upon making payments of a reasonable license fee to be determined by the owner of the Front Desk Unit. Such fee will be charged to Owners as part of the Common Expense, and usage will be implemented in connection with a license right as set forth in the Declaration.
7. Developer to Pay Actual Costs of Project. The Developer hereby discloses that it may initially assume the actual common expenses of the Project, pursuant to Section 514B-41 of the Hawaii Revised Statutes, as applicable, from the date upon which certificates of occupancy are issued for the respective unit of the Project. Should developer make such election, no unit owner shall be obligated to pay his or her respective share of the common expenses until the Developer files a written notice with the Real Estate Commission of the State of Hawaii ("Commission") notifying the Commission and all unit owners of the Project that, after a date certain, each unit owner shall thereafter be obligated to pay for the respective share of common expenses allocated to said owner's unit. The written notice shall be filed with the Commission at least thirty (30) days prior to the specified date, and a copy of said amendment shall be delivered to each of the unit owners whose maintenance expenses were assumed by the Developer.
8. Hospitality Services. The Developer, as Owner of the Front Desk Unit, by way of the Declaration and execution with a service provider(s) of its choice, may require owners participate in certain Standard Hospitality Services and certain optional A la Carte Services as set forth in the Declaration (collectively, "Hospitality Services"). The Developer, as owner of the Front Desk Unit, may alter the types and amounts of Hospitality Services provided at the Project, may offer additional Hospitality Services or decrease Hospitality Services or offer no Hospitality Services, in its sole discretion. The cost of Standard Hospitality Services will be a common expense. Accordingly, the developer's decision to offer more or less services will affect the common expense and may cause an adjustment in the maintenance fees. The individual unit owner requesting such service or such owner's guest or occupant will pay the Front Desk Unit Owner (or Resort Manager) directly for A la Carte Services. The Hospitality Services are further described in the Declaration. Purchasers should make careful review of the Declaration to further understand the structure of the Project.
9. Archaeological Sites. There are archaeological sites on the property, including, without limitation, an existing railroad, lava tube and C-shape wall(s). The Developer has an approved preservation plan with the County. The railroad berm will eventually be relocated off the property. Until such time, there will be a permanent buffer around the berm. The lava tube and C-shape wall(s) will also have permanent buffer zones. No structures will be built in the buffer zones. Owners can review the approved preservation plan upon request.

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.

Poipu Beach Villas, LLC

Printed Name of Developer

By:   
Duly Authorized Signatory\*

11/13/06  
Date

Ryan J. Ritchie, Manager

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Kauai

Planning Department, County of Kauai

\*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"**

**UNIT NUMBERS, UNIT TYPES, LAYOUT, APPROXIMATE NET LIVING AREA, APPROXIMATE LANAI AREA, PERCENTAGE COMMON INTEREST**

Capitalized terms have the same meaning ascribed to such terms in the Declaration.

Unit Number	Unit Type	Bedrooms/ Bathrooms	Approximate Net Living Area(sf)	Approximate Lanai Area(sf)	Percentage Common Interest
1-101	F2	2/2.5	1500	639	0.308379%
1-102	D2	2/2.5	1274	330	0.261916%
1-103	D2-R	2/2.5	1274	330	0.261916%
1-106	B2	2/2	1076	290	0.221210%
1-107	B2-R	2/2	1076	290	0.221210%
1-108	G3-R	3/3	1737	640	0.357102%
1-201	F2	2/2.5	1500	639	0.308379%
1-202	D2-R	2/2.5	1274	330	0.261916%
1-203	D2	2/2.5	1274	330	0.261916%
1-204	G3-R	3/3	1737	640	0.357102%
1-205	G3	3/3	1737	640	0.357102%
1-206	B2	2/2	1076	290	0.221210%
1-207	B2-R	2/2	1076	290	0.221210%
1-208	G3-R	3/3	1737	640	0.357102%
1-301	F2	2/2.5	1500	639	0.308379%
1-302	D2-R	2/2.5	1274	330	0.261916%
1-303	D2	2/2.5	1274	330	0.261916%
1-304	G3-R	3/3	1737	640	0.357102%
1-305	G3	3/3	1737	640	0.357102%
1-306	B2	2/2	1076	290	0.221210%
1-307	B2-R	2/2	1076	290	0.221210%
1-308	G3-R	3/3	1737	640	0.357102%
1-401	F2	2/2.5	1500	639	0.308379%
1-402	D2-R	2/2.5	1274	330	0.261916%
1-403	PH-1	3/3.5	2928	843	0.601955%
1-405	G3	3/3	1737	640	0.357102%
1-406	B2	2/2	1076	290	0.221210%
1-407	B2-R	2/2	1076	290	0.221210%
1-408	G3-R	3/3	1737	640	0.357102%
2-101	G3	3/3	1737	640	0.357102%
2-102	B2-R	2/2	1076	290	0.221210%
2-103	B2	2/2	1076	290	0.221210%
2-104	G3-R	3/3	1737	640	0.357102%
2-201	G3	3/3	1737	640	0.357102%
2-202	B2-R	2/2	1076	290	0.221210%
2-203	B2	2/2	1076	290	0.221210%
2-204	G3-R	3/3	1737	640	0.357102%

Unit Number	Unit Type	Bedrooms/ Bathrooms	Approximate Net Living Area(sf)	Approximate Lanai Area(sf)	Percentage Common Interest
2-301	G3	3/3	1737	640	0.357102%
2-302	B2-R	2/2	1076	290	0.221210%
2-303	B2	2/2	1076	290	0.221210%
2-304	G3-R	3/3	1737	640	0.357102%
2-401	G3	3/3	1737	640	0.357102%
2-402	B2-R	2/2	1076	290	0.221210%
2-403	B2	2/2	1076	290	0.221210%
2-404	G3-R	3/3	1737	640	0.357102%
3-101	F2	2/2.5	1500	639	0.308379%
3-102	B2-R	2/2	1076	290	0.221210%
3-103	B2	2/2	1076	290	0.221210%
3-104	G3-R	3/3	1737	640	0.357102%
3-201	F2	2/2.5	1500	639	0.308379%
3-202	B2-R	2/2	1076	290	0.221210%
3-203	B2	2/2	1076	290	0.221210%
3-204	G3-R	3/3	1737	640	0.357102%
3-301	F2	2/2.5	1500	639	0.308379%
3-302	B2-R	2/2	1076	290	0.221210%
3-303	B2	2/2	1076	290	0.221210%
3-304	G3-R	3/3	1737	640	0.357102%
3-401	F2	2/2.5	1500	639	0.308379%
3-402	B2-R	2/2	1076	290	0.221210%
3-403	B2	2/2	1076	290	0.221210%
3-404	G3-R	3/3	1737	640	0.357102%
4-101	F2	2/2.5	1500	639	0.308379%
4-102	B2-R	2/2	1076	290	0.221210%
4-103	B2	2/2	1076	290	0.221210%
4-104	G3-R	3/3	1737	640	0.357102%
4-201	F2	2/2.5	1500	639	0.308379%
4-202	B2-R	2/2	1076	290	0.221210%
4-203	B2	2/2	1076	290	0.221210%
4-204	G3-R	3/3	1737	640	0.357102%
4-301	F2	2/2.5	1500	639	0.308379%
4-302	B2-R	2/2	1076	290	0.221210%
4-303	B2	2/2	1076	290	0.221210%
4-304	G3-R	3/3	1737	640	0.357102%
4-401	F2	2/2.5	1500	639	0.308379%
4-402	B2-R	2/2	1076	290	0.221210%
4-403	B2	2/2	1076	290	0.221210%
4-404	G3-R	3/3	1737	640	0.357102%
5-101	G3	3/3	1737	640	0.357102%
5-102	A1-R	1/2	903	280	0.185644%
5-103	C2	2/2	1203	273	0.247320%
5-104	C2-R	2/2	1203	273	0.247320%

Unit Number	Unit Type	Bedrooms/ Bathrooms	Approximate Net Living Area(sf)	Approximate Lanai Area(sf)	Percentage Common Interest
5-105	A1	1/2	903	280	0.185644%
5-106	G3-R	3/3	1737	640	0.357102%
5-201	G3	3/3	1737	640	0.357102%
5-202	A1-R	1/2	903	280	0.185644%
5-203	C2	2/2	1203	273	0.247320%
5-204	C2-R	2/2	1203	273	0.247320%
5-205	A1	1/2	903	280	0.185644%
5-206	G3-R	3/3	1737	640	0.357102%
5-301	G3	3/3	1737	640	0.357102%
5-302	A1-R	1/2	903	280	0.185644%
5-303	C2	2/2	1203	273	0.247320%
5-304	C2-R	2/2	1203	273	0.247320%
5-305	A1	1/2	903	280	0.185644%
5-306	G3-R	3/3	1737	640	0.357102%
5-401	G3	3/3	1737	640	0.357102%
5-402	A1-R	1/2	903	280	0.185644%
5-403	C2	2/2	1203	273	0.247320%
5-404	C2-R	2/2	1203	273	0.247320%
5-405	A1	1/2	903	280	0.185644%
5-406	G3-R	3/3	1737	640	0.357102%
6-101	J3	3/3	1847	735	0.379717%
6-102	D2-R	2/2.5	1274	330	0.261916%
6-103	D2	2/2.5	1274	330	0.261916%
6-104	J3-R	3/3	1847	735	0.379717%
6-201	J3	3/3	1847	735	0.379717%
6-202	D2-R	2/2.5	1274	330	0.261916%
6-203	D2	2/2.5	1274	330	0.261916%
6-204	J3-R	3/3	1847	735	0.379717%
6-301	J3	3/3	1847	735	0.379717%
6-302	D2-R	2/2.5	1274	330	0.261916%
6-303	D2	2/2.5	1274	330	0.261916%
6-304	J3-R	3/3	1847	735	0.379717%
6-401	PH-2	4/4.5	2959	643	0.608328%
6-403	PH-2-R	4/4.5	2959	643	0.608328%
7-101	J3	3/3	1847	735	0.379717%
7-102	D2-R	2/2.5	1274	330	0.261916%
7-103	D2	2/2.5	1274	330	0.261916%
7-104	J3-R	3/3	1847	735	0.379717%
7-201	J3	3/3	1847	735	0.379717%
7-202	D2-R	2/2.5	1274	330	0.261916%
7-203	D2	2/2.5	1274	330	0.261916%
7-204	J3-R	3/3	1847	735	0.379717%
7-301	J3	3/3	1847	735	0.379717%
7-302	D2-R	2/2.5	1274	330	0.261916%

Unit Number	Unit Type	Bedrooms/ Bathrooms	Approximate Net Living Area(sf)	Approximate Lanai Area(sf)	Percentage Common Interest
7-303	D2	2/2.5	1274	330	0.261916%
7-304	J3-R	3/3	1847	735	0.379717%
7-401	PH-2	4/4.5	2959	643	0.608328%
7-403	PH-2-R	4/4.5	2959	643	0.608328%
8-101	J3	3/3	1847	735	0.379717%
8-102	D2-R	2/2.5	1274	330	0.261916%
8-103	D2	2/2.5	1274	330	0.261916%
8-104	J3-R	3/3	1847	735	0.379717%
8-201	J3	3/3	1847	735	0.379717%
8-202	D2-R	2/2.5	1274	330	0.261916%
8-203	D2	2/2.5	1274	330	0.261916%
8-204	J3-R	3/3	1847	735	0.379717%
8-301	J3	3/3	1847	735	0.379717%
8-302	D2-R	2/2.5	1274	330	0.261916%
8-303	D2	2/2.5	1274	330	0.261916%
8-304	J3-R	3/3	1847	735	0.379717%
8-401	PH-2	4/4.5	2959	643	0.608328%
8-403	PH-2-R	4/4.5	2959	643	0.608328%
9-101	G3	3/3	1737	640	0.357102%
9-102	B2-R	2/2	1076	290	0.221210%
9-103	E2	2/2.5	1338	312	0.275074%
9-104	E2-R	2/2.5	1338	312	0.275074%
9-105	B2	2/2	1076	290	0.221210%
9-106	G3-R	3/3	1737	640	0.357102%
9-201	G3	3/3	1737	640	0.357102%
9-202	B2-R	2/2	1076	290	0.221210%
9-203	E2	2/2.5	1338	312	0.275074%
9-204	E2-R	2/2.5	1338	312	0.275074%
9-205	B2	2/2	1076	290	0.221210%
9-206	G3-R	3/3	1737	640	0.357102%
9-301	G3	3/3	1737	640	0.357102%
9-302	B2-R	2/2	1076	290	0.221210%
9-303	E2	2/2.5	1338	312	0.275074%
9-304	E2-R	2/2.5	1338	312	0.275074%
9-305	B2	2/2	1076	290	0.221210%
9-306	G3-R	3/3	1737	640	0.357102%
9-401	G3	3/3	1737	640	0.357102%
9-402	B2-R	2/2	1076	290	0.221210%
9-403	E2	2/2.5	1338	312	0.275074%
9-404	E2-R	2/2.5	1338	312	0.275074%
9-405	B2	2/2	1076	290	0.221210%
9-406	G3-R	3/3	1737	640	0.357102%
10-101	G3	3/3	1737	640	0.357102%
10-102	B2-R	2/2	1076	290	0.221210%

Unit Number	Unit Type	Bedrooms/ Bathrooms	Approximate Net Living Area(sf)	Approximate Lanai Area(sf)	Percentage Common Interest
10-103	B2	2/2	1076	290	0.221210%
10-104	G3-R	3/3	1737	640	0.357102%
10-201	G3	3/3	1737	640	0.357102%
10-202	B2-R	2/2	1076	290	0.221210%
10-203	B2	2/2	1076	290	0.221210%
10-204	G3-R	3/3	1737	640	0.357102%
10-301	G3	3/3	1737	640	0.357102%
10-302	B2-R	2/2	1076	290	0.221210%
10-303	B2	2/2	1076	290	0.221210%
10-304	G3-R	3/3	1737	640	0.357102%
10-401	G3	3/3	1737	640	0.357102%
10-402	B2-R	2/2	1076	290	0.221210%
10-403	B2	2/2	1076	290	0.221210%
10-404	G3-R	3/3	1737	640	0.357102%
11-101	G3	3/3	1737	640	0.357102%
11-102	B2-R	2/2	1076	290	0.221210%
11-103	B2	2/2	1076	290	0.221210%
11-104	G3-R	3/3	1737	640	0.357102%
11-201	G3	3/3	1737	640	0.357102%
11-202	B2-R	2/2	1076	290	0.221210%
11-203	B2	2/2	1076	290	0.221210%
11-204	G3-R	3/3	1737	640	0.357102%
11-301	G3	3/3	1737	640	0.357102%
11-302	B2-R	2/2	1076	290	0.221210%
11-303	B2	2/2	1076	290	0.221210%
11-304	G3-R	3/3	1737	640	0.357102%
11-401	G3	3/3	1737	640	0.357102%
11-402	B2-R	2/2	1076	290	0.221210%
11-403	B2	2/2	1076	290	0.221210%
11-404	G3-R	3/3	1737	640	0.357102%
12-101	G3	3/3	1737	640	0.357102%
12-102	B2-R	2/2	1076	290	0.221210%
12-103	B2	2/2	1076	290	0.221210%
12-104	G3-R	3/3	1737	640	0.357102%
12-201	G3	3/3	1737	640	0.357102%
12-202	B2-R	2/2	1076	290	0.221210%
12-203	B2	2/2	1076	290	0.221210%
12-204	G3-R	3/3	1737	640	0.357102%
12-301	G3	3/3	1737	640	0.357102%
12-302	B2-R	2/2	1076	290	0.221210%
12-303	B2	2/2	1076	290	0.221210%
12-304	G3-R	3/3	1737	640	0.357102%
12-401	G3	3/3	1737	640	0.357102%
12-402	B2-R	2/2	1076	290	0.221210%

Unit Number	Unit Type	Bedrooms/ Bathrooms	Approximate Net Living Area(sf)	Approximate Lanai Area(sf)	Percentage Common Interest
12-403	B2	2/2	1076	290	0.221210%
12-404	G3-R	3/3	1737	640	0.357102%
13-101	J3	3/3	1847	735	0.379717%
13-102	D2-R	2/2.5	1274	330	0.261916%
13-103	D2	2/2.5	1274	330	0.261916%
13-104	J3-R	3/3	1847	735	0.379717%
13-201	J3	3/3	1847	735	0.379717%
13-202	D2-R	2/2.5	1274	330	0.261916%
13-203	D2	2/2.5	1274	330	0.261916%
13-204	J3-R	3/3	1847	735	0.379717%
13-301	J3	3/3	1847	735	0.379717%
13-302	D2-R	2/2.5	1274	330	0.261916%
13-303	D2	2/2.5	1274	330	0.261916%
13-304	J3-R	3/3	1847	735	0.379717%
13-401	PH-2	4/4.5	2959	643	0.608328%
13-403	PH-2-R	4/4.5	2959	643	0.608328%
14-101	J3	3/3	1847	735	0.379717%
14-102	D2-R	2/2.5	1274	330	0.261916%
14-103	D2	2/2.5	1274	330	0.261916%
14-104	J3-R	3/3	1847	735	0.379717%
14-201	J3	3/3	1847	735	0.379717%
14-202	D2-R	2/2.5	1274	330	0.261916%
14-203	D2	2/2.5	1274	330	0.261916%
14-204	J3-R	3/3	1847	735	0.379717%
14-301	J3	3/3	1847	735	0.379717%
14-302	D2-R	2/2.5	1274	330	0.261916%
14-303	D2	2/2.5	1274	330	0.261916%
14-304	J3-R	3/3	1847	735	0.379717%
14-401	PH-2	4/4.5	2959	643	0.608328%
14-403	PH-2-R	4/4.5	2959	643	0.608328%
15-101	G3	3/3	1737	640	0.357102%
15-102	B2-R	2/2	1076	290	0.221210%
15-103	B2	2/2	1076	290	0.221210%
15-104	G3-R	3/3	1737	640	0.357102%
15-201	G3	3/3	1737	640	0.357102%
15-202	B2-R	2/2	1076	290	0.221210%
15-203	B2	2/2	1076	290	0.221210%
15-204	G3-R	3/3	1737	640	0.357102%
15-301	G3	3/3	1737	640	0.357102%
15-302	B2-R	2/2	1076	290	0.221210%
15-303	B2	2/2	1076	290	0.221210%
15-304	G3-R	3/3	1737	640	0.357102%
15-401	G3	3/3	1737	640	0.357102%
15-402	B2-R	2/2	1076	290	0.221210%

Unit Number	Unit Type	Bedrooms/ Bathrooms	Approximate Net Living Area(sf)	Approximate Lanai Area(sf)	Percentage Common Interest
15-403	B2	2/2	1076	290	0.221210%
15-404	G3-R	3/3	1737	640	0.357102%
16-101	F2	2/2.5	1500	639	0.308379%
16-102	A1-R	1/2	903	280	0.185644%
16-103	A1	1/2	903	280	0.185644%
16-104	G3-R	3/3	1737	640	0.357102%
16-201	F2	2/2.5	1500	639	0.308379%
16-202	A1-R	1/2	903	280	0.185644%
16-203	A1	1/2	903	280	0.185644%
16-204	G3-R	3/3	1737	640	0.357102%
16-301	F2	2/2.5	1500	639	0.308379%
16-302	A1-R	1/2	903	280	0.185644%
16-303	A1	1/2	903	280	0.185644%
16-304	G3-R	3/3	1737	640	0.357102%
16-401	F2	2/2.5	1500	639	0.308379%
16-402	A1-R	1/2	903	280	0.185644%
16-403	A1	1/2	903	280	0.185644%
16-404	G3-R	3/3	1737	640	0.357102%
17-101	G3	3/3	1737	640	0.357102%
17-102	B2	2/2	1076	290	0.221210%
17-103	B2-R	2/2	1076	290	0.221210%
17-104	F2-R	2/2.5	1500	639	0.308379%
17-201	G3	3/3	1737	640	0.357102%
17-202	B2	2/2	1076	290	0.221210%
17-203	B2-R	2/2	1076	290	0.221210%
17-204	F2-R	2/2.5	1500	639	0.308379%
17-301	G3	3/3	1737	640	0.357102%
17-302	B2	2/2	1076	290	0.221210%
17-303	B2-R	2/2	1076	290	0.221210%
17-304	F2-R	2/2.5	1500	639	0.308379%
17-401	G3	3/3	1737	640	0.357102%
17-402	B2	2/2	1076	290	0.221210%
17-403	B2-R	2/2	1076	290	0.221210%
17-404	F2-R	2/2.5	1500	639	0.308379%
18-101	G3	3/3	1737	640	0.357102%
18-102	B2	2/2	1076	290	0.221210%
18-103	B2-R	2/2	1076	290	0.221210%
18-104	F2-R	2/2.5	1500	639	0.308379%
18-201	G3	3/3	1737	640	0.357102%
18-202	B2	2/2	1076	290	0.221210%
18-203	B2-R	2/2	1076	290	0.221210%
18-204	F2-R	2/2.5	1500	639	0.308379%
18-301	G3	3/3	1737	640	0.357102%
18-302	B2	2/2	1076	290	0.221210%

Unit Number	Unit Type	Bedrooms/ Bathrooms	Approximate Net Living Area(sf)	Approximate Lanai Area(sf)	Percentage Common Interest
18-303	B2-R	2/2	1076	290	0.221210%
18-304	F2-R	2/2.5	1500	639	0.308379%
18-401	G3	3/3	1737	640	0.357102%
18-402	B2	2/2	1076	290	0.221210%
18-403	B2-R	2/2	1076	290	0.221210%
18-404	F2-R	2/2.5	1500	639	0.308379%
19-101	G3	3/3	1737	640	0.357102%
19-102	B2-R	2/2	1076	290	0.221210%
19-103	B2	2/2	1076	290	0.221210%
19-104	G3-R	3/3	1737	640	0.357102%
19-201	G3	3/3	1737	640	0.357102%
19-202	B2-R	2/2	1076	290	0.221210%
19-203	B2	2/2	1076	290	0.221210%
19-204	G3-R	3/3	1737	640	0.357102%
19-301	G3	3/3	1737	640	0.357102%
19-302	B2-R	2/2	1076	290	0.221210%
19-303	B2	2/2	1076	290	0.221210%
19-304	G3-R	3/3	1737	640	0.357102%
19-401	G3	3/3	1737	640	0.357102%
19-402	B2-R	2/2	1076	290	0.221210%
19-403	B2	2/2	1076	290	0.221210%
19-404	G3-R	3/3	1737	640	0.357102%
C1	Snack Bar		1191	395	0.244853%
C2	Spa		4806	1515	0.988045%
C3*	Office		2508		0.515676%
C4	Convenience Store		803		0.165085%
C5	Multi-purpose Room		1068	422	0.219566%
C6	Maintenance Bldg		5360		1.101940%
			486415		100.000000%

\*All parking stalls in the Project are currently Limited Common Elements to Commercial Unit 3 and will be redesignated to each Unit prior to Closing as a Limited Common Element, as described in Paragraph 5 below.

**1. Location of Units.**

**a. Residential Units.**

Three hundred and twenty-three (323) Residential Units located in nineteen (19) different four (4) story buildings located throughout the Project as follows:

- 1) Building 1 contains 26 Residential Units.
- 2) Building 2 contains 16 Residential Units.
- 3) Building 3 contains 16 Residential Units.

- 4) Building 4 contains 16 Residential Units.
- 5) Building 5 contains 24 Residential Units.
- 6) Building 6 contains 14 Residential Units.
- 7) Building 7 contains 14 Residential Units.
- 8) Building 8 contains 14 Residential Units.
- 9) Building 9 contains 24 Residential Units.
- 10) Building 10 contains 16 Residential Units.
- 11) Building 11 contains 16 Residential Units.
- 12) Building 12 contains 16 Residential Units.
- 13) Building 13 contains 14 Residential Units.
- 14) Building 14 contains 14 Residential Units.
- 15) Building 15 contains 16 Residential Units.
- 16) Building 16 contains 16 Residential Units.
- 17) Building 17 contains 16 Residential Units.
- 18) Building 18 contains 16 Residential Units.
- 19) Building 19 contains 18 Residential Units.

b. Commercial Units

Six (6) Commercial Units located throughout the Project as follows:

- 1) Commercial Unit 1 (C1; Snack Bar) is its own free standing building.
- 2) Commercial Unit 2 (C2; Spa) is its own free standing building.
- 3) Commercial Unit 3 (C3; Office) located on first floor of Building 1.
- 4) Commercial Unit 4 (C4; Convenience Store) located on first floor of Building 1.
- 5) Commercial Unit 5 (C5; Multi-Purpose Room) located on first floor of Building 1.
- 6) Commercial Unit 6 (C6; Maintenance Building) is its own free standing building.

Note that the Owner of a Commercial Unit has the right to change the use of such Commercial Unit.

2. **Layout of Units.**

a. Residential Units. All Residential Units have the number of bedrooms and bathrooms indicated on the table above and one kitchen. All Residential Units have a living/dining room and all Penthouse type Units have a study. The layouts of the Residential Units are further depicted in the Condominium Map.

b. Commercial Units. The layouts of the Commercial Units are depicted in the Condominium Map.

3. **Determination of Approximate Net Living area.**

The approximate net living area of each Unit in the Project was determined by measuring the area between the perimeter walls of each Unit, and includes the area occupied by the non-load bearing walls and some load-bearing columns located between said perimeter walls.

4. **Calculation of Percentage of Common Interest.**

The common interest attributable to each Unit in the Project was calculated by dividing the approximate net living area of each individual Unit by the total net living area of the Units within the Project.

5. **Parking Stalls/Storage Lockers.**

All parking in the Project will be initially designated as limited common elements to Commercial Unit 3 (C3), however, the Developer will re-designate at least one parking stall from C3 to a Limited Common Element appurtenant to such Unit being purchased by an Owner prior to closing. Owners may be permitted the opportunity to purchase from the Developer additional parking stalls to be appurtenant to such Owner's Unit in the sole discretion of the Developer. The Developer shall also designate certain parking stalls appurtenant to C3 to be

utilized as guest stalls for the Project. There will also be storage lockers located within the 4-stall parking garage in front of each parking stall. All storage lockers in the Project will also initially be assigned as limited common elements appurtenant to Unit C3. These storage lockers will accompany, as Limited Common Elements, the parking stall located in a 4-stall parking garage upon such redesignation.

**EXHIBIT "B"**

**BOUNDARIES OF THE UNITS**

Capitalized terms have the same meaning ascribed to such terms in the Declaration.

With the exception of Commercial Unit 1, Commercial Unit 2 and Commercial Unit 6, which are free standing buildings, and constitute separate Units in their entirety, the respective Units shall not be deemed to include: (a) the perimeter or party walls or the undecorated or unfinished interior surfaces thereof, (b) the undecorated or unfinished surfaces of the floors and ceilings surrounding each Unit, (c) the undecorated or unfinished surfaces of the interior load-bearing walls and columns, if any, (d) any pipes, shafts, ducts, pumps, conduits, wires or other utility or service lines that are utilized for or serve more than one Unit, or (e) any areas designated as Common Elements. Each Unit shall be deemed to include: (i) the entirety of all of the walls and partitions that are not load-bearing within its perimeter or party walls, (ii) all pipes, shafts, ducts, pumps, conduits, wires and other utility or service lines running through such Unit that are utilized for and serve only that Unit, (iii) the interior decorated or finished surfaces of all walls, floors and ceilings surrounding each Unit and the air space located within such interior decorated or finished surfaces of all walls, floors and ceilings surrounding each Unit, (iv) all appliances, interior hardware, and fixtures installed therein, and replacements therefor; and (v) the perimeter doors, interior door frames, windows and interior window frames, sliding doors adjacent to any Limited Common Element lanai, and all hardware associated therewith, including, without limitation, any electric card-key lock attached to the doors.

Commercial Unit 1, Commercial Unit 2 and Commercial Unit 6 shall include the entire free-standing structure of said Unit as depicted on the Condominium Map, including, without limitation, (i) the entirety of all perimeter walls, all the walls and partitions that are within the perimeter walls, (ii) the entirety of interior load-bearing walls and columns (if any), (iii) the roof, (iv) the perimeter doors, door frames, windows and window frames, (v) the foundation and all supporting members, (vi) all floors and the ceilings of each Unit, and (vii) the air space located between the walls, floors and ceilings noted above, (viii) any pipes, shafts, vents, ducts, pumps, wires, conduits, other utility or service lines running through a unit, or utility meters, which are utilized for and serve only that Unit, and (ix) all appliances and fixtures installed in the Unit, and replacements therefor.

\* \* \* \* \*

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE BOUNDARIES OF THE UNIT CONTAINED IN THE PROJECT DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF RIGHTS AND OBLIGATIONS UNDER THE PROJECT DOCUMENTS, PURCHASER MUST REFER TO THE DECLARATION, BYLAWS AND HOUSE RULES TO DETERMINE THE PURCHASER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE PROJECT DOCUMENTS, THE PROJECT DOCUMENTS WILL CONTROL.

**EXHIBIT "C"**

**PERMITTED ALTERATIONS TO THE UNITS**

Capitalized terms have the same meaning ascribed to such terms in the Declaration.

**A. GENERAL PROVISIONS.** Except as otherwise expressly provided in the Declaration, restoration or replacement of the Project or any portion thereof or construction of any additional improvement or structural alteration or addition to any improvement, different in any material respect from the Condominium Map of the Project, shall be undertaken by any Unit Owner only pursuant to an amendment of the Declaration in accordance with Article XII of the Declaration, duly executed pursuant to the provisions thereof, accompanied by the written consent of the holders of all mortgage liens affecting any of the Units involved, and in accordance with complete plans and specifications therefor first approved in writing by the Front Desk Unit Owner. Promptly upon completion of such restoration, replacement or construction the Owner shall duly file such amendment, together with a complete set of floor plans of the Project as so altered, certified as built by a State of Hawaii registered architect or professional engineer.

**B. APPROVAL OF ADDITIONS OR ALTERATIONS.** No Unit Owner may make or allow any "nonmaterial additions and alterations," as such term is defined in Section 514B-140 of the Act, to his or her Unit or the Limited Common Elements appurtenant thereto, without the approval of the Board, upon consultation with the Front Desk Unit Owner. No Unit Owner may make or allow any material addition or alteration without first obtaining the written consent of sixty-seven percent (67%) of the Unit Owners, the consent of all Unit Owners whose Units or appurtenant Limited Common Elements are directly affected, and the approval of the Board and the Front Desk Unit Owner. The Board may only disapprove a proposed addition or alteration where the Board reasonably believes that the addition or alteration could jeopardize the soundness of the Project or impair any easement, or interfere with or deprive any nonconsenting Owner of the use and enjoyment of part of the Project.

**C. UNIT OWNERS TO EXECUTE AMENDMENT DOCUMENTS IN CERTAIN CASES.** In the event that any change or alteration of a Unit pursuant to and in compliance with Section B above shall alter the depiction of the particular Unit on the Condominium Map or the description thereof in the Declaration, then the Owner of such Unit shall amend the Declaration and/or the Condominium Map to set forth such approved change or alteration, which amendment(s) may be executed by the Owner of the affected Unit or Units and by no other party, and such shall become effective upon the filing thereof in the Office of the Registrar of the Land Court of the State of Hawaii. The provisions of Article XII of the Declaration notwithstanding, such amendment shall not require the consent or joinder of the Owner of any other Unit or any other person or entity, other than any mortgagee of such Unit or Units which are changed or altered (if the mortgagee requires such consent or joinder). Every Unit Owner and all holders of liens affecting any of the Units of the Project and each and every other party acquiring an interest in the Project or any part thereof, by acquiring such Unit, lien or other interest, consents to and agrees that he shall, if required by law or by any such Owner who shall have changed or altered a Unit as aforesaid, join in, consent to, execute, deliver and file all instruments and documents necessary or desirable to effect the amendment of this Declaration and/or the Condominium Map; and appoints such Owner and his assigns his attorney-in-fact with full power of substitution to execute, deliver and file such documents and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable and shall not be affected by the disability of any such party.

\* \* \* \* \*

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL RESTRICTIONS ON ALTERATIONS TO UNITS CONTAINED IN THE PROJECT DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF RIGHTS AND OBLIGATIONS UNDER THE PROJECT DOCUMENTS, PURCHASER MUST REFER TO THE DECLARATION, BYLAWS AND HOUSE RULES TO DETERMINE THE PURCHASER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE PROJECT DOCUMENTS, THE PROJECT DOCUMENTS WILL CONTROL.

**EXHIBIT "D"**

**COMMON ELEMENTS**

One freehold estate is designated in all portions of the Project not otherwise defined as a "Unit," called the "Common Elements." The Common Elements shall include the Land in fee simple and any appurtenances thereto as described in Exhibit "A" to the Declaration and the Limited Common Elements described in Article II, Section D of the Declaration, including specifically, but not limited to:

1. The Land in fee simple and any appurtenances thereto; and
2. The Limited Common Elements described in Exhibit "E" attached hereto, provided that the characterization of such areas as Common Elements does not detract from the exclusive right of an Owner of a Unit to control and use such areas;
3. The Building Structure and all other apparatus and installations existing for common use, such as tanks, motors, fans, compressors and other such installations and apparatus and any storage closets for such apparatus; and
4. All ducts, pipes, valves, sewer lines, drain lines, electrical equipment, cables, chutes, pipes, shafts, wire conduits or other utility service lines located within the Building Structure that are utilized to serve such Building Structure or one or more than one Unit, and other central and appurtenant transmission facilities that serve one or more than one Unit for services such as power, light, water, gas, sewer, refuse, telephone and radio and cable television signal distribution.

\* \* \* \* \*

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

## EXHIBIT "E"

### LIMITED COMMON ELEMENTS

Capitalized terms have the same meaning ascribed to such terms in the Declaration.

The Limited Common Elements are hereby designated, set aside and reserved for the exclusive use of certain Units, and such Units shall have appurtenant thereto, exclusive easements for the use of such Limited Common Elements as set forth in the Declaration. The costs and expenses of every description pertaining to the Limited Common Elements, including, but not limited to, the costs of maintenance, repair, replacement, improvement or additions to the Limited Common Elements, shall be charged to the Owner of the Unit to which the Limited Common Element shall be appurtenant, and if there is more than one (1) Unit to which the Limited Common Element shall be appurtenant, then in proportion to the Common Interest appurtenant to each of the respective Units. Unless otherwise provided herein, Limited Common Elements shall be managed and maintained by the Owner of the Unit to which the Limited Common Element shall be appurtenant; and Limited Common Elements that are appurtenant to more than one (1) Unit shall be managed and maintained by the Front Desk Unit Owner, acting for and on behalf of such Unit Owners. The Front Desk Unit Owner shall assess Unit Owners for all costs attributable to the Limited Common Elements appurtenant to said Owner's Unit that are operated and maintained by the Front Desk Unit Owner. In any event that a dispute shall arise between Unit Owners to which a particular Limited Common Element shall be appurtenant with respect to the management and/or maintenance thereof, unless otherwise provided herein or by contract, such dispute shall be resolved by the Front Desk Unit Owner, which shall be the sole arbiter with respect to such matters. The Limited Common Elements appurtenant to the Front Desk Unit shall be maintained by the Front Desk Unit Owner, and the cost and expenses pertaining thereto, including, but not limited to, the costs of maintenance, repair, replacement, improvement or additions shall be payable by the Front Desk Unit Owner; provided that the Front Desk Unit Owner shall be entitled to be reimbursed for all or a portion of such costs by the Association pursuant to Article IV of the Declaration.

1. **Residential Units.** Each Residential Unit shall have appurtenant thereto, as Limited Common Elements:
  - a. The finished, decorated surface of the lanai area and any improvements located thereon, if any, adjacent to such Residential Unit, as depicted on the Condominium Map, the total areas of which are identified in Exhibit "B" to the Declaration;
  - b. The water heater and any other apparatus located outside such Unit serving only that Unit;
  - c. One (1) designated parking stall in the Project as designated or to be designated to such unit (in accordance with Article XXXI of the Declaration) and as identified on the Condominium Map;
  - d. The interior of the section of any 4-stall parking garage as depicted on the Condominium Map in which the Unit's designated parking stall in the Project is located (if located in a 4-stall parking garage) including any storage closet located within such section of any 4-stall parking garage and the decorated or finished surfaces of the interior, perimeter walls, floor and ceiling of such Section of the 4-stall parking garage; and
  - e. The interior of any assigned mailbox as may be located within the Project bearing the same number as the Unit to which the interior of such mailbox is a Limited Common Element.
2. **Commercial Unit 1.** C1 shall have appurtenant thereto as a Limited Common Element, the lanai area adjacent to such Unit, as depicted on the Condominium Map.
3. **Commercial Unit 2.** C2 shall have appurtenant thereto, as Limited Common Elements, the lanai area attached to such Unit, the spa, the pool and the exercise lawn, as depicted on the Condominium Map.

4. **Commercial Unit 3 (Front Desk Unit).** The Front Desk Unit have appurtenant thereto, as Limited Common Elements, the following:

a. **Resort Amenities.** The Front Desk Unit shall have appurtenant thereto the Resort Amenities, subject to the irrevocable, nonexclusive license granted to the Association set forth in Article IV of the Declaration to use the Resort Amenities. The Resort Amenities shall be maintained by the Front Desk Unit Owner. The cost incurred for such maintenance shall be included as part of the License Fee, further described in Article IV of the Declaration. The Resort Amenities shall include, but not be limited to, the following:

(i) All grounds and landscaping, and all trash enclosures within the Project;

(ii) All roads, driveways, access lanes, paved areas, loading docks, ramps, the West Parking Structure and East Parking Structure and the entirety of all 4-stall parking garages, excluding that portion described in l.d. above, the entirety of all carport structures and all walkways within the Project, excluding parking stalls that are otherwise designated as Limited Common Elements appurtenant to other Units;

(iii) All cables, conduits, ducts, sewer lines, electrical equipment, wiring, pipes, catch basins and other central and appurtenant transmission facilities and installations over, under and across the Project that serve more than one Unit for services such as power, light, water, gas, sewer, storm water, refuse, telecommunications, cable television and television signal distribution;

(iv) All unimproved areas, maintenance, mechanical, electrical, and storage areas and other similar areas, that are not part of a Unit, as depicted on the Condominium Map;

(v) All other apparatus and installations existing to support the Resort Amenities, such as tanks, pumps, motors, fans, air-conditioning units, including fan coil equipment located within a Unit, compressors, ducts, shafts, vents, water heating and distribution equipment, fire suppression equipment, trash chutes, laundry chutes and other such installations and apparatus;

(vi) The entire telephone PBX system and all appurtenances thereto; and

(vii) All other parts of the Resort Amenities necessary or convenient to its existence and safety that is not otherwise set forth herein as a Unit or as a Limited Common Element appurtenant to a Residential Unit.

b. **Front Desk Unit Limited Common Elements.** In addition to the Resort Amenities, the Front Desk Unit shall have appurtenant thereto, as Limited Common Elements, the following:

(i) The lanai area located adjacent to C3, as depicted on the Condominium Map;

(ii) The Reception/Lobby Area and any improvements located therein located on level 1 of Building X, as depicted on the Condominium Map; and

(iii) The back-of-house and other areas intended for the exclusive use of the Front Desk Unit Owner for operational support, including, without limitation, housekeeping storage areas designated on the Condominium Map S1, S2 and S3, employee break rooms, bathrooms, hallways, trash areas, offices, conference rooms, security guard station, mail alcove (provided that the use of such areas may change); and

(iv) All parking stalls located within the Project; provided that each Unit shall have redesignated to it as a Limited Common Element appurtenant to such Unit, at least one (1) parking stall.

5. **Commercial Unit 5.** C5 shall have appurtenant thereto, as a Limited Common Element, the lanai area depicted on the Condominium Map.

6. **Commercial Unit 6.** C6 shall have appurtenant thereto, as a Limited Common Element, the cart parking and charging area, any retaining wall attached to C6, and the lower level maintenance yard, as depicted on the Condominium Map.

\* \* \* \* \*

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## EXHIBIT "F"

### SPECIAL USE RESTRICTIONS

Capitalized terms have the same meaning ascribed to such terms in the Declaration.

**A. RESIDENTIAL UNITS.** The Residential Units in the Project shall be occupied and used only for the purposes that are consistent with, and appropriate to, a resort destination operating pursuant to First Class Standards. Accordingly, the Units may be used for long-term residential use, hotel or transient vacation rental purposes, or other uses permitted by law, this Declaration and the Bylaws, that are consistent with a resort destination operating pursuant to First Class Standards; provided that: (i) other than as may be provided herein, no commercial business activity, or home occupation involving visitation by members of the public on a regular basis shall be conducted from any Residential Unit; and (ii) notwithstanding anything contained herein or in law to the contrary, the Units in the Project or any interest therein, shall not be the subject of or sold, transferred, conveyed, leased, occupied, rented or used at any time under a time share plan (as defined in Hawaii Revised Statutes, Chapter 514E, as amended) or similar arrangement or program whether covered by Chapter 514E or not, including, without limitation, any so-called "fractional ownership", "vacation license", "travel club membership", "club membership", "destination club", "membership club", "time-interval ownership" or "interval ownership" as offered and established through a third-party vacation membership service provider who is in the business of providing and managing such programs; provided that Units owned by an Owner (including Developer) of ten (10) or more Residential Units may be exempt from the restriction set forth in (ii) above, subject to applicable law and upon the prior written consent of the Developer, which may be withheld in the Developer's sole, absolute discretion, and whether it is reasonable or unreasonable to do so.

Specifically, but without limitation to the generality of the restriction set forth in subsection (i), above, except for the Residential Units owned by the Developer which may be used for sales and marketing purposes in accordance with Article IV of the Declaration, no "open houses" or similar activity promoting the sale of a Unit or any other real estate shall be permitted at the Project.

The restrictions set forth in subsection (ii) above shall be read broadly, and, among other things, shall encompass any type of plan, the nature of which causes Units to be utilized by persons who have either joined a plan or program as a member or whose use is derivative of someone who has joined a plan or program as a member. Determination by the Association that a violation of this provision exists shall be binding on the violating Owner, and the Board may promulgate and effectuate additional rules, regulations, procedures and processes for enforcement of this provision, including but not limited to any surcharge or other charge or assessment that the Board shall solely determine.

This Section A., also in Article VI of the Declaration, shall not be terminated or amended without the prior written consent of the Developer.

**B. ADA ACCESSIBLE UNITS.** In addition to the restrictions imposed upon the use of Residential Units, certain Residential Units may be classified and constructed as ADA Accessible Units. No Owner of an ADA Accessible Unit shall modify or alter such Unit without the written approval of the Front Desk Unit Owner. As it pertains to ADA Accessible Units, this section shall be superior to and supersede any other provision herein allowing for the alteration of a unit, including, without limitation, any additions or alterations permitted by Article XIX of the Declaration.

**C. COMMERCIAL UNITS.** The Owner of any Commercial Unit can change the use of such Unit upon prior written approval of the Owner of the Front Desk Unit. The Front Desk Unit shall include a clerk's desk and facilities for registration, keeping of records and reservations relating to hotel guests. The remainder of the Front Desk Unit, and all other Commercial Units, upon approval of such use by the Front Desk Unit Owner, may be used for any commercial purpose permitted by zoning and other applicable laws that are consistent with the First Class Standard of the Project.

**D. OWNERS' RIGHT TO SELL, LEASE UNITS AND LIMITED COMMON ELEMENTS; AUTHORIZED RENTAL AGENTS.** The Owners of the respective Units shall have the absolute right, without obtaining the consent or joinder of any other Owners, to sell, lease or grant licenses with respect to such Units and the Limited Common Elements appurtenant thereto, subject to the provisions of the Act, this Declaration and the Bylaws; provided that any Residential Unit Owner engaging in leasing activity shall comply with the provisions of Section 521-43(f) of the Hawaii Revised Statutes, or any successor provision, as applicable.

Owners may rent or lease their Residential Unit on their own or through a rental agent authorized by the Board ("Board Approved Agent"). Additionally, Owners, or their Board-approved rental agent, are required to notify the Resort Manager in writing of the name, address, expected check-in time and date, and expected check-out time and date of any person renting or leasing Owner's Residential Unit at least seventy-two (72) hours in advance of the expected arrival time. The Resort Manager is specifically authorized to deny the check-in of any person whose name has not been furnished to Resort Manager at least seventy-two (72) hours in advance of the expected arrival time. The Resort Manager is further specifically authorized to deny the check-in of any person into a Residential Unit whose Owner has not furnished Managing Agent with the evidence of Owner's insurance required below. All Residential Units that are leased as rentals may be subject to a surcharge to compensate for any additional financial impact such use may have for the Project, as determined by the Board.

Any Owner renting or leasing a Residential Unit in accordance with this section shall, at Owner's expense, acquire and maintain in effect with respect to the Residential Unit, (i) bodily injury and property damage liability insurance with a combined single limit of not less than \$1,000,000 per occurrence, (ii) coverage insuring the contents of the Residential Unit against fire and other casualties, and (iii) any other coverage required under the Declaration or Bylaws. All such policies and coverages shall be underwritten by an insurance company reasonably acceptable to the Board. The Association and the Board shall not be held liable for any damage to or destruction of Owner's property, including but not limited to damage to furniture, equipment, appliances or any other property used or retained by Owner in the Residential Unit. Any and all deductible or co-insurance payments related to a claim by or against Owner shall be the sole responsibility of Owner. In furtherance of this section, any Owner renting or leasing a Residential Unit in accordance with this section shall deliver to the Resort Manager certificates of insurance certifying that (i) the above-described insurance coverages are in full force and effect, (ii) the Board and the Resort Manager will receive at least thirty (30) days advance written notice before any such insurance policy is canceled for any reason, including, without limitation, any failure by Owner to pay any premium or to renew any insurance policy, and (iii) the Resort Manager, the Developer, and the Association will be named as additional insureds on such policies. Such certificates of insurance will be delivered to the Resort Manager prior to the first rental or lease of the Residential Unit and on an annual basis thereafter.

The rental of the Residential Units shall be accomplished in a manner that provides the benefit of rental to Owners while at the same time reducing any disruption to the use and enjoyment of other Residential Units and the Project by other Owners, guests, transient renters, long term tenants and occupants. This goal will be accomplished at the Project by means of a review and approval process to be managed by the Board to ensure that authorized rental agents understand the goals of the Project and its Owners, the residential nature of the Project, the desire to maintain the First Class Standard in all regards, the undesirability of transient guests who might be looking for a boisterous resort experience, and the manner in which rental and check-ins must be accomplished at the Project, including the requirements that all persons, including Owners who do not reside at the Project, are required to check in with the Resort Manager so that the Resort Manager at all times knows which persons are entitled to use the Project property. For those Owners properly using the services of an authorized rental agent, the right of an Owner to lease or rent his Residential Unit shall not be subject to the approval of the Association; however, any lease or rental arrangement will be deemed to be an acknowledgment and consent on the part of the lessee-sublessee-tenant to use, occupy and possess such Residential Unit in conformance and compliance with the provisions of this Declaration, as well as the Articles of Incorporation, Bylaws, and the House Rules. Any lease or rental arrangement shall also be deemed to contain a provision requiring that any sums due to the Association as assessments must be deducted from the gross rentals and paid directly to the Association. Resort Manager is specifically authorized to prohibit the check-in of any person who has been procured by a rental agent that has not been authorized by the Board.

Any person or entity other than the Resort Manager, the Developer or its Affiliates desiring to become an authorized rental agent shall make application to the Board for approval and demonstrate compliance with the following criteria, and any additional criteria that may be established by the Board from time to time:

1. Rental agent has at least five (5) years' experience in renting or managing transient occupancy Residential Units.

2. Rental agent is registered to do business in the State of Hawaii, is in good standing and has current permits, licenses and registrations required by law for it to perform necessary rental functions, and is a resident of the County of Kauai.

3. Rental agent has demonstrated its existing capability to obtain suitable renters for a First Class Standard transient rental product.

4. Rental agent agrees to comply with applicable Hawaii State law pertaining to client trust accounts and commingling of funds with other operating accounts in the Project.

5. Rental agent agrees to be responsible for and be liable for filings and paying all applicable Hawaii State taxes generated from its rental operations at the Project, including, without limitation, any general excise taxes or transient accommodations taxes, as may be applicable.

6. Rental agent agrees to obtain and maintain, at such rental agent's expense, a policy of liability insurance with a limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence, naming the Association as an additional insured, and shall provide the Association with a certificate of insurance confirming that such insurance is being maintained.

7. Rental agent agrees to utilize the Resort Manager retained by the Association for any hospitality services which shall accompany the rental of a unit.

The Board shall reasonably and timely review and approve rental agents that meet the criteria to become a Board-authorized rental agent. Furthermore, should any rental agent fail to adhere to the criteria expressed above, the Board may withdraw a rental agent's approval at any time at its sole discretion.

The goal that this Project will be maintained as a resort condominium operated in accordance with a First Class Standard, and as the rental of the Residential Units shall be accomplished in a manner that provides the benefit of rental to Owners while at the same time reducing any disruption to the use and enjoyment of other Residential Units and the Project by other Owners, guests, transient renters, long term tenants and occupants shall further be accomplished by requiring all Owners intending to rent their Residential Units to furnish, equip, clean and maintain their Residential Unit in the manner set forth in any rental management agreement entered into between an Owner and rental agent.

Every guest, transient renter, long-term tenant, and occupant of a Residential Unit other than an Owner, shall present himself or herself to the Resort Manager at the commencement and conclusion of such person's occupancy at the Project. At the time of check-in, the Resort Manager shall collect any and all information deemed necessary by Resort Manager to provide for the safety, security, and operation of the Project. Resort Manager shall also establish a credit card account for the person authorized to check-in to the Residential Unit to stand as security for any damage caused to the Project by the occupants of the Residential Unit or for incidental charges incurred by the occupants. Should electronic keys or card keys be utilized at the Project, the Resort Manager shall provide a key to the authorized occupant of the Residential Unit. The Resort Manager has the right in its sole discretion to deny access to a Residential Unit if: (i) the Resort Manager has the reasonable belief that the intended occupant of the Residential Unit will not comply with the terms of this Declaration and the House Rules, (ii) the Resort Manager determines that the intended occupants are under age 18 and not accompanied by a responsible adult, (iii) the Resort Manager determines that the persons attempting to check-in are intoxicated or otherwise intending to engage in inappropriate or illegal activity; or (iv) the Resort Manager reasonably believes that the number of intended

occupants of the Residential Unit will exceed the number of permitted occupants established in the Project Documents or any fire, health, or safety regulations promulgated by the appropriate government agency.

All sales and marketing materials provided to an Owner in connection with the Unit or the Project which are otherwise the property of the Developer, including, without limitation, any imagery, logos, artistic renderings, weblinks, layout depictions, video clips, etc., may not be used by an Owner or any rental agent in the promotion of any Unit in the Project in any fashion whatsoever without the prior written approval of the Developer in its sole discretion and in accordance with the House Rules. Any use of such material in any way by Owner or any rental agent without such permission will entitle Developer to immediately enjoin such use and to pursue any and all remedies against the Owner and/or rental agent that Developer may have, independently of the obligations set forth in this Declaration. The Owner and/or rental agent will be fully responsible to pay for all costs incurred by Developer in enforcing its proprietary rights in and to such material, including, without limitation, any and all attorneys' fees and costs.

All Residential Unit Owners will be required to enter into a Unit Maintenance Agreement ("UMA") with the Front Desk Unit Owner (in the form then in use by the Front Desk Unit Owner) and each Residential Unit Owner will be required to be a party to such Unit Maintenance Agreement for so long as such Owner owns a Residential Unit, and no Owner shall have the right to opt out of receiving the services to be provided pursuant to the Unit Maintenance Agreement or the fees, costs or charges to be paid for such services, except as provided therein. The UMA shall include, without limitation, provisions requiring use of certain service providers for Owners deciding to rent or lease their Unit in order to maintain consistency at the Project. Should an Owner decide to rent or lease their Unit, the UMA will also require Owners to lease or purchase certain approved furniture packages to ensure the Project continues to operate at a First Class Standard. All Owners will receive the services specified in the UMA at the costs and upon the other terms and conditions set forth therein, and all costs to provide such services shall be paid by the Owner to the Front Desk Unit Owner as and when due pursuant to the terms and conditions of the UMA. The costs to provide such services are in addition to the Common Expenses hereunder and will be charged to each Owner separately. The Front Desk Unit Owner may delegate its duties under the Unit Maintenance Agreement to the Resort Manager.

**E. PROHIBITION ON ACTIVITIES THAT MAY JEOPARDIZE THE PROJECT.** Except as permitted in this Declaration, no Unit Owner shall do or suffer or permit to be done anything on any Unit or appurtenant Limited Common Element or elsewhere on the Project that will: (1) injure the reputation of the Project, (2) jeopardize the safety or soundness of the Project, (3) create a nuisance or interfere with or unreasonably disturb the rights of other Owners and occupants, (4) reduce the value of the Project, (5) result in the cancellation of insurance applicable to the Project or adversely affect the right of recovery thereunder or result in reputable companies refusing to provide insurance as required or permitted by the Bylaws, (6) increase the rate of insurance applicable to the Units or the contents thereof, or to the Project, or (7) cause the violation of any license agreement(s) entered into for the benefit of the Project.

**F. CHANGES TO BUILDING STRUCTURES AND UNITS.** No change shall be made to the Building Structure and/or to a Residential Unit which shall result in an appearance that is inconsistent with a resort destination operating pursuant to a First Class Standard. Except for the Front Desk Unit Owner, which shall have the right to change the appearance of the Front Desk Unit and any Limited Common Elements appurtenant thereto without consent, no Residential Unit Owner shall in any way, form or manner enclose, affix any improvement thereon, or extend any lanai attached to such Unit. Changes to any Commercial Unit affecting the appearance of such Unit and/or any Limited Common Element appurtenant thereto, must first be approved in writing by the Front Desk Unit Owner. In addition, no Unit Owner shall, without the prior written consent of the Board, and without first obtaining any requisite governmental permits or approvals change or cause a change to the exterior appearance of a Unit or Limited Common Element in any manner; provided that the Developer may make changes to the Building Structure and Units that it owns while there are unsold units in such Building Structure. The Front Desk Unit Owner shall have the right to approve the painting and roofing schedule for the Building Structure, which schedule shall be presented to the Front Desk Unit Owner within thirty (30) days prior to the end of the every calendar year. Any change in color and type of paint and/or change in roofing materials and/or quality shall first be approved by the Front Desk Unit Owner.

**G. OWNERS TO MAINTAIN UNITS AND LIMITED COMMON ELEMENTS IN GOOD ORDER.** The Owner of a Unit shall keep the interior of his Unit and all appliances, plumbing, electrical and other fixtures and appurtenances constituting a part of the Unit and the Limited Common Elements appurtenant thereto in good order and repair, and shall be responsible for any damage or loss caused by his failure to do so. Decisions on repairs or modifications to the Limited Common Elements shall be made by the Owners of Units to which such Limited Common Elements are appurtenant, subject to the provisions of Article VI of the Declaration, and subject to any additional provisions stated in the Bylaws, Resort Rules and House Rules. Unit Owners shall be responsible for any damage or loss caused by such Owner's tenants, guests, or invitees to any of the Common Elements and Limited Common Elements.

**H. USE OF COMMON ELEMENTS.** Each Owner may use the Common Elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Owners, subject always to the provisions contained herein and Section 541B-38 of the Act the rights reserved to the Developer herein.

Unit Owner shall have the right to use the Limited Common Elements appurtenant to their Units for any purpose permitted by zoning and other applicable laws, this Declaration, the Resort Rules and the House Rules.

Notwithstanding anything herein to the contrary, the Owner of the Unit to which any Limited Common Element is appurtenant has the exclusive right to use such Limited Common Element, and a proposed change to the use of such Limited Common Element shall not be effective without the consent of the Owner(s) of the Unit to which such Limited Common Elements(s) is/are appurtenant.

**I. SPECIAL MANAGEMENT AREA PERMIT AND OTHER GOVERNMENTAL REQUIREMENTS.** The use of the Common Elements will be subject to any conditions imposed by the State of Hawaii or any Kauai County governmental entity, including, without limitation, the Special Management Area Permit covering the Project. Each Owner's ownership, use and occupancy is subject to, limited by and must conform and comply with Chapter 205A of the Hawaii Revised Statutes, as amended, and the terms, conditions, obligations and other provisions set forth in the Special Management Area Permit. Each Owner is further deemed to acknowledge that the Common Elements of the Project are subject to a shoreline setback imposed and regulated by Section 205A-41 of the Hawaii Revised Statutes, as amended, which prohibits certain structures and activities within the shoreline area and may be subject to other terms, conditions and obligations which may be set forth in any other applicable government permit of record.

**J. PROHIBITION AGAINST INCREASING OR DECREASING ENCLOSED LIVING AREA.** The enclosed living area of any Residential Unit (as such living area is depicted on the Condominium Map on the date the Unit is conveyed to an Owner by the Developer) may not be increased or decreased; provided that they Developer may make changes to the Units that it owns while there are unsold units in the Project. This prohibition includes any partial or full enclosure of any outdoor shower area or lanai that is adjacent to the Unit or the removal of any portion of the Unit.

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**EXHIBIT "G"**

**ENCUMBRANCES AGAINST TITLE**

1. Stipulation and Decree dated June 7, 1951, filed in the Circuit Court of the Fifth Circuit, State of Hawaii, Equity No. 144, filed as Land Court Document No. 135050, re: to receive water from the Konohiki of the Ahupuaa of Koloa in a constant stream in the amount of 45,000 gallons per day.

2. Water rights, claims or title to water, whether or not shown by public record.

3. -AS TO ROADWAY LOTS 162, 163 AND 202:-

Access rights in favor of all interior lots for ingress and egress to and from a public highway over and across roadway lots, as set forth by Land Court Order No. 9840, filed September 22, 1950.

4. -AS TO LOT 217-A:-

Unrecorded License Agreement dated December 1, 1994 in favor of POIPU KAPILI ASSOCIATION OF APARTMENT OWNERS, an unincorporated condominium association, as set forth in Deed dated December 12, 1996, filed as Land Court Document No. 2357022.

5. The terms and provisions contained in the following:

INSTRUMENT : LIMITED WARRANTY DEED WITH COVENANTS, RESERVATIONS, RESTRICTIONS ON SALE AND DISCLOSURES

DATED : November 2, 2000

FILED : Land Court Document No. 2662386

RECORDED : Document No. 2000-155601

The foregoing includes, but is not limited to, matters relating to agricultural activities, including sugar cane burning, on nearby lands

6. Archaeological sites disclosed by the Archaeological Report dated June 2004 that are not resolved in accordance with the recommendations contained in said Report.

7. Encroachments or any other matters as shown on survey map prepared by Dennis M. Esaki, Land Surveyor, with Esaki Surveying & Mapping, Inc., dated June 10, 2005, last revised July 26, 2005.

8. Encroachments or any other matters which a survey prepared after July 26, 2005 would disclose.

9. MORTGAGE AND FIXTURE FILING

MORTGAGOR : POIPU BEACH VILLAS, LLC, a Hawaii limited liability company

MORTGAGEE : FREMONT INVESTMENT & LOAN, a California industrial bank

DATED : as of July 27, 2005

FILED : Land Court Document No. 3305912

AMOUNT : \$21,750,000.00 - covers the land herein besides other land

10. The terms and provisions contained in the following:

INSTRUMENT : ASSIGNMENT OF RENTS (AND LEASES)

DATED : as of July 27, 2005

RECORDED : Document No. 2005-151567

PARTIES : POIPU BEACH VILLAS, LLC, a Hawaii limited liability company ("Borrower"), and FREMONT INVESTMENT & LOAN, a California industrial bank ("Lender")

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

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

**EXHIBIT "H"**

**RIGHTS RESERVED BY DEVELOPER**

Among other rights, the Developer will have the following reserved rights with respect to the Project, which are more particularly set forth in the Declaration, Bylaws and House Rules.

Capitalized terms have the same meaning ascribed to such terms in the Declaration.

**DECLARATION**

**A. RESERVED RIGHT TO GRANT AND RECEIVE EASEMENTS.** This right is set forth in Article XVII of the Declaration. Developer will have, among other things, the right to delete, cancel, relocate, realign, reserve, designate, grant and receive any and all easements and rights of way over, under through and/or across the Common Elements. Developer's rights under said Article XVII are reserved until December 31, 2026.

**B. RESERVED RIGHT TO ALTER, SUBDIVIDE AND CONSOLIDATE UNITS.** This right is set forth in Article XVIII of the Declaration. Developer will have, among other things, the right until December 31, 2026, to (1) alter the floor plan of any Unit which it owns so long as the Common Interest appurtenant to the Unit does not change; (2) subdivide any Unit which it owns at any time to create two or more Units so long as the total Common Interest appurtenant to the newly-created Units are equal to the Common Interest appurtenant to the original Unit; (3) convert the status of certain portions of an existing Unit to Common Element status to facilitate any subdivision so long as the total common interest appurtenant to the newly-created Unit(s) equal the Common Interest appurtenant to the original Unit; (4) consolidate two or more Units which it owns and convert any area between Units to Unit status; and (5) recalculate the Common Interest appurtenant to each Unit upon such subdivision and/or consolidation, provided that the total common interest appurtenant to the newly-created units shall equal the Common Interest appurtenant to the original Units.

**C. RESERVED RIGHT TO CONVERT LIMITED COMMON ELEMENTS TO UNITS.** This right is set forth in Article XX of the Declaration. Developer shall have, among other things, the right until December 31, 2026, without obtaining the approval of any party with an interest in the Project, including any other Owner and/or mortgagee, to convert a Limited Common Element appurtenant to a Unit or Units owned by Developer, or any portion thereof, into a separate Unit of the Project.

**D. RESERVED RIGHT TO RECHARACTERIZE AND REDESIGNATE LIMITED COMMON ELEMENTS.** This right is set forth in Article XXI of the Declaration. Developer will have, among other things, the right until December 31, 2026, to (1) recharacterize all or a portion of certain Limited Common Elements as may be appurtenant to a Unit owned by Developer as being Common Elements of the Project; and (2) redesignate all or a portion of certain Limited Common Elements as may be appurtenant to any Unit owned by Developer, to another Unit or Units owned by Developer.

**E. RESERVED RIGHTS REGARDING SPECIAL MANAGEMENT AREA PERMIT AND OTHER PERMITS.** This right is set forth in Article XXII of the Declaration. Developer will have, among other things, the right until December 31, 2026, to (1) amend the Project Documents, (2) enter into any agreements, including without limitation, to declare and subject the Project Land and Improvements to restrictive covenants, (2) designate and grant easements, (3) secure any other governmental permits, and (4) do all things necessary and convenient to satisfy the requirements and/or conditions of any land use or other permits pertaining to the Project, including without limitation, that certain Special Management Area Permit (SMA(U)-2004-6) issued by the County of Kauai, as the same may be amended or modified.

**F. RESERVED RIGHT TO CONVEY PROPERTY TO THE ASSOCIATION.** This right is set forth in Article XXIII of the Declaration. Developer will have, among other things, the right until December 31, 2026, to convey to the Association, and the Association shall accept, title to any property owned by Developer, including without limitation, any or all of the Commercial Units, together with the responsibility to perform any and

all duties associated therewith, which, upon conveyance or dedication to the Association, the Association shall maintain at its expense for the benefit of the Owners.

**G. RESERVED RIGHT TO CONDUCT SALES ACTIVITIES.** This right is set forth in Article XXIV of the Declaration. Developer will have, among other things, the right until the later of December 31, 2026 or the closing of the sale of the last unsold Unit in the Project, to conduct extensive sales activities at the Project, including the use of any Unit owned by Developer and the Common Elements (excluding the Limited Common Elements appurtenant to Units not owned by Developer).

**H. RESERVED RIGHT TO ENTER INTO HOTEL BRAND LICENSE AGREEMENT AND TO CHANGE PROJECT NAME.** This right is set forth in Article XXV of the Declaration. Developer will have, among other things, the right until December 31, 2026, to enter into a hotel brand license agreement with a reputable hotel operator and/or to amend the Project Documents and/or rename the Project, impose restrictions on the use of the Project name and to make any other changes to the Project Documents as may be required by the terms of the any brand license agreement.

**I. RESERVED RIGHT TO GRANT EASEMENTS FOR COMMERCIAL UNIT EMPLOYEES, CUSTOMERS AND GUESTS.** Pursuant to Article XXVI of the Declaration, the Developer will have to right to and until December 31, 2026 to grant easements to the Commercial Units' employees, vendors, licensees, customers, invitees and guests, for purposes of the business conducted in the Commercial Units and its Limited Common Elements, including, without limitation, for access, deliveries of goods and services, use the restrooms within the Commercial Units and their Limited Common Elements, if any. Developer shall further have the accompanying reserved right to charge the Owner of the Commercial Unit requesting such easement an equitable fee based on projected wear and tear on the Common Elements caused by the use of such easements.

**J. RESERVED RIGHT TO SUBDIVIDE AND/OR CONSOLIDATE AND/OR WITHDRAW LAND.** Pursuant to Article XXVII of the Declaration, the Developer will have to right to and until December 31, 2026 to subdivide and withdraw and/or consolidate portions of the Land underlying the Project, and to convey such withdrawn portions to itself or one or more third parties and to record and file amendments to the Project Documents to reflect any such subdivision, withdrawal and/or consolidation.

**K. RESERVED RIGHT TO DEVELOP AND CONSTRUCT OR NOT TO DEVELOP AND CONSTRUCT ALL BUILDINGS AND/OR ALL RESORT AMENITIES.** All buildings and Improvements in the Project and/or the Resort Amenities may not be constructed at the same time. As such, pursuant to Article XXVIII of the Declaration, the Developer will have to right to and until December 31, 2026 to construct such buildings and Improvements and/or the Resort Amenities at different times and to alter the number of buildings and the Improvements and/or the Resort Amenities consisting of the Project from time to time.

**L. RESERVED RIGHT TO ALTER THE NUMBER OF UNITS IN THE PROJECT.** The Developer will have the reserved right to an until December 31, 2026 in accordance with Article XXIX of the Declaration, to reduce or increase the number of Units in the Project, notwithstanding anything provided to the contrary, and except as otherwise provided by law, and to record and file amendments to the Project Documents to reflect such alteration.

**M. RESERVED RIGHT TO TRANSFER COMMERCIAL UNITS.** The Developer will have the reserved right to and until December 31, 2026 in accordance with Article XXX of the Declaration to lease or transfer ownership of the Commercial Units to the Association or a third-party and to redesignate the Limited Common Elements appurtenant to such Commercial Units to Units owned by the Association or such third-party and to the extent necessary or required, to amend the Declaration and the Condominium Map to effect the same.

**N. RESERVED RIGHT TO ASSIGN PARKING STALLS.** The Developer will have the reserved right to and until December 31, 2026 in accordance with Article XXXII of the Declaration to assign and reassign parking stalls and portions of the garage in which such parking stall is located and/or carport structures in the Project that are Limited Common Elements appurtenant to any Unit that it owns from time to time to another Unit in the Project.

**O. RESERVED RIGHT TO MODIFY PROJECT DOCUMENTS.** The Developer will have the reserved right to and until December 31, 2026 in accordance with Article XXXI of the Declaration to effect modifications to Units and Common Elements in the Project and/or execute, record and deliver any amendments to the Declaration and the Condominium Map, Bylaws, House Rules and/or Design Committee Rules (if any) for the Project, as may be necessary or required by the Developer, in its sole discretion, to effect compliance by the Project, the Association or the Developer, with laws which apply to the Project.

**P. ASSIGNMENT OF RESERVED RIGHTS.** Pursuant to Article XXXIII of the Declaration, the rights reserved by Developer are fully assignable.

**Q. CONSENT TO DEVELOPER'S RESERVED RIGHTS; APPOINTMENT OF DEVELOPER AND ASSOCIATION AS ATTORNEY-IN-FACT.** Pursuant to Article XXXIV of the Declaration, every party acquiring an interest in the Project consents to Developer's exercise of its reserved rights and to the execution, delivery and recording of any documents to effect these rights. Every party agrees to execute, deliver and record documents and do what may be necessary or convenient to effect the same; and appoints Developer its attorney-in-fact to execute, deliver and record such documents and do such other things on his behalf.

### **BYLAWS**

The Developer has the right to amend the Bylaws as set forth in Article X, Section 15 of the Bylaws. Developer shall have the reserved right to unilaterally amend the Bylaws for the purpose of complying with any applicable State, Federal or County law, or for the purpose of incorporating requirements imposed by any institutional mortgage lender or by the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, U.S. Department of Housing and Urban Development or Veterans Administration, or for the purpose of bringing the Project and/or the Bylaws into compliance with the laws and rules of any other jurisdiction in which Developer intends to register, market or sell Units. Each and every party acquiring an interest in the Project, by such acquisition, consents to such amendments as described in the preceding sentence and agrees to execute and deliver such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Developer and its assigns his attorney-in-fact with full power of substitution to execute and deliver such documents and instruments and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be effected by the disability of such party or parties. Further, no amendment to the Declaration or these Bylaws that affects the Developer's reserved rights contained within the Declaration shall be valid, unless consented to by the Developer in writing.

### **HOUSE RULES**

**RESERVED RIGHT TO AMEND HOUSE RULES.** The Developer has the right to amend the House Rules as set forth in Paragraph P. of the House Rules and Article X, Section 1 of the Bylaws. Prior to the election of the first Board, Developer reserves the right to amend the House Rules in any manner without the joinder, consent or approval of any other party.

\* \* \* \* \*

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL OF THE RIGHTS RESERVED BY THE DEVELOPER UNDER THE DECLARATION, BYLAWS AND HOUSE RULES ("CONDOMINIUM DOCUMENTS"). WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER SHOULD REFER TO THE CONDOMINIUM DOCUMENTS TO DETERMINE THE ACTUAL RIGHTS RESERVED BY THE DEVELOPER. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE CONDOMINIUM DOCUMENTS, THE CONDOMINIUM DOCUMENTS WILL CONTROL.

**EXHIBIT "I"**

**BUDGET**

**THE AMOUNTS SET FORTH BELOW ARE ESTIMATES ONLY AND MAY CHANGE FOR REASONS BEYOND THE CONTROL OF THE DEVELOPER.**

**INSURANCE, ENERGY AND LABOR COSTS ARE CURRENTLY IN FLUX AN DCAN SUBSTANTIALLY INCREASE OVER A SHORT PERIOD OF TIME. THE DEVELOPER CANNOT PREDICT HOW CHANGES IN THE ECONOMIC, SOCIAL AND POLITICAL CONDITIONS IN HAWAII, THE U.S. AND/OR GLOABALLY MAY IMPACT SUCH COSTS. PURCHASERS ARE AWARE AND ACKNOWLEDGE THAT THE BUDGET, AND, AS A RESULT, EACH PURCHASER'S MAINTENANCE FEE, MAY INCREASE SUBSTANTIALLY DUE TO INCREASING COSTS, INCLUDING COSTS ATTRIBUTED TO THE INSURANCE COVERAGE AND ENERGY.**

**PURCHASER RECOGNIZES AND ACKNOWLEDGES THAT SUCH COMMON INTERESTS AND MAINTENANCE FEES ARE SUBJECT TO CHANGE AS THE PROJECT AND/OR THE BEACH VILLAS AT KO OLINA OCEAN TOWER PROJECT EVOLVES. SUCH ESTIMATES ARE NOT INTENDED TO BE AND DO NOT CONSTITUTE ANY REPRESENTATION OR WARRANTY BY THE DEVELOPER, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF SUCH ESTIMATES.**

**AOAO KOLOA LANDING AT POIPU BEACH  
BUDGET**

	<b>Monthly Budget</b>	<b>Annual Budget</b>
<b>REVENUES:</b>		
Maintenance Fees	\$351,340	\$4,216,080
Capital Reserve	0	0
Interest - Operating	0	0
Interest - Capital	0	0
Late Fee	0	0
Rental Income	0	0
Other Income	0	0
<b>TOTAL REVENUES</b>	<b>\$351,340</b>	<b>\$4,216,080</b>
<b>EXPENSES:</b>		
<b>UTILITIES</b>		
Electricity	\$23,850	\$286,200
Gas	8,960	107,520
Sewer	11,940	143,280
Water	13,700	164,400
Telephone	1,600	19,200
Television Cable	14,180	170,160
Internet Service	3,620	43,440
<b>TOTAL UTILITIES</b>	<b>\$77,850</b>	<b>\$934,200</b>
<b>BUILDING &amp; MAINTENANCE</b>		
Air Conditioning	\$3,000	\$36,000
Cleaning Supplies	500	6,000
Communications - Internal	360	4,320
Elevator	18,730	224,760
Electric Bulbs	300	3,600
Fire Equipment	810	9,720
Grounds & Grounds Supplies	0	0
Tree Trimming	0	0
Pest Control	1,500	18,000
Pool & Spa	0	0
Refuse	6,900	82,800
Repairs & Purchases	1,500	18,000
Watchmen	19,510	234,120
<b>TOTAL BUILDING &amp; MAINTENANCE</b>	<b>53,110</b>	<b>637,320</b>
<b>ADMINISTRATION</b>		
Date Processing	430	5,160
Management Fee	5,150	61,800
Salaries - Utility Cleaning	7,870	94,440
Salaries - Maintenance	6,220	74,640
Salaries - Manager & Admin	0	0
Payroll Taxes	0	0
Group Insurance	0	0
Worker's Compensation	0	0
<b>TOTAL ADMINISTRATION</b>	<b>19,670</b>	<b>236,040</b>
<b>OTHER EXPENSE</b>		
Automobile	200	2,400
Insurance - Directors & Officers Liability	420	5,040
Insurance - Property	68,950	827,400
Insurance - General Liability	2,710	32,520
Insurance - Umbrella Liability	1,420	17,040
Insurance - Other	480	5,760
Legal & Audit	400	4,800
Office Supplies & Printing	350	4,200
Miscellaneous	600	7,200

**AOAO KOLOA LANDING AT POIPU BEACH  
BUDGET**

	Monthly Budget	Annual Budget
Travel Expenses	220	2,640
Taxes - General Excise	0	0
Taxes - Federal Income	0	0
Taxes - State Income	0	0
License Fee	111,800	1,341,600
Master Association Dues	13,160	157,920
<b>TOTAL OTHER EXPENSE</b>	<b>200,710</b>	<b>2,408,520</b>
<b>NON-OPERATING TRANSACTIONS</b>		
Operating Reserve - Transfer From	0	0
Operating Reserve - Transfer To	0	0
Capital Reserve - Transfer From	0	0
Capital Reserve - Transfer To	0	0
<b>TOTAL NON-OPERATING</b>	<b>\$0</b>	<b>\$0</b>
<b>TOTAL EXPENSES</b>	<b>\$351,340</b>	<b>\$4,216,080</b>
<b>NET</b>	<b>\$0</b>	<b>\$0</b>

Unit Type	% of Interest	# of Units	Estimated Monthly		
			Maint Fee	Cap Res	Total
A1	0.185644%	8	\$652.24	\$0.00	\$652.24
A1-R	0.185644%	8	652.24	0.00	652.24
B2	0.221210%	48	777.20	0.00	777.20
B2-R	0.221210%	48	777.20	0.00	777.20
C2	0.247320%	4	868.93	0.00	868.93
C2-R	0.247320%	4	868.93	0.00	868.93
D2	0.261916%	18	920.22	0.00	920.22
D2-R	0.261916%	19	920.22	0.00	920.22
E2	0.275074%	4	966.44	0.00	966.44
E2-R	0.275074%	4	966.44	0.00	966.44
F2	0.308379%	16	1,083.46	0.00	1,083.46
F2-R	0.308379%	8	1,083.46	0.00	1,083.46
G3	0.357102%	43	1,254.64	0.00	1,254.64
G3-R	0.357102%	50	1,254.64	0.00	1,254.64
J3	0.379717%	15	1,334.10	0.00	1,334.10
J3-R	0.379717%	15	1,334.10	0.00	1,334.10
PH-1	0.601955%	1	2,114.91	0.00	2,114.91
PH-2	0.608328%	5	2,137.30	0.00	2,137.30
PH-2-R	0.608328%	5	2,137.30	0.00	2,137.30
Snack Bar - C1	0.244853%	1	860.27	0.00	860.27
Spa - C2	0.988045%	1	3,471.40	0.00	3,471.40
Office - C3	0.515676%	1	1,811.78	0.00	1,811.78
Convenience Store - C4	0.165085%	1	580.01	0.00	580.01
Multi Purpose Rm - C5	0.219566%	1	771.42	0.00	771.42
Maint. Bldg - C6	1.101940%	1	3,871.56	0.00	3,871.56

NOTE: This budget does not include individual unit electrical costs and replacement reserve funding.

I, Ruth Okada, employed by ResortQuest Hawaii, LLC, the proposed condominium managing agent for the condominium project, Koaloa Landing At Poipu Beach, hereby certify that the above estimates of maintenance fee assessments and maintenance fee disbursements for 2007 were prepared in accordance with generally accepted accounting principles.

*Ruth Okada*

Date: 10/4/06

## EXHIBIT "J"

### SUMMARY OF SALES CONTRACT

Capitalized terms have the same meaning as ascribed to such terms in the Sales Contract ("Sales Contract").

The specimen Sales Contract, filed with the State of Hawaii Real Estate Commission, provides for, among other things, a description of the Unit to be sold, the purchase price, the closing costs, the time, manner and place of payment, the Purchaser's obligations regarding financing, the Seller's warranties and disclaimers regarding the Condominium Map and the Project, and the remedies of the Seller and of the Purchaser in the event of a default under the Sales Contract. The Sales Contract further provides that any form of reservation agreement entered into between Purchaser and Seller prior to execution of the Sales Contract shall be automatically terminated upon execution of the Sales Contract and all deposits held under such reservation agreement shall be applied to the Sales Contract, in the manner set forth in the Sales Contract.

Among other provisions the specimen Sales Contract provides:

1. Prior to execution of the Sales Contract, Purchaser shall receive: (i) a true copy of the Public Report for the Project, either personally or by registered or certified mail with return receipt requested, and the Notice of Right to Cancel advising Purchaser of Purchaser's right to cancel the Sales Contract, the delivery of which is required by Hawaii Revised Statutes, Section 514B-86, and (ii) a copy of the Federal Property Report. Purchaser shall also have been given an opportunity to read said report(s).

2. Purchaser may cancel the Sales Contract within thirty (30) days of Purchaser's receipt of the Public Report. It is understood that Purchaser may, at any time after Purchaser's receipt of the Notice of Right to Cancel, waive Purchaser's right to cancel the Sales Contract. If Purchaser shall fail to execute the Notice of Right to Cancel within thirty (30) days of Purchaser's receipt of the Public Report, Purchaser shall be deemed to have waived Purchaser's right to cancel the Sales Contract (by Purchaser's failure to give said written notice of cancellation). The conveyance of the Unit to the Purchaser within the thirty (30)-day period referenced above shall also be treated as a waiver by Purchaser of Purchaser's right to cancel the Sales Contract.

3. Notwithstanding the foregoing pursuant to the Federal Interstate Land Sales Full Disclosure Act Purchaser shall have the option to cancel the Sales Contract by notice to the Seller until midnight of the seventh (7<sup>th</sup>) day following the signing of the Sales Contract by Purchaser. If Purchaser does not receive a Federal Property Report prepared pursuant to the rules and regulations of the Office of Interstate Land Sales Registration, US Department of Housing and Urban Development, in advance of Purchaser signing the Sales Contract, the Sales Contract may be cancelled by Purchaser for two-years from the date of signing by Purchaser. The foregoing seven (7) day rescission period provided pursuant to the Federal Interstate Land Sales Full Disclosure Act shall commence upon Purchaser's execution of this Sales Contract and may run concurrent with the thirty (30)-day rescission period provided pursuant to Hawaii law, as discussed above.

4. If the Sales Contract shall become binding prior to the completion of construction, the Sales Contract shall provide a Completion Deadline for Seller's completion of the Project. If the Project is not completed by the Completion Deadline, Purchaser may cancel his or her Sales Contract at any time thereafter.

5. The Seller has entered into an Escrow Agreement, summarized in Exhibit "K" herein, with Title Guaranty Escrow Services, Inc. ("Escrow"), covering the deposit with Escrow of all funds paid by the Purchaser under the Sales Contract and the disbursement of the funds by Escrow. Escrow may charge a cancellation fee on account of escrow services performed not to exceed \$250.00.

6. The Sales Contract requires the Purchaser to pay the Total Purchase Price by a series of payments prior to Closing. Such payments include any Reservation Deposit due upon execution any reservation agreement, if any, the initial payment when Purchaser signs the Sales Contract and a second deposit. Purchaser shall then deposit at or prior to Closing, the remaining balance due.

7. The Sales Contract provides that Purchaser will receive interest on Purchaser's Deposits as set forth in the Sales Contract.

8. Purchaser's obligations under the Sales Contract are not contingent or conditional on Purchaser's ability to secure financing from a mortgage lender or on Purchaser's ability to sell Purchaser's current residence or any other property. Financing by Seller of any portion of the Total Purchase Price is not available.

9. The Sales Contract provides that Purchaser will pay all closing costs associated with the purchase and sale. The Sales Contract also provides that at Closing, Purchaser shall pay (a) one (1) month's maintenance fee for the Condominium Association, and (b) a non-refundable, non-transferable start-up fee to the Condominium Association in the amount equal to two (2) months of maintenance fee assessments. These start-up fees are one-time assessments at Closing and are not advance payments of common expenses or assessments, and shall be in addition to the normal monthly assessments.

10. The Sales Contract provides that it shall not be construed as a present transfer of any rights or of any interest in the Unit, but rather states that it is an agreement to transfer in the future. By execution of the Sales Contract, the Purchaser agrees to waive, relinquish and subordinate the priority or superiority of any lien or other legal or equitable interest arising under the Sales Contract in favor of the lien or charge on the Project of the security interests of the Lender, including but not limited to any lien, mortgage or charge securing a loan made to finance the acquisition of the land and the costs of construction (if applicable) and any and all advances therefore until the filing of the Unit Deed.

11. The Sales Contract provides that it may not be assigned by Purchaser. Any assignment of the Sales Contract is void and of no legal effect. Notwithstanding the foregoing, Purchaser may assign its rights under the Sales Contract to affiliated entities for estate planning purposes without the consent of Seller, provided that any such assignment shall not release Purchaser from its obligations under the Sales Contract. In the event that Purchaser decides to make such an assignment for estate planning purposes, Purchaser shall provide written notice thereof to Seller at least fifteen (15) days prior to the Closing Date, as defined in the Sales Contract, and shall provide to Seller copies of such documents as Seller, in its sole and absolute discretion, deems necessary to complete Closing.

12. The Sales Contract provides that any dispute by or between Seller and Purchaser arising out of or incident to the Sales Contract, or the development or management of the Project, the sale of the Unit or the use or occupancy thereof, or any other aspect of the relationship between Seller and Purchaser regarding the Project which is raised or otherwise asserted after Closing shall be submitted to mediation and, if necessary, to arbitration in accordance with the terms, conditions and procedures set forth in the Sales Contract. The Sales Contract also provides that any dispute by or between Seller and Purchaser arising out of or incident to the Sales Contract that is raised or otherwise asserted before Closing need not be submitted to arbitration, and Seller and Purchaser shall be free to pursue such dispute, as otherwise provided herein, in proceedings in a court of competent jurisdiction, provided that any judicial proceedings initiated shall be conducted in Honolulu, Hawaii.

\* \* \* \* \*

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

## EXHIBIT "K"

### SUMMARY OF ESCROW AGREEMENT

The Amended and Restated Escrow Agreement for the Project dated November 13, 2006 ("Agreement"), as amended, contains the following provisions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

A. As and when Seller shall enter into a reservation agreement ("Reservation Agreement") or a sales contract ("Sales Contract") for the reservation of or the conveyance of a Unit or other interest in the Project, it shall require the payments of deposits due thereunder to be promptly made to Escrow. Seller shall deliver an executed copy of the reservation agreement, if any, or Sales Contract to Escrow together with the name(s) and address(es) of the purchaser as noted on the Reservation Agreement or Sales Contract or otherwise as updated by the purchaser with Seller as being purchaser's last known address.

B. Escrow shall receive, deposit and hold in separate escrow accounts and disburse as set forth in the Agreement: (a) all payments received by it under the reservation agreements and/or Sales Contracts, (b) such sums received by it under the Agreement from or for the account of Seller, and (c) all sums received by it from any other source with respect to the Project. Escrow shall not at any time commingle or permit the commingling of any purchaser's funds with funds belonging to or held for the benefit of Seller. All funds and instruments received from purchasers or prospective purchasers shall be held by Escrow in accordance with the provisions contained in Chapter 514B of the Hawaii Revised Statutes. All monies received by Escrow hereunder shall be deposited, within a reasonable time of the receipt by Escrow and in reasonably convenient and practical sums, in a trust fund with a bank, savings and loan or trust company authorized to do business in the State of Hawaii under an escrow arrangement, and shall be held in immediately available funds in accordance with the terms of the Agreement.

C. Notwithstanding anything in the Agreement to the contrary, Escrow shall make no disbursements of purchasers' funds or proceeds from the reservation of or sale of units in the Project (including any payments made on loan commitments from lending institutions), except by way of refunds thereof as provided in the Agreement, or for payment of project costs as provided in the Agreement, for payment of projects costs as provided in the Agreement, until (a) Seller has obtained an effective date for the Public Report for the Project; (b) purchaser has waived any right to cancel or rescind the Sales Contract; (c) Seller shall have given Escrow a written waiver of any option reserved by Seller to cancel any Sales Contract; and (d) Seller shall have delivered to Escrow a certification that (i) all conditions contained in the Agreement that must be met prior to disbursement of purchaser funds have been satisfied, (ii) all sales contracts delivered to Escrow are binding upon purchasers, and (iii) no circumstances exist (at the time of the certification) that would permit a purchaser to cancel or rescind the sales contract.

D. If purchaser deposits are to be released prior to closing or if units are conveyed or leased prior to completion of construction, Seller shall certify to Escrow in writing and to Escrow's satisfaction that: (1) Seller has complied with all of the requirements of Section 514B-92 or Section 514B-93 of the Hawaii Revised Statutes, as applicable; (2) that Seller has complied with the requirements of Sections 5(a), 5(b) and 5(c), of the Agreement; and (3) all such purchasers' Sales Contracts have become effective and (a) all conditions contained in the Agreement that must be met prior to the disbursement of such funds have been satisfied, (b) all Sales Contracts delivered to Escrow are binding upon the purchasers, and (c) no circumstances exist (at the time of the certification) that would permit a purchaser to cancel or rescind the Sales Contract.

E. Each purchaser shall be entitled to a return of his or her funds, without interest, unless otherwise provided in the Agreement, and Escrow shall pay such funds to such purchaser, promptly after request for return by the purchaser, if one of the following has occurred:

- (1) A return of funds is requested pursuant to the terms of the reservation agreement, if any;
- (2) Seller and purchaser shall have requested Escrow in writing to return to purchaser the funds of purchaser held hereunder by Escrow;

(3) Seller shall have notified Escrow of purchaser's exercise of purchaser's right to cancel the Sales Contract pursuant to Section 514B-86 of the Hawaii Revised Statutes (thirty-day right to cancel);

(4) Seller shall have notified Escrow of Seller's exercise of the option to cancel or rescind the Sales Contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Seller;

(5) If the Sales Contract is signed prior to the completion of construction, Seller shall have notified Escrow of purchaser's right to cancel the Sales Contract pursuant to Section 514B-89 of the Hawaii Revised Statutes (failure to complete construction before specified completion deadline); or

(6) Seller shall have notified Escrow of purchaser's exercise of purchaser's right to rescind the Sales Contract pursuant to Section 514B-87 of the Hawaii Revised Statutes, by a valid rescission signed by all purchasers of the affected unit and postmarked no later than midnight of the thirtieth calendar day after the date that purchasers received the notice of rescission from Seller.

Upon the cancellation of any Sales Contract as specified above, Escrow shall be entitled to a cancellation fee up to a maximum of \$250.00, plus all costs incurred by Escrow, which shall be paid by the purchaser unless otherwise provided in the Agreement. Escrow shall not be entitled to a cancellation fee where a return of funds is requested pursuant to the terms of the Reservation Agreement.

F. Except as otherwise provided by law, Escrow shall give each purchaser entitled to a return of his or her funds notice thereof by certified or registered mail, addressed to such purchaser at his address shown on the Sales Contract or any address later made known to Escrow by such purchaser. If such purchaser shall not have claimed such refund within sixty (60) days from the date said notice is mailed, Escrow shall deposit such funds into a special account in a bank or other depository selected by Escrow in the name of Seller, as trustee for the benefit of such purchaser. After having sent Seller written notice of the foregoing acts, Escrow shall thereupon be released from further liability hereunder with respect to such funds and such purchaser.

G. If the purchaser fails to make any payment on or before the due date thereof or if the purchaser does or fails to do any act that would constitute an event of default under the Sales Contract, Escrow shall promptly give to such purchaser and to Seller, written notice of default. If the purchaser has failed to cure the default after the delivery of notice by Escrow and such default continues after the expiration of any grace period, Escrow shall so advise Seller. If Seller shall thereafter certify in writing to Escrow: (1) that Seller has elected to terminate the Sales Contract and has notified the purchaser, or (2) that purchaser is otherwise in default, then, and in either event, Escrow, subject to the provisions relating to dispute and conflicting demands set forth in paragraph 15 of the Agreement, shall thereafter treat all funds of the purchaser paid under such Sales Contract, less Escrow's cancellation fee, as funds of Seller and not of the purchaser. Thereafter, such funds shall be held free of the escrow established by the Agreement and shall be held by Escrow for the account of Seller. Upon written request by Seller, Escrow shall pay such funds (less Escrow's cancellation fee).

\* \* \* \* \*

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

**EXHIBIT "L"**

**SUMMARY OF DEED FORM**

Capitalized terms have the same meaning ascribed to such terms in the Unit Deed.

The specimen Unit Deed, Encumbrances and Reservations of Rights with Power of Attorney for Koloa Landing at Poipu Beach ("Deed" or "Unit Deed") contains among others, the following provisions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

A. The premises conveyed comprises a portion of Koloa Landing at Poipu Beach condominium property regime situate in the County of Kauai, State of Hawaii.

B. The Grantor (Developer) is the lawful owner of the fee simple interest in the real property and the rights to be transferred to the Purchaser; the same are free and clear of and from all encumbrances except as identified in the Deed and except for the lien of real property taxes not yet by law required to be paid; the Grantor has good right and title to sell and convey said real property in the manner set forth in the Deed; and the Grantor will WARRANT AND DEFEND the same unto the Purchaser forever against the lawful claims and demands of all persons, except as mentioned in the Deed.

C. Purchaser agrees, for the benefit of all other owners of the other units in the Project, to at all times observe, perform, comply with and abide by all of the covenants, agreements, obligations, conditions and other provisions set forth in the Declaration, the Bylaws and the House Rules, as any of the same exist or may hereafter be amended in accordance with law, and accepts and approves of the Declaration, Bylaws and House Rules.

D. Purchaser agrees and consents to the exercise by Grantor of any of its reserved rights set forth in the Deed and in the Declaration, and Purchaser agrees to sign such documents and do such things as may be required to permit Grantor to exercise those reserved rights, including the signing, delivery and filing of all documents which may be necessary. Purchaser appoints Grantor as Purchaser's "attorney-in-fact" which means that Grantor can act for Purchaser or on Purchaser's behalf, with "full power of substitution," which means that someone else may take Grantor's place to sign, deliver and file all documents and to do all things on Purchaser's behalf, which grant of authority, being coupled with an interest, means that the Grantor has an interest beyond just in the power Purchaser is giving, cannot be revoked by Purchaser for the term of the reserved rights, and will not be affected by Purchaser's disability.

\* \* \* \* \*

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

**EXHIBIT "M"**  
**CONSOLIDATION MAP**

