

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

CONDOMINIUM PROJECT NAME	MONTECITO/TUSCANY III (Tuscany 2, Phase 5)
Project Address	91-1200 Keaunui Drive, Ewa Beach, HI 96706
Registration Number	6213
Effective Date of Report	February 7, 2007
Developer	Gentry Homes, Ltd.

Preparation of this Report

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

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

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

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

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

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

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

SPECIAL ATTENTION

THIS DEVELOPER'S PUBLIC REPORT ONLY COVERS THE UNITS CONTAINED IN TUSCANY 2, PHASE 5. THE UNITS CONTAINED IN TUSCANY 2, PHASE 5 ARE: 408 to 415, inclusive, and 500 to 507, inclusive.

Reserved Unit. Gentry Homes, Ltd. is developing MONTECITO/TUSCANY III in phases. The interest of the undeveloped phases is currently assigned to the Reserved Unit (Apt. 500). Should Developer fail to develop additional phases, this reserved unit would have a disproportionate share of the common interest and thus hold a controlling interest in the condominium project. Gentry Homes, Ltd. has no intention of not fully developing MONTECITO/TUSCANY III. Gentry Homes, Ltd. has no intention of selling the Reserved Unit, until another Reserved Unit is designated in a subsequent phase or until the entire MONTECITO/TUSCANY III condominium project is completed. See also page 2 of Exhibit "C".

Recreation Center License. Residents in MONTECITO/TUSCANY III have a license (effective February 1, 2007) to use the existing Recreation Center until the Association is fully formed and merged with the existing Association of Montecito/Tuscany and Montecito/Tuscany II. At that time, Gentry Homes, Ltd. will convey the Recreation Center to the Associations of Apartment Owners of Montecito/Tuscany, Montecito/Tuscany II and Montecito/Tuscany III. Gentry Homes, Ltd. has no intention of not conveying the Recreation Center or of revoking the license agreement prior to the conveyance.

Recreation Center. Rules regarding the use of the Recreation Center have been established and must be followed by everyone using the Recreation Center. They are attached as the last 2 pages of Exhibit "G-1".

Master Community Association. MONTECITO/TUSCANY III is a condominium project that is also located in the master community association of Ewa by Gentry. As a result, owners in MONTECITO/TUSCANY III are automatically members of the Ewa by Gentry Community Association and are responsible for paying quarterly dues in **addition to** the condominium maintenance fees shown in Exhibit "G". **Effective January 1, 2007**, the dues will be \$100 per quarter for a total of \$400 per year.

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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 Simple	<input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner		
Address of Project	91-1200 Keaunui Drive, Ewa Beach, HI 96706	
Address of Project is expected to change because		
Tax Map Key (TMK)	(1) 9-1-10-007 (portion)	
Tax Map Key is expected to change because	recent recordation of subdivision map in the Land Court system	
Land Area	1.601 acres (Tuscany 2, Phase 5 only)	
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)		

1.2 Buildings and Other Improvements

Number of Buildings	84 (includes all previous phases)
Floors Per Building	2
Number of New Building(s)	16 (Tuscany 2, Phase 5 only)
Number of Converted Building(s)	0
Principal Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	concrete, wood, composition siding, composition shingles

The following buildings are the new buildings created by Tuscany 2, Phase 5.

1.3 Unit Types and Sizes of Units For the entire MONTECITO/TUSCANY III project, please see Exhibit "C"

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc.)	Total Area
Plan 1	1	3/2 1/2	1,175.93 s.f.	364.83 s.f.	garage	1,540.76 s.f.
Plan 2	4	4/2 1/2	1,439.00 s.f.	396.67 s.f.	garage	1,835.67 s.f.
Plan 3	6	4/2 1/2	1,508.73 s.f.	367.91 s.f.	garage	1,876.64 s.f.
Plan 4	4	5/3	1,590.31 s.f.	193.50 s.f.	garage	1,783.81 s.f.
Plan 5	1	4/2 1/2	1,554.85 s.f.	442.92 s.f.	garage	1,997.77 s.f.
See Exhibit						

16	Total Number of Units
----	------------------------------

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

1.4 Parking Stalls

Total Parking Stalls in the Project:	274 (includes previous phase)
Number of Guest Stalls in the Project:	105 (includes previous phase)
Number of Parking Stalls Assigned to Each Unit:	2; Apt. 4 has 3 parking stalls
Attach Exhibit <u> A </u> specifying the Parking Stall number(s) assigned to each unit and the type of parking stall(s) (regular, compact or tandem and indicate whether covered or open).	
If the Developer has reserved any rights to assign or re-assign parking stalls, describe such rights.	

1.5 Boundaries of the Units

Boundaries of the unit:
 Each apartment includes the spaces within the underside of the concrete slabs, the outside of the roofs and the outer surfaces of the perimeter walls of the respective apartments. The apartments DO NOT include any pipes, wires, ducts or other utility or service line that services MORE THAN ONE apartment. Such pipes and utilities shall be deemed common elements.

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 "B".

1.7 Common Interest

Common Interest: 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 C .
 As follows:

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

<input type="checkbox"/>	Swimming pool
<input type="checkbox"/>	Laundry Area
<input type="checkbox"/>	Storage Area
<input type="checkbox"/>	Tennis Court
<input type="checkbox"/>	Recreation Area
<input type="checkbox"/>	Trash Chute/Enclosure(s)
<input type="checkbox"/>	Exercise Room
<input type="checkbox"/>	Security Gate
<input type="checkbox"/>	Playground
<input checked="" type="checkbox"/>	Other (describe): recreational facilities [See Paragraph 5 on Page 18b]

1.9 Common Elements

<p><u>Common Elements:</u> 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 D _____.</p>	
<p>Described as follows:</p>	
Common Element	Number
Elevators	
Stairways	
Trash Chutes	

1.10 Limited Common Elements

<p><u>Limited Common Elements:</u> 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 D _____.</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>	
<input checked="" type="checkbox"/>	Pets: Limited to two in number and subject to compliance with House Rules
<input type="checkbox"/>	Number of Occupants:
<input checked="" type="checkbox"/>	Other: Apts. cannot be used for transient or hotel; "timeshare" or "time interval" use.
<input type="checkbox"/>	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 E _____ describes the encumbrances against title contained in the title report described below.</p>
<p>Date of the title report: January 3, 2007</p>
<p>Company that issued the title report: Island Title Corporation</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
<input checked="" type="checkbox"/>	Residential	16 in this phase	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		A-1
<input type="checkbox"/>	Commercial	(84, including previous	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
<input type="checkbox"/>	Mix Residential/Commercial	phases)	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
<input type="checkbox"/>	Hotel		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
<input type="checkbox"/>	Timeshare		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
<input type="checkbox"/>	Ohana		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
<input type="checkbox"/>	Industrial		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
<input type="checkbox"/>	Agricultural		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
<input type="checkbox"/>	Recreational		<input type="checkbox"/> Yes	<input type="checkbox"/> No		
<input type="checkbox"/>	Other(specify)		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		
Is/Are this/these use(s) specifically permitted by the project's Declarations or Bylaws?			<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		
Variances to zoning code have been granted.			<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		
Describe any variances that have been granted to zoning code.						

1.14 Other Zoning Compliance Matters

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

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

1.15 Conversions

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

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

1.16 Project In Agricultural District

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

1.17 Project with Assisted Living Facility

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

2. PERSONS CONNECTED WITH THE PROJECT

<p>2.1 Developer</p>	<p>Name: GENTRY HOMES, LTD. Business Address: 560 N. Nimitz Hwy., Suite 210 Honolulu, HI 96817</p> <p>Business Phone Number: 808-599-5558 E-mail Address: www.gentryhawaii.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>Robert W. Brant -- President/CEO Toshimasa Hosoda -- Senior Vice President -- Planning John Shaw -- Senior Vice President -- Architecture Dawn Suyenaga -- Vice President/Secretary Michael J. Brant -- Vice President -- Engineering Richard N. Hobson -- Vice President -- Sales and Marketing Quentin Machida -- Vice President Victoria Slovak -- Treasurer</p>
<p>2.2 Real Estate Broker</p>	<p>Name: Gentry Homes, Ltd. Business Address: 560 N. Nimitz Hwy., Suite 210 Honolulu, HI 96817</p> <p>Business Phone Number: 808-599-5558 E-mail Address: www.gentryhawaii.com</p>
<p>2.3 Escrow Depository</p>	<p>Name: Island Title Corporation Business Address: 1132 Bishop Street, Suite 400 Honolulu, HI 96813</p> <p>Business Phone Number: 808-531-0261</p>
<p>2.4 General Contractor</p>	<p>Name: Gentry Builders, LLC Business Address: 560 N. Nimitz Hwy., Suite 210 Honolulu, HI 96817</p> <p>Business Phone Number: 808-599-5558</p>
<p>2.5 Condominium Managing Agent</p>	<p>Name: Hawaiiana Management Company, Ltd. Business Address: 711 Kapiolani Blvd., Suite 700 Honolulu, HI 96813</p> <p>Business Phone Number: 808-593-9100</p>
<p>2.6 Attorney for Developer</p>	<p>Name: Dawn Suyenaga Business Address: 560 N. Nimitz Hwy., Suite 211 Honolulu, HI 96817</p> <p>Business Phone Number: 808-599-5558</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	December 4, 2006	3524620

Amendments to Declaration of Condominium Property Regime		
Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	December 13, 2006	3528533
Land Court	December 14, 2006	3531531
Land Court	December 14, 2006	3533550
Land Court	December 14, 2006	3535103

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	December 4, 2006	3524621

Amendments to Bylaws of the Association of Unit Owners		
Land Court or Bureau of Conveyances	Date of Document	Document Number

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	1854
Bureau of Conveyances Map Number	
Dates of Recordation of Amendments to the Condominium Map:	
December 18, 2006 (Document No. 3528533) December 28, 2006 (Document No. 3533550)	
December 22, 2006 (Document No. 3531531) January 2, 2007 (Document No. 3535103)	

3.4 House Rules

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

The House Rules for this project:

Are Proposed	<input type="checkbox"/>	
Have Been Adopted and Date of Adoption	<input checked="" type="checkbox"/>	December 8, 2006
Developer does not plan to adopt House Rules	<input type="checkbox"/>	

3.5 Changes to the Condominium Documents

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

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

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

<input type="checkbox"/>	No rights have been reserved to the Developer to change the Declaration, Bylaws, Condominium Map or House Rules (if any).
<input checked="" type="checkbox"/>	<p>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:</p> <p>See Exhibit "F"</p>

4. CONDOMINIUM MANAGEMENT

4.1 Management of the Common Elements

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

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

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

4.2 Estimate of the Initial Maintenance Fees

Estimate of the Initial Maintenance Fees: The Association will make assessments against your unit to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your unit and the unit may be sold through a foreclosure proceeding. Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit G contains a breakdown of the estimated annual maintenance fees and the monthly estimated maintenance fee for each unit, certified to have been based on generally accepted accounting principles, with the Developer's statement as to when a unit owner shall become obligated to start paying the unit owner's share of the common expenses.

4.3 Utility Charges to be Included in the Maintenance Fee

If checked, the following utilities are included in the maintenance fee:

<input checked="" type="checkbox"/>	Electricity for the common elements
<input type="checkbox"/>	Gas for the common elements
<input checked="" type="checkbox"/>	Water
<input checked="" type="checkbox"/>	Sewer
<input type="checkbox"/>	TV cable
<input checked="" type="checkbox"/>	Other (specify)

4.4 Utilities to be Separately Billed to Unit Owner

If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fee:

<input checked="" type="checkbox"/>	Electricity for the Unit only
<input type="checkbox"/>	Gas for the Unit only
<input type="checkbox"/>	Water
<input type="checkbox"/>	Sewer
<input checked="" type="checkbox"/>	TV cable
<input type="checkbox"/>	Other (specify)

5. SALES DOCUMENTS

5.1 Sales Documents Filed with the Real Estate Commission

Sales Documents on file with the Commission include, but are not limited to, the following:	
<input checked="" type="checkbox"/>	Specimen Sales Contract Exhibit <u>H</u> contains a summary of the pertinent provisions of the sales contract. Including but not limited to any rights reserved by the Developer.
<input checked="" type="checkbox"/>	Escrow Agreement dated: October 12, 2004, amended September 21, 2006 Name of Escrow Company: Island Title Corporation Exhibit <u>I</u> contains a summary of the pertinent provisions of the escrow agreement.
<input type="checkbox"/>	Other

5.2 Sales to Owner-Occupants

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

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

5.3 Blanket Liens

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

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

Type of Lien	Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance
Mortgage	Lender has priority over Buyer's rights under a sales contract, and has a right to terminate sales contracts upon foreclosure of its mortgage before an apartment sale is closed.

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: See Exhibit "J"
Appliances: See Exhibit "J"

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

<p>Status of Construction: The estimated date of construction commencement is March, 2007. The estimated date of construction completion is June 2007.</p>
<p>Completion Deadline: If a sales contract for a unit is signed before the construction of the unit has been completed, or, in the case of a conversion, completion of any repairs, does not occur by the completion deadline set forth below, one of the remedies available to a purchaser is a cancellation of the purchaser's sales contract. The sales contract may include a right of the Developer to extend the completion deadline for force majeure as defined in the sales contract. The sales contract may also provide additional remedies for the purchaser.</p>
<p>Completion Deadline for any unit not yet constructed, as set forth in the sales contract: June 2007</p>
<p>Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract:</p>

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

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

5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance

<input checked="" 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. 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 type="checkbox"/>	<p>For new construction: to pay for project construction costs described in the Developer's budget and approved by the Developer's lender or an otherwise qualified, financially disinterested person; or</p>
<input type="checkbox"/>	<p>For conversions: to pay for repairs necessary to cure violations of county zoning and building ordinances and codes, for architectural, engineering, finance and legal fees, and for other incidental expenses.</p>

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

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

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

5.7 Rights Under the Sales Contract

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

Website to access rules: www.hawaii.gov/dcca/har

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

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

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

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

- (1) The purchaser has signed the sales contract.
- (2) The Developer has delivered to the purchaser a true copy of the developer's public report with an effective date issued by the Commission, together with all amendments to the report as of the date of delivery, and the project's recorded Declaration and Bylaws, House Rules (if any), the Condominium Map and any amendments to them to date (all of which are a part of the developer's public report). If it is impracticable to include a letter-sized Condominium Map, the Developer must provide written notice of an opportunity to examine the Condominium Map.
- (3) The Developer has delivered to the purchaser a notice of the purchaser's 30-day cancellation right on a form prescribed by the Commission.
- (4) The purchaser does at least one of the following:
 - (a) Waives the purchaser's right to cancel the sales contract within 30 days from receipt of the notice of the purchaser's 30-day cancellation right; or

- (b) Allows the 30-day cancellation period to expire without exercising the right to cancel; or
- (c) Closes the purchase of the unit before the 30-day cancellation period expires.

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

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

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

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

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

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

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

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

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

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

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

6. MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT

1. **Ongoing Construction.** Construction of MONTECITO/TUSCANY III will be ongoing while units are being occupied. This ongoing construction will create dust, noise and increased traffic in the vicinity of occupied units. Certain hazardous conditions relating to the construction may also exist for a period of time. Additionally development of the areas around MONTECITO/TUSCANY III will cause dust in and around the Project for several years as development in Ewa by Gentry continues. Buyer understands that Developer will make efforts to minimize the dust but that it is an inevitable result of the ongoing construction.

2. **Ongoing Sales Activity.** Sales activities for MONTECITO/TUSCANY III and neighboring communities will be ongoing. This will result in increased traffic and noise in the vicinity of the sales office located in Montecito/Tuscany. Portions of the common areas of MONTECITO/TUSCANY III may be used for signage and other sales activities for a period of time while sales are ongoing.

3. **General Disclosures.** Buyer understands and acknowledges that certain activities will occur on and about MONTECITO/TUSCANY III (“Activities Affecting MONTECITO/TUSCANY III”) as follows:

(a) **Neighboring Construction Sites and Major Roadways.** MONTECITO/TUSCANY III is bordered on the mauka side by an existing residential community. The ewa side of MONTECITO/TUSCANY III borders on Fort Weaver Road. Fort Weaver Road is a major thoroughfare for Ewa and Ewa Beach residents traveling to or from the H-1 Freeway. Commuters will experience delays on Fort Weaver Road and on roads feeding into it, particularly during peak morning and evening hours. Developer will be extending Keaunui Drive from Ho’omahana Street through Fort Weaver Road and building improvements at the future Fort Weaver Road Keaunui Drive intersection. A future residential and commercial site will also be constructed on the other side of Fort Weaver Road. Developer will also be building a future residential site below Keaunui Drive extension and a future park site on the Diamond Head side of MONTECITO/TUSCANY III. All of this construction activity will create dust, noise and increased traffic in and around MONTECITO/TUSCANY III. Developer will make efforts to minimize dust but dust is an inevitable result of the ongoing construction.

(b) **Military Areas.** MONTECITO/TUSCANY III is located in the vicinity of the West Loch Branch of the Lualualei Naval Magazine (“West Loch”) which in the event of military action may be a sensitive area. The Navy has denoted an area east of MONTECITO/TUSCANY III as an Explosive Safety Hazard Zone in connection with munitions which may be loaded onto ships at West Loch. The Navy has represented that the boundary of said area represents the probable limit of any impact on the adjacent community. This area, which extends to West Loch, will have restricted development required by the Navy. The Navy has leased portions of this area for agricultural use, which will create dust and noise. Because this area is undeveloped, there may also be pests, such as cockroaches and rodents, for a period of time. Geiger Road and Iroquois Point Road may also be used by the Navy to transport aircraft and munitions.

(c) **Agricultural Land.** MONTECITO/TUSCANY III is located upon land previously used for the cultivation of sugar cane. Land near or adjacent to MONTECITO/TUSCANY III is currently used for the cultivation and harvesting of agricultural products, which will cause dust and noise. Crops may be burned when seasonally appropriate. The Hawaii Right-to-Farm Act (H.R.S. Ch. 165) and Hawaii law limit the types of farm activities that may be deemed a nuisance.

(d) Airport. MONTECITO/TUSCANY III is located in the vicinity of a commercial airport (Honolulu International Airport) and a possible future airport at the former Barber's Point Naval Air Station and Buyer is aware that there is a likelihood of noise from planes passing overhead or nearby. The 1987 Noise Contour Map of the Honolulu International Airport Master Plan shows MONTECITO/TUSCANY III located in an area subject to the noise levels of 55 Ldn.

(e) Honouliuli Treatment Plant. MONTECITO/TUSCANY III is located near the Honouliuli Wastewater Treatment Plant, which generates odors and noise and which will be expanded in the future to accommodate increased usage.

(f) Mold. Mold and mold spores are present throughout the environment, and residential home construction is not, and cannot be, designed to exclude mold spores. All mold is not necessarily harmful, but certain strains of mold have been shown to have adverse health effects in susceptible persons. Moisture is the only mold growth factor that can be controlled in a residential setting. Buyer should take positive steps to reduce or eliminate the occurrence of moisture in and around the house upon the Property. Developer is not responsible for any mold or mold spores present in the environment or in the house upon the Property.

(g) FEMA. The Federal Emergency Management Agency ("FEMA") has not yet reviewed MONTECITO/TUSCANY III area to determine whether the Property is within a flood hazard zone. If FEMA later determines that the Property is within a flood hazard area, then your lender may require you to obtain flood insurance.

(h) Golf Courses. The Coral Creek Golf Course has been constructed on the west side of Fort Weaver Road. The Coral Creek Golf Course is also a designated flowage easement for drainage purposes. The Hawaii Prince Golf Course has been constructed on the east side of Fort Weaver Road. The road leading to the Hawaii Prince Golf Course will abut the Property. Both the Coral Creek Golf Course and the Hawaii Prince Golf Course are collectively referred to as the "golf courses".

There may be hazards that may cause injuries and damages to persons and/or property on MONTECITO/TUSCANY III such as errant or stray golf balls, the use of reservoirs and water hazards up to six feet (6 ft.) deep, periodic spraying or other treatment of the area with pesticides, insecticides, herbicides, fungicides and fertilizers, surface water runoff, noise, dust and unpleasant odors. Irrigation of the golf courses may be with water from storm retention basins or reclaimed water from the Honouliuli Wastewater Treatment Plant. Any reclaimed water is required to be treated according to Department of Health guidelines. Tournaments and other special events held on the golf courses may also impact the community. Buyer waives any rights or claims which Buyer might otherwise have against the Seller, Coral Creek Golf, Inc., Seibu Hawaii, Inc. and any future owners/operators of the golf courses because of these conditions.

Owners in MONTECITO/TUSCANY III will not have an ownership interest, a right to use any facilities or a right to enter the property by virtue of their ownership of a Home nor by membership in the Ewa by Gentry Community Association.

(i) Affordable Housing. Many homes in the Ewa by Gentry community have been developed to meet the City and County of Honolulu's (the "City's") affordable housing requirements. Homes that meet the City's definition of "affordable" are or will be located in various communities throughout Ewa by Gentry. Some of the homes in the Coronado and Palm Villas condominium projects are subject to shared appreciation and buy/back provisions and rental restrictions associated with the affordable housing requirements, and there may be other communities that will be developed in the future in Ewa by Gentry that will have similar restrictions.

(j) **Irrigation Water.** Water used to irrigate the common area landscaping in the Ewa by Gentry community will come from either a nonpotable well service or may be from reclaimed water from the Honouliuli Wastewater Treatment Plant. Any reclaimed water is required to be treated according to Department of Health guidelines.

(k) **Future Commercial Site.** A development consisting of light industrial and commercial uses will be built in the future along Geiger Road across from the Honouliuli Wastewater Treatment Plant. There is also a future commercial site planned near the future intersection of Fort Weaver Road and Keaunui Drive. These developments will result in increased traffic, noise and other impacts in the vicinity.

These Activities Affecting MONTECITO/TUSCANY III may cause some unpleasant odors, surface water runoff, noise, dust, smoke and other unpleasant effects that may bother or be a nuisance to Buyer and other occupants and invitees of the Project. In the Apartment Deed, each Buyer, for himself, his heirs, personal and legal representatives and assigns, will release, indemnify, defend and hold harmless Developer, the Thomas H. Gentry Trust, a California Trust dated February 11, 1986, as amended, and related entities, the Trustees under the Will and of the Estate of James Campbell, Deceased, and Oahu Sugar Company, Limited, Coral Creek Golf, Inc., Seibu Hawaii, Inc. and any future owners and/or operators of the golf courses, and their respective officers, directors, employees, agents, successors, successors-in-trust, and assigns from any and all liability, claims, losses, damages, or expenses, including attorneys' fees, arising from any such impairment of the use and enjoyment of the Property, loss of market value of the Property, or property damage or personal injury to the property or person of Buyer, or Buyer's tenants, lessees, family, servants, guests, invitees, licensees, agents, employees, or other persons who may use the Property. However, the person or entity whose actions or omissions are the direct cause of any damage to Buyer shall be responsible for the consequences or results of its own gross negligence, willful misconduct or violation of applicable law. Buyer hereby irrevocably agrees to suffer and permit all actions and consequences incident to the Activities affecting MONTECITO/TUSCANY III described above.

4. Project Phases and Future Merger. Tuscanly 2, Phase 5 is the fifth phase of the MONTECITO/TUSCANY III condominium project. The Developer intends to complete MONTECITO/TUSCANY III in approximately seven (7) phases, for a total of one hundred sixteen (116) units, but is not obligated to build beyond Tuscanly 2, Phase 5.

MONTECITO/TUSCANY III is part of an overall area covered by that certain Declaration of Intent to Merge dated August 16, 2005 and recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3314878 (the "Declaration of Intent to Merge"). The area covered by the Declaration of Intent to Merge is called the "Merged Area" in this public report. The Declaration of Intent to Merge also includes Montecito/Tuscany and Montecito/Tuscany II. Montecito/Tuscany and Montecito/Tuscany II are two (2) condominium communities that have been administratively merged and have a combined total of two hundred and forty (240) units.

The Developer intends to administratively merge MONTECITO/TUSCANY III with Montecito/Tuscany and Montecito/Tuscany II for the purposes of sharing common area costs shared by the various communities (such as a recreation center, roadways, street lighting and landscaping). The Developer estimates that this administrative merger would go into effect April 1, 2007. The combined associations of Montecito/Tuscany, Montecito/Tuscany II and Montecito/Tuscany III would be united under one association of apartment owners called "MONTECITO/TUSCANY".

5. Recreation Center. Lot 16021, Map 1252, Land Court Application No. 1069 has a Recreation Center built on it for the use of all residents living in the Merged Area. The Recreation Center opened in September 2005. The Recreation Center consists of a swimming pool, three (3) pavilions and landscaped areas. Developer has executed a non-exclusive license to the Association of Apartment

Owners of MONTECITO/TUSCANY III to use the Recreation Center around the time the first residents move into the project. A copy of this non-exclusive license is attached to this public report as Exhibit "G-1". The license is non-exclusive, because Developer has already granted a similar non-exclusive license to the Associations of Apartment Owners of Montecito/Tuscany and Montecito/Tuscany II. Once the Merged Area is fully developed, Developer intends to convey the Recreation Center to the several associations of apartment owners within the Merged Area as tenants in common. Each association's ownership share of the Recreation Center will be based upon the association's proportionate share of the total number of apartments in the Merged Area. The several associations of apartment owners shall have the duty and obligation to accept and maintain the Recreation Center at the common expense of all of the owners of apartments within the Merged Area.

6. Ewa by Gentry Community. All apartment owners in MONTECITO/TUSCANY III are automatically members of the Ewa by Gentry Community Association, a non-profit Hawaii corporation. All owners are therefore subject to the restrictions, covenants and conditions of the Ewa by Gentry Community Area Declaration of Covenants, Conditions and Restrictions which govern the entire Ewa by Gentry community. The Community Association enforces the provisions of the Declaration of Covenants, Conditions and Restrictions to ensure a well maintained, safe and aesthetically pleasing community. A copy of the Declaration of Covenants, Conditions and Restrictions is available at the sales office. The Declaration of Covenants, Conditions and Restrictions can also be viewed online at www.ebgca.net under the "Introduction" section. **Effective January 1, 2007**, each owner will pay dues to the Community Association in the amount of \$100 per quarter for a total of \$400 a year. The maintenance fees reflected in Exhibit "G" of this public report do not include the dues payable to the Ewa by Gentry Community Association.

7. Condominium Map. The sizes and configurations of the limited common areas and common areas reflected on the Condominium Map are approximations only. Actual sizes and configurations may vary due to the placement and location of utilities and due to varying terrain surrounding each building.

8. Garage Disclosure. Each MONTECITO/TUSCANY III home has an attached garage. The garage (for all plans **except the Tuscany 2, Plan 4**) meets City and County of Honolulu standards to accommodate one full sized and one compact sized parking stall. The Tuscany 2, Plan 4 apartment type includes a garage that meets City and County of Honolulu standards to accommodate one compact sized parking stall. All Tuscany 2 Plan 4 type apartments also come with a limited common element adjacent standard parking stall. Buyers who have an oversized vehicle (a van, a truck) or who have more than one full sized vehicle should inspect the garage thoroughly to ensure that the garage can accommodate their vehicles. Garages shall be used for parking operational vehicles only and for incidental storage. Some homes may have an additional parking area in the limited common area adjacent to the home. The additional parking area is for vehicles only and may not be used for storage purposes.

9. Irrigation Disclosure. Water used to irrigate the common area landscaping in MONTECITO/TUSCANY III (which include portions of the front yard of each unit) will come from either a nonpotable well service or may be from reclaimed water from the Honouliuli Wastewater Treatment Plant. Any reclaimed water is required to be treated according to Department of Health guidelines.

10. Trash Collection. Trash cans can be put out for trash collection the night before trash is collected and must be removed by the end of that day.

11. Street Parking. As stated in the Rules and Regulations of the Association of Apartment Owners of MONTECITO/TUSCANY III, there is no parking in the roadways, other than in designated stalls. The Condominium Map for MONTECITO/TUSCANY III does not show any designated stalls in the roadways.

12. Private Drainage. MONTECITO/TUSCANY III is serviced by a private drainage system that connects to the City and County of Honolulu's municipal sewer system. As such, Federal regulations prohibit the following from being discharged into the Project's drainage system:

- (a) domestic wastewater;
- (b) industrial wastewater;
- (c) any debris, refuse or solid waste or yard waste;
- (d) chlorinated swimming pool water;
- (e) washwater from vehicle and equipment cleaning; and
- (f) oil and petroleum products.

Owners are prohibited from discharging any of the above into the Project's drainage system.

The Association is solely responsible for the maintenance and upkeep of the Project's drainage system. It shall cooperate with the Developer in assuming the Developer's National Pollutant Discharge Elimination System (NPDES) Permit No. H10021229 and shall be responsible for enforcing the terms and conditions of the NPDES Permit.

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.

GENTRY HOMES, LTD.

Printed Name of Developer

By: 
Duly Authorized Signatory*

January 12, 2007

Date

DAWN SUYENAGA, Vice President/Secretary

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

***Must be signed for a corporation by an officer; 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"

PARKING

NOTE: Each MONTECITO/TUSCANY III home has an attached garage. The garage (for all plans **except the Tuscany 2, Plan 4**) meets City and County of Honolulu standards to accommodate one full sized and one compact sized parking stall. The Tuscany 2, Plan 4 apartment type includes a garage that meets City and County of Honolulu standards to accommodate one compact sized parking stall. All Tuscany 2 Plan 4 type apartments also come with a limited common element adjacent standard parking stall.

BUYERS WHO HAVE AN OVERSIZED VEHICLE (A VAN, A TRUCK) OR WHO HAVE MORE THAN ONE FULL SIZED VEHICLE SHOULD INSPECT THE GARAGE THOROUGHLY TO ENSURE THAT THE GARAGE CAN ACCOMMODATE THEIR VEHICLES.

Garages shall be used for parking operational vehicles only and for incidental storage. Some homes may have an additional parking area in the limited common area adjacent to the home. The additional parking area is for vehicles only and may not be used for storage purposes.

Plans 1, 2, 3 & 5 Apartment Type – Two-Car Garage Parking:

Tuscany 2, Ph 1: Apartments: 1, 3, 4, 6, 7, 8, 10, 11, 12, 13, 15 and 16
Tuscany 2, Ph 2: Apartments: 17, 18, 19, 22, 101, 102, 104, 105, 106, 200 and 201
Tuscany 2, Ph 3: Apartments: 107, 108, 110, 112, 113, 203, 204, 205, 206, 300, 302, 303, 304 and 305
Tuscany 2, Ph 4: Apartments: 208, 307, 308, 309, 311, 312, 400, 402, 403, 405, 406, 407 and 600
Tuscany 2, Ph 5: Apartments: 409, 410, 411, 412, 414, 415, 500, 502, 503, 504, 506 and 507

All apartments (except for the Tuscany 2, Plan 4 type apartments) include a garage that meets the City and County of Honolulu standards to accommodate **one (1) full sized and one (1) compact sized** parking stall.

Plan 4 Apartment Type – One Car Garage Parking and Adjacent Parking Stall:

Tuscany 2, Ph 1: Apartments: 2, 5, 9, 14
Tuscany 2, Ph 2: Apartments: 20, 21, 100 and 103
Tuscany 2, Ph 3: Apartments: 109, 111, 202 and 301
Tuscany 2, Ph 4: Apartments: 207, 306, 310, 313, 401 and 404
Tuscany 2, Ph 5: Apartments: 408, 413, 501 and 505

All Tuscany 2, Plan 4 apartments include a garage that accommodated **one (1) compact sized** parking stall. These apartments also come with a **standard sized** uncovered parking stall located adjacent to the garage, as shown on the Condominium Map.

Assigned Parking Stall:

Tuscany 2, Ph 1: Apartment: 4

Apartment 4 will have an additional parking stall located adjacent to the front of the Apartment that is full sized and uncovered, as shown on the Condominium Map, for its exclusive use.

Visitor Parking Stalls:

There are one hundred five (105) visitor parking stalls.

NOTE: The creation of Tuscany, Phase 5 adds an additional 58 parking stalls to the Montecito/Tuscany III project for a total of two hundred seventy-four (274) parking stalls. There are a total of one hundred five (105) visitor parking stalls in Montecito/Tuscany III.

EXHIBIT "B"

PERMITTED ALTERATIONS TO APARTMENTS

Additions, alterations or improvements solely within an apartment or within a limited common element appurtenant to and for the exclusive use of the apartment may be made by the apartment owner only with the approval of the Board of Directors of the Association of Apartment Owners.

Optional floor plans exist for all plan types and are shown on the Condominium Map. Buyers may choose optional floor plans subject to certain construction cut-off dates.

EXHIBIT "C"

APARTMENT DESCRIPTION AND COMMON INTEREST

Apt. No.	Plan Type	Net Living Area (sq. ft.)	Net Covered Entry (sq. ft.)	Net Garage Area (sq. ft.)	Common Interest
1	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
2	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
3	Tuscany 2 – Plan 5	1,554.85	27.71	442.92	0.8621
4	Tuscany 2 – Plan 5	1,554.85	27.71	442.92	0.8621
5	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
6	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
7	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
8	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
9	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
10	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
11	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
12	Tuscany 2 – Plan 5	1,554.85	27.71	442.92	0.8621
13	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
14	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
15	Tuscany 2 – Plan 1	1,175.93	23.59	364.83	0.862066
16	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
17	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
18	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
19	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
20	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
21	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
22	Tuscany 2 – Plan 5	1,554.85	27.71	442.92	0.8621
100	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
101	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
102	Tuscany 2 – Plan 1	1,175.93	23.59	364.83	0.862066
103	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
104	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
105	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
106	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
107	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
108	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
109	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
110	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
111	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
112	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
113	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
200	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
201	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
202	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
203	Tuscany 2 – Plan 1	1,175.93	23.59	364.83	0.862066
204	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
205	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066

206	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
207	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
208	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
300	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
301	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
302	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
303	Tuscany 2 – Plan 1	1,175.93	23.59	364.83	0.862066
304	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
305	Tuscany 2 – Plan 5	1,554.85	27.71	442.92	0.8621
306	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
307	Tuscany 2 – Plan 5	1,554.85	27.71	442.92	0.8621
308	Tuscany 2 – Plan 1	1,175.93	23.59	364.83	0.862066
309	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
310	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
311	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
312	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
313	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
400	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
401	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
402	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
403	Tuscany 2 – Plan 1	1,175.93	23.59	364.83	0.862066
404	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
405	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
406	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
407	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
408	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
409	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
410	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
411	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
412	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
413	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
414	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
415	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
500	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	28.448306*
501	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
502	Tuscany 2 – Plan 2	1,439.00	15.57	396.67	0.862066
503	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
504	Tuscany 2 – Plan 1	1,175.93	23.59	364.83	0.862066
505	Tuscany 2 – Plan 4	1,590.31	16.91	193.50	0.862065
506	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066
507	Tuscany 2 – Plan 5	1,554.85	27.71	442.92	0.8621
600	Tuscany 2 – Plan 3	1,508.73	31.07	367.91	0.862066

NOTE: All of the interest that will later be allocated to future phases of MONTECITO/TUSCANY III is currently allocated to Apartment 500 (defined as the “Reserved Unit” in the Declaration) so that the total common interests adds up to one hundred percent (100%).

Upon the creation of an additional phase of MONTECITO/TUSCANY III as specified in Section 4 of the Declaration, the Reserved Unit will be redesignated to be a unit in the new phase and Apartment 500 will have a common interest of 0.862066.

As nearly as practicable, the common interest for each residential Apartment was determined on a per unit basis. Developer reserves the right to make adjustments so that the total common interest count equals exactly one hundred percent (100%).

DESCRIPTION OF FLOOR PLANS

Tuscany 2, Plan 1 (3 Bedroom, 2 ½ Bath)

Two story three bedroom, two and one-half bath Apartment with the kitchen, dining room, living room and half bathroom on the ground floor, connected by an interior stairway to the second floor which has a master bedroom, a master bathroom, two additional bedrooms and another bathroom. The Apartment also includes an entry porch and a two car garage containing one standard and one compact parking stall. An optional covered lanai built off of the dining and living rooms is depicted on the Option 1 drawings of the Condominium Map. Developer shall indicate when it files the "as-built" verified statement referenced in Section 19.3(a), which Apartments were built with an optional covered lanai. All Apartments have a fenced back yard limited common element. The Apartment has a net living area of approximately 1,175.93 square feet, a net entry porch area of approximately 23.59 square feet and a net garage area of approximately 364.83 square feet.

Tuscany 2, Plan 2 (4 Bedroom, 2 ½ Bath)

Two story four bedroom, two and one half bath Apartment with the kitchen, dining room, living room and half bathroom on the ground floor, connected by an interior stairway to the second floor which has a master bedroom, a master bathroom, three additional bedrooms and another bathroom. The Apartment also includes an entry porch and a two car garage containing one standard and one compact parking stall. An optional covered lanai built off of the dining and living rooms is depicted on the Option 1 drawings of the Condominium Map. An optional expanded Master Bedroom, which combines the Master Bedroom with Bedroom No. 2, is depicted on the Option 2 drawings of the Condominium Map. Developer shall indicate when it files the "as-built" verified statement referenced in Section 19.3(a), which Apartments were built with optional floor plans. All Apartments have a fenced back yard limited common element. The Apartment has a net living area of approximately 1,439.00 square feet, a net entry porch area of approximately 15.57 square feet and a net garage area of approximately 396.67 square feet.

Tuscany 2, Plan 3 (4 Bedroom, 2 ½ Bath)

Two story four bedroom, two and one half bath Apartment with the kitchen, dining room, living room, laundry room and half bathroom on the ground floor, connected by an interior stairway to the second floor which has a master bedroom, a master bathroom, three additional bedrooms and another bathroom. The Apartment also includes an entry porch and a two car garage containing one standard and one compact parking stall. An optional covered lanai built off of the dining and living rooms is depicted on the Option 1 drawings of the Condominium Map. An optional expanded Master Bedroom, which combines the Master Bedroom with Bedroom No. 2, is depicted on the Option 2 drawings of the Condominium Map. Developer shall indicate when it files the "as-built" verified statement referenced in Section 19.3(a), which Apartments were built with optional floor plans. All Apartments have a fenced back yard limited common element. The Apartment has a net living area of approximately 1,508.73 square feet, a net entry porch area of approximately 31.07 square feet and a net garage area of approximately 367.91 square feet.

Tuscany 2, Plan 4 (5 Bedroom, 3 Bath)

Two story five bedroom, three bath Apartment with the kitchen, dining room, living room, laundry room, bathroom and a bedroom on the ground floor, connected by an interior stairway to the second floor which has a master bedroom, a master bathroom, three additional bedrooms and another bathroom. The Apartment also includes an entry porch and a one car garage containing one compact parking stall. An optional covered lanai built off of the dining and living rooms is depicted on the Option 1 drawings of the Condominium Map. An optional expanded Master Bedroom, which combines the Master Bedroom with

Bedroom No. 2, is depicted on the Option 2 drawings of the Condominium Map. Developer shall indicate when it files the “as-built” verified statement referenced in Section 19.3(a), which Apartments were built with optional floor plans. All Apartments have a fenced back yard limited common element, an appurtenant uncovered standard size parking stall located adjacent to the garage. The Apartment has a net living area of approximately 1,590.31 square feet, a net entry porch area of approximately 16.91 square feet and a net garage area of approximately 193.50 square feet.

Tuscany 2, Plan 5 (4 Bedroom, 2 ½ Bath)

Two story four bedroom, two and one half bath Apartment with the kitchen, dining room, living room, laundry room and half bathroom on the ground floor, connected by an interior stairway to the second floor which has a master bedroom, a master bathroom, three additional bedrooms and another bathroom. The Apartment also includes a two car garage containing one standard and one compact parking stall. An optional covered lanai built off of the dining and living rooms is depicted on the Option 1 drawings of the Condominium Map. A shortened variation of this lanai is depicted on the Option 1A drawings of the Condominium Map. An optional expanded Master Bedroom, which combines the Master Bedroom with Bedroom No. 2, is depicted on the Option 2 drawings of the Condominium Map. Developer shall indicate when it files the “as-built” verified statement referenced in Section 19.3(a), which Apartments were built with optional floor plans. All Apartments have a fenced back yard limited common element. The Apartment has a net living area of approximately 1,554.85 square feet, a net entry porch area of approximately 27.71 square feet and a net garage area of approximately 442.92 square feet.

The Reserved Unit

The Apartment is a two story four bedroom, two and one-half bath Apartment with the kitchen, dining room, living room, laundry room and half bathroom on the ground floor, connected by an interior stairway to the second floor which has a master bedroom, a master bathroom, three additional bedrooms and another bathroom. The Apartment also includes an entry porch and a sales office area. The Apartment has a net floor area of approximately 1,508.73 square feet and the balance of the relative square footage of the living area to be developed in the future phases as provided in Section 17A.2(B) of the Declaration.

NOTE: The sizes and configurations of the fenced yard reflected on the Condominium Map are approximations only. Actual sizes and configurations may vary due to the placement and location of utilities and due to varying terrain surrounding each building.

EXHIBIT "D"

COMMON AND LIMITED COMMON ELEMENTS

COMMON ELEMENTS:

1. The land covered by Lots 16898 to 16904, inclusive, Map 1311 of Land Court Application 1069. The land is further described in Exhibit "A" of the Declaration. The encumbrances on the land are further described in Exhibit "E" of this public report.
2. All yards, grounds, planting areas, gates, fences, retaining walls (if any), trash collection areas and walkways;
3. All access lanes, roads, curbs, sidewalks and street lights;
4. Visitor parking stall nos. 1 to 42, inclusive, and 52 to 114, inclusive, as shown on the Condominium Map;
5. Installations for services such as pipes, cables, conduits, ducts, electrical equipment, wiring and other central appurtenant transmission facilities and installations over, under or across the Project which serve more than one Apartment for services such as power, light, gas, hot water, cold water, sewage, drainage, telephone, radio and television signal distribution, if any;
6. Any apparatus and installations existing for common use, such as tanks, pumps, irrigation lines, motors, fans, compressors, ducts, vents and other such installations and apparatus; and
7. All other parts of the Project necessary or convenient to its existence, maintenance and safety or normally in common use.

LIMITED COMMON ELEMENTS:

8. Driveway appurtenant to the apartment;
9. Apartments 2, 5, 9, 14, 20, 21, 100, 103, 109, 111, 202, 207, 301, 306, 310, 313, 401, 404, 408, 413, 501 and 505 have an uncovered parking stall adjacent to the garage;
10. Apartment 4 has an uncovered parking stall adjacent to its limited common yard area;
11. Mailbox bearing the same designations as the apartment;
12. Yard areas as shown on the Condominium Map; and
13. All other common elements which are rationally related to less than all of the apartments in the Project.

EXHIBIT "E"

ENCUMBRANCES AGAINST TITLE

1. Title to all mineral and metallic mines reserved to the State of Hawaii.
2. Restrictions, covenants and conditions as contained in that certain Ewa by Gentry Community Area Declaration of Covenants, Conditions and Restrictions dated July 21, 1988, recorded in said Office of the Assistant Registrar as Document No. 1568352, as amended by instrument dated May 30, 1989, recorded in the Office of said Assistant Registrar as Document No. 1652869, as further amended by instrument dated June 21, 1991, recorded in the Office of the Assistant Registrar as Document No. 1888053, and as may be further amended from time to time. The Property was made subject to the above Declaration of Covenants, Conditions and Restrictions by that certain Declaration of Addition of Real Property dated July 20, 2000, recorded in said Office of the Assistant Registrar as Document No. 2639394 (also affects other property).
3. Declaration of Restrictions dated August 22, 1989, recorded in said Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1661671. *[This Declaration made by the Trustees of the Estate of James Campbell, Deceased, a former owner of the property, notifies all future purchasers of the property of the proximity of the Hawaii Prince Golf Course and of the potential hazards listed in Item 3(h) on page 18a of this public report and requires all purchasers to indemnify the Estate and Seibu Hawaii, Inc. (the owner of the golf course).]*
4. Declaration of Covenants, Conditions and Restrictions on Use and Reservations (Fairways Properties) dated September 30, 2003, recorded in said Office of the Assistant Registrar as Document No. 3002894. *[This Declaration limits the type of development that can be constructed on the property to residential use, including non-commercial recreational facilities, utilities, public or private schools, churches, parks, golf course, agricultural use, roadways, drainage and sewer facilities and other infrastructure necessary to serve a residential development. Reserves all subsurface water and water rights to the Estate of James Campbell, Deceased, except for the drilling of non-potable wells to service the property.]*
5. Terms and conditions of that certain Deed and Use Restrictions dated September 30, 2003, recorded in said Office of the Assistant Registrar as Document No. 3002895. *[Reiterates the restrictions stated in Item 5 above and specifically references Document No. 3002894.]*
6. Terms and conditions of that certain Declaration of Confirmation of certain Exceptions, Reservations and Encumbrances Affecting Property (Fairways Properties) dated September 30, 2003 and recorded in the Bureau of Conveyances as Document No. 2003-212181. *[References an unrecorded agreement between the Estate of James Campbell, Deceased and Seibu Hawaii, Inc.]*
7. Terms and conditions of that certain Notice of Imposition of Conditions by the Land Use Commission dated December 1, 2003 and recorded in the Bureau of Conveyances as Document No. 2003-269381. *[This Notice states that the State Land Use Commission reclassified the property from the State Land Use Agricultural District to the State Land Use Urban District subject to certain conditions that would be set forth in Item 9 below. This Notice states that Item 9, upon its recordation, will supersede this Notice.]*
8. Declaration of Land Use Conditions dated February 9, 2004, recorded in said Office of the Assistant Registrar as Document No. 3068154. *[This Declaration states that the State of Hawaii Land Use Commission has reclassified the property as part of the State Land Use Urban District subject to the Developer building certain infrastructure, selling a certain portion of the development pursuant to an affordable housing program, setback requirements and*

archaeological/historic preservation requirements should any previously undiscovered artifacts be subsequently discovered.]

9. Unilateral Agreement and Declaration for Conditional Zoning dated March 16, 2004, recorded in said Office of the Assistant Registrar as Document No. 3084363. *[This document was required by the City and County of Honolulu in order to obtain a change of zoning. It requires the Developer to develop and to submit to the City master site, drainage, landscape and affordable housing plans. It also requires the Developer to construct certain infrastructure and establishes an annual reporting requirement of Developer's progress in these areas.]*
10. Mortgage and Security Agreement dated August 1, 2004, made by and between Gentry Homes, Ltd. and Gentry Investment Properties, as Mortgagor, and Bank of Hawaii, as Agent, as Mortgagee, recorded as Document No. 3148449, as amended by Document No. 3532518. *[Developer intends to record a document to release this encumbrance prior to conveyance of apartment to buyer.]*
11. Assignment of Sales Contracts and Sales Proceed dated August 1, 2004, made by and between Gentry Homes, Ltd., a Hawaii corporation, as Assignor, and Bank of Hawaii, as Agent, as Assignee, recorded as Document No. 2004-162053, as amended by Document No. 2007-004498. *[Developer intends to record a document to release this encumbrance prior to conveyance of apartment to buyer.]*
12. Financing Statement recorded on August 9, 2004, made by Gentry Investment Properties and Gentry Homes, Ltd., as Debtor and Bank of Hawaii, as Agent, as Secured Party, recorded as Document No. 2004-162054. *[Developer intends to record a document to release this encumbrance prior to conveyance of apartment to buyer.]*
13. Declaration of Intent to Merger; Consent dated August 16, 2005, recorded in said Office of the Assistant Registrar as Document Nos. 3314878 and 3314879;
14. **As to said Lots and 16898, 16899, 16900, 16901 and 16902 only:**
Easement 8786, for drainage purposes, as shown on Map 1285, as set forth by Land Court Order No. 164962, recorded on February 13, 2006.
15. **As to said Lot 16901 only:**
Easement 9027, for electrical and irrigation purposes, as shown on Map 1310, as set forth by Land Court Order No. 167691, recorded on September 20, 2006.
16. **As to said Lot 16898 only:**
Easement 9035, for access and utility purposes, as shown on Map 1311, as set forth by Land Court Order No. 168099, recorded on October 23, 2006.
17. **As to said Lot 16899 only:**
Easement 9036, for access and utility purposes, as shown on Map 1311, as set forth by Land Court Order No. 168099, recorded on October 23, 2006.
18. **As to said Lot 16900 only:**
Easement 9037, for access and utility purposes, as shown on Map 1311, as set forth by Land Court Order No. 168099, recorded on October 23, 2006.
19. **As to said Lot 16901 only:**
Easement 9038, for access and utility purposes, as shown on Map 1311, as set forth by Land Court Order No. 168099, recorded on October 23, 2006.

20. **As to said Lot 16902 only:**
Easement 9039, for access and utility purposes, as shown on Map 1311, as set forth by Land Court Order No. 168099, recorded on October 23, 2006.
21. **As to said Lot 16903 only:**
Easement 9040, for access and utility purposes, as shown on Map 1311, as set forth by Land Court Order No. 168099, recorded on October 23, 2006.
22. **As to said Lot 16904 only:**
Easement 9041, for access and utility purposes, as shown on Map 1311, as set forth by Land Court Order No. 168099, recorded on October 23, 2006.
23. **As to said Lots 16898 and 16899 only:**
Easement 9042, for irrigation purposes, as shown on Map 1311, as set forth by Land Court Order No. 168099, recorded on October 23, 2006.
24. **As to said Lot 16901 only:**
Easement 9043, for irrigation purposes, as shown on Map 1311, as set forth by Land Court Order No. 168099, recorded on October 23, 2006.
25. Agreement for Issuance of Conditional Use Permit Under Section 21-5.380 of the Land Use Ordinance (LUO) dated November 29, 2006 and recorded in said Office of the Assistant Registrar as Document No. 3526445.
26. The covenants, agreements, obligations, conditions, easements and other provisions as contained in the Declaration of Condominium Property Regime of MONTECITO/TUSCANY III dated December 4, 2006 recorded in said Office of the Assistant Registrar as Document No. 3524620 and Condominium Map No. 1854, as the same has been amended by Document Nos. 3528533, 3531531, 3533550, 3535103 and as may be further amended from time to time.
27. By-Laws of the Association of Apartment Owners of MONTECITO/TUSCANY III dated December 4, 2006 and recorded in said Office of the Assistant Registrar as Document No. 3524621, as the same may be amended from time to time.
28. Real property taxes due and payable, refer to Director of Finance, City and County of Honolulu.

EXHIBIT "F"

THE DEVELOPER'S RESERVED RIGHTS TO CHANGE THE CONDOMINIUM DOCUMENTS

DEVELOPER'S RESERVED RIGHTS. The Developer's Reserved Rights outlined in this Exhibit "F" are necessary and/or helpful to developing the Project in phases. The Developer may exercise the Developer's Reserved Rights stated in the Declaration separately or in one or more combinations and at one or more times, at the Developer's sole discretion. The Developer has no duty or obligation to exercise the Developer's Reserved Rights. The Developer may exercise the Developer's Reserved Rights until the earlier of (i) December 31, 2010 or (ii) the date when the Developer records a document giving up all of the Developer's Reserved Rights (the "Development Period").

The Developer may exercise any of the Developer's Reserved Rights stated in this Exhibit "F" and in Section 9.6 and Sections 17 through 17E, inclusive of the Declaration without being required to obtain the approval, consent, or joinder of anyone else and without the knowledge of anyone else. This includes but is not limited to the Association of Apartment Owners, any lender, or any other Apartment Owner or other person acquiring an interest in the Project. When a person or entity acquires an interest in an Apartment or any other interest in the Project, said person or entity automatically:

A. Takes said person's or entity's interest subject to the Developer's Reserved Rights and each and every exercise and/or assignment of them;

B. Acknowledges, approves, consents to, agrees to and accepts (i) the Developer's Reserved Rights and the exercise of them from time to time; (ii) that such exercise may change the Project; (iii) that such exercise may result in the recalculation of the common interest of some or all Apartments in some cases; (iv) that the Developer can file and/or record any and all documents that the Developer deems necessary or convenient to the exercise of its rights, including but not limited to any amendment to the condominium documents.

C. Agrees, promptly after being asked to do so, to join in, consent to, sign, have notarized, deliver and record all documents and do all other things that the Developer in its sole discretion determines to be necessary or convenient to the exercise of the Developer's Reserved Rights or to accomplish the purpose for which those rights were reserved (as determined by the Developer).

D. Appoints the Developer as said person's or entity's attorney-in-fact with full power of substitution to execute such documents and do such other things on said person's or entity's 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 Developer cannot use its power of attorney under this Exhibit "A" to waive or release any right an Owner or other interested person might have under the Act, to cancel the purchase of an Apartment, or to mortgage an Owner's Apartment.

1. DEVELOPER'S RIGHT TO GRANT/REALIGN EASEMENTS. The Developer reserves the right for itself and its successors and assigns, to and until the later of (i) the end of the Development Period or (ii) the date of sale of the last apartment unit in the Merged Area, to designate, delete, relocate, realign, reserve and grant easements and rights of way over, under and on the common elements of MONTECITO/TUSCANY III, provided that such elements and/or rights of way shall not be located on or within any existing structure on the Land and shall not unreasonably disturb, impair or interfere with the normal use and enjoyment of the land by the apartment owners.

2. DEVELOPER'S RESERVED RIGHT TO CREATE NEW APARTMENTS. Any other provision in the Declaration or the By-Laws notwithstanding, the Developer shall have the right (but

not the obligation) at its sole discretion under Section 17A of the Declaration, to create one or more New Apartments in the Project and to create and designate common elements and limited common elements appurtenant to any New Apartment. The Developer may do this more than once and at any time prior to the expiration of the Development Period.

2.1 Limits on Developer's Reserved Rights to Create New Apartments. The Developer's Reserved Rights in said Section 17A are subject to the following terms and conditions:

A. Developer may only create New Apartments in the Undeveloped Land Area (as defined in Section 1(z) of the Declaration) and/or in the Merged Area (as defined in Section 1(r) of the Declaration).

B. The total number of Apartments in the Project may not exceed the limits contained in the zoning code applicable to the Land.

C. The Developer must pay all costs of creating the New Apartments and designating or converting the use of common elements or limited common elements.

2.2 Extent of Developer's Reserved Right to Create New Apartments. Subject to the above limitation, the Developer's Reserved Right to create New Apartments include the right to do anything necessary or convenient to create the New Apartments or to designate or convert the use of common elements or limited common elements, including but not limited to the right to do the following:

A. to execute and record one or more amendments to the Declaration and Condominium Map, that describes the New Apartments. The amendment shall include a certificate signed by a registered architect or professional engineer as specified in Section 514B-34 of the Act;

B. to allocate a portion of the common interest currently assigned to the Reserved Unit to the New Apartments by executing and recording an amendment to the Declaration;

C. to designate or convert the use of common elements or limited common elements to New Apartments by recording an amendment to the Declaration;

D. to amend any previously recorded deed or other document conveying or encumbering an Apartment so that it conforms with the revised Declaration and/or to record a new deed or conveyance document for that purpose. For example, if the Developer creates New Apartments, it may need to adjust the common interest of each existing Apartment. If so, the Office of the Assistant Registrar of the Land Court of the State of Hawaii may require the Developer to change the deeds for existing Apartments to reflect the such change in common interest or it may require that the Developer issue replacement deeds reflecting such change in common interest.

2.3 Impact of Exercise of Developer's Reserved Right to Create New Apartments. Upon the recordation of an amendment to the Declaration and the Condominium Map as outlined above, the following will take place:

A. The New Apartments will become condominium Apartments and will be part of the Project for all intents and purposes. The limited common elements will be appurtenant to the New Apartments to which they are assigned. The owner of a New Apartment may deed it, lease it or otherwise encumber it just the same as if the New Apartment had been created from the beginning of the Project.

B. The Developer will be the owner of each New Apartment and its common interest until the Developer conveys it to someone else. Nobody else except the Developer will have any legal or equitable rights in or to the New Apartments and its common elements.

C. The Owners of all Apartments (including the New Apartments) will have the right to use the common elements of the Project to the same extent and subject to the same limits, just as if the Project had been developed with the New Apartments from the beginning.

3. DEVELOPER'S RESERVED RIGHT TO CONSTRUCT NEW IMPROVEMENTS. Any other provision in the Declaration or the By-Laws notwithstanding, the Developer shall have the right (but not the obligation) at its sole discretion under Section 17B of the Declaration, at any time to design, designate, develop, build, add to and complete new improvements ("New Improvements") on the Land. The Developer may do this more than once and at any time prior to the expiration of the Development Period.

3.1 Limits on Developer's Reserved Rights to Construct New Improvements. The Developer's reserved rights in said Section 17B are subject to the following terms and conditions:

A. A licensed architect or engineer must prepare plans and specifications for the New Improvements. The Developer must obtain all necessary governmental approvals and permits for the New Improvements. The Developer must build the New Improvements substantially in accordance with the plans and specifications.

B. The plans and specifications for the New Improvements shall not require any material change to or the demolition of any existing Apartment or limited common element, except if that Apartment and limited common element is owned by the Developer. The Developer has a right to connect to, use, relocate and/or realign improvements to the Project to provide electricity, hot and cold water, air conditioning and other utilities and services, and when applicable, to designate, grant, convey, transfer, cancel, relocate and otherwise deal with any easements over, under, across or through the common elements of the Project as necessary and desirable. The Developer must do this in a way that does not cause any permanent interruption in the service of utilities to any other part of the Project.

C. The Developer must pay all costs and expenses for the design, development and construction of the New Improvements. The Developer makes no promise as to when construction of any new phase will commence or be completed. Until construction of any new phase is substantially completed, the cost associated with any New Apartments, common elements and limited common elements shall be the sole responsibility of the Developer. Developer shall be solely responsible for all costs and expenses to reasonably maintain, repair, upkeep and provide security for the Undeveloped Land Area. For safety and other reasons, the Developer intends to fence off, screen or otherwise secure the Undeveloped Land Area and to severely limit and restrict access to such Undeveloped Land Area by all other Apartment Owners and any other person. Each Apartment Owner and every other interested person: (i) agrees to stay out of the Undeveloped Land Area and any specifically fenced areas until access to such area is specifically authorized by the Developer, and to see that the Apartment Owner's representatives, licensees and invitees also do so; (ii) acknowledges and agrees that the ongoing construction will result in noise, dust and increased traffic in and around the Project for a period of time; (iii) acknowledges and agrees that care must be taken around construction sites, as certain hazardous conditions relating to the construction may exist for a period of time.; (iv) acknowledges and agrees that Developer will make efforts to minimize dust but that dust and debris is an inevitable result of the ongoing construction; (v) waives any rights, claims or actions which the Apartment Owner might otherwise have against the Developer as a result of any damage to Apartment

Owners' real or personal property, any inconvenience, annoyance or nuisance cause by any such ongoing activities.

D. The Developer shall arrange and pay for builder's risk insurance and general liability insurance. The insurance must stay in effect during the entire construction period. Developer must provide the Managing Agent proof of insurance via a certificate of insurance showing the Association as the certificate holder.

E. The Developer shall amend the Declaration and the Condominium Map to designate and show any New Improvements. Upon the recordation of such an amendment the New Improvements will be part of the condominium project as though they had been built at the beginning.

3.2 Extent of Developer's Reserved Rights to Construct New Improvements.

Subject to the above limitations, the Developer shall have the absolute right to do the following :

A. To have the exclusive right to control, manage, and conduct the design, development, construction, addition and completion of the New Improvements on the Land even after Developer deeds Apartments to others.

B. To remove, change or add common elements or to convert the use of common elements to another purpose.

C. To connect the New Improvements to utilities of the Project; and

D. To build a fence around the construction area and to have the exclusive use and control of the area enclosed by the fence, and to make all Apartment Owners, their representatives, licensees and invitees stay out of that area until the construction is finished.

E. To obtain all permits, licenses, and approvals necessary or convenient to the development, construction, completion and/or operation and use of the Project;

F. To coordinate the work and activities of the contractors, subcontractors, architects, engineers, laborers, suppliers, and others to complete the Project in accordance with the Developer's objectives on time, costs and quality;

G. To exercise all rights and make all decisions of the "Owner" or the "developer" or similar contracting party (including but not limited to all rights and decisions with respect to litigation and arbitration of claims arising thereunder or in connection therewith, and the compromise thereof) with respect to all contracts now or later signed in connection with the development and construction of the Project.

H. To review and approve necessary or desirable changes and requests for changes and change orders with respect to the Project;

I. To publish and file the notice of completion in accordance with Section 507-43 of the Hawaii Revised Statutes, as amended;

J. To approve and direct the replacement of any New Improvements that are under construction and that are damaged by fire or something else. This includes the right to settle any insurance claims made under any insurance policy that the Developer buys or arranges.

K. To amend the Declaration and Condominium Map as necessary or convenient to show the New Improvements.

L. To amend any previously recorded deed or other document conveying or encumbering an Apartment so that it conforms with the revised Declaration and/or to record a new deed or conveyance document for that purpose.

3.3 Restricted Access to Construction Site. During the construction period, each Apartment Owner must: (a) remain outside of any fenced construction area; (b) not directly or indirectly do or attempt to do anything that would or could affect or interfere with the development, construction and completion of the New Improvements.

4. DEVELOPER'S RESERVED RIGHT TO ADD LAND AND/OR EFFECT MERGER. Any other provision in the Declaration notwithstanding, the Developer shall have the right (but not the obligation) at its sole discretion under Section 17C of the Declaration, at any time to add real property to the Project by amending the Declaration, By-Laws, Condominium Map and any other documents that the Developer deems necessary or convenient to effect such addition of real property to the Project. Specifically, the Developer may (but is not obligated to) add the Original Property and the Additional Land as set forth in the Declaration of Intent to Merge. Should Developer add the Original Property and the Additional Land to the Project, the common interest for the Apartments developed in the Merged Area shall be as described in Exhibit "C" of the Declaration. If Developer, in its sole discretion, does not subject the Original Property and the Additional Land to the Declaration, then Developer reserves the right to effect either a legal merger or an administrative merger of all or a portion of the Additional Land and the Original Property with the Project pursuant to the terms of the Declaration of Intent to Merge. The new ownership interest (if done pursuant to a legal merger) or the new maintenance fee/voting allocation (if done pursuant to an administrative merger) shall be as described in Exhibit "C" of the Declaration.

5. DEVELOPER'S RESERVED RIGHT TO WITHDRAW LAND. Any other provision in the Declaration notwithstanding, the Developer shall have the right (but not the obligation) at its sole discretion under Section 17D of the Declaration, at any time to withdraw real property from the Project by amending the Declaration, By-Laws and Condominium Map. Upon such withdrawal as set forth in said Section and with no further action required, no Apartment Owner, mortgagee, lien holder, Apartment purchaser and any other person who may have an interest in the Project or any Apartment (other than the Developer and the holder of any blanket mortgage covering the Land prior to the Declaration) shall have any legal or equitable interest in the withdrawn land. It is the intent of this provision that upon such withdrawal, legal title to the withdrawn land will be vested solely in the Developer. If deemed necessary to effect the intent of this Section, each Apartment Owner, mortgagee, lien holder and any other person who may have an interest in the Project or any Apartment shall, if requested by the Developer, unconditionally quitclaim and/or release its interest, if any, in the withdrawn land to the Developer.

In exercising the foregoing right, the Developer may at any time (i) execute, file and process to final approval an application with the City and County of Honolulu for the legal subdivision of the withdrawn land from the Land covered by the Declaration; (ii) execute and record a petition and any supporting documentation for such subdivision in the Land Court of the State of Hawaii; (iii) execute and record any amendments to the Declaration, the Condominium Map and the By-Laws to note the withdrawal of real property from the Land; and (iv) execute, apply for and obtain from the Real Estate Commission of the State of Hawaii a public report or amendment to public report noting the withdrawal of land from the Project. The withdrawn land shall be deemed deleted from the Project for all purposes

upon the recordation in the Bureau of Conveyances of an amendment to the Declaration and the Condominium Map that sets forth the withdrawal of real property.

6. DEVELOPER'S RESERVED RIGHT TO SUBDIVIDE AND/OR CONSOLIDATE LAND. Any other provision in the Declaration notwithstanding, the Developer shall have the right (but not the obligation) at its sole discretion under this Section, at any time to subdivide the Land and/or consolidate the Land with other real property in order to effect the addition or withdrawal of land as described in Sections 17C and 17D of the Declaration by amending the Declaration, By-Laws, Condominium Map and any other document that the Developer deems necessary or convenient to effect such subdivision or consolidation.

EXHIBIT "G"

ESTIMATED BUDGET AND INTITAL MAINTENANCE FEE SCHEDULE

Montecito/Tuscany
Estimated Budget and Inital Maintenance Fee Schedule for
(356 units)

08-11-06

	Monthly	Annually
Administration		
Tax Preparation/Audit	\$100	\$1,200
Legal Fees	\$300	\$3,600
Property Management/Accounting	\$2,583	\$30,996
Design Review	\$1,000	\$12,000
Mgmt. Office Expenses	\$1,800	\$21,600
AOAO Office Expenses	\$200	\$2,400
Vehicle Expenses	\$50	\$600
Miscellaneous Expenses(1)	\$125	\$1,500
Payroll & Benefits		
Site Manager - Full Time	\$3,200	\$38,400
Assistant Site Manager - Full Time	\$2,400	\$28,800
Maintenance	\$3,100	\$37,200
Payroll Taxes	\$400	\$4,800
Workers Compensation	\$300	\$3,600
TDI	\$35	\$420
Health Care	\$912	\$10,944
Payroll Preparation	\$125	\$1,500
Maintenance, Repair, Supplies		
Grounds/Yards & Common	\$11,000	\$132,000
Landscape/Irrigation Extras	\$450	\$5,400
Contract Pool & Supplies	\$600	\$7,200
Cleaning Supplies - Rec Ctr	\$150	\$1,800
Pest Control - Rec Center	\$200	\$2,400
Miscellaneous Repairs & Purchases(2)	\$500	\$6,000
Utilities		
Electricity	\$2,000	\$24,000
Water - Potable (3)	\$5,000	\$60,000
Sewer	\$11,000	\$132,000
Irrigation Non-Potable Water (4)	\$300	\$3,600
Telephone	\$300	\$3,600
Propane Fuel	\$40	\$480

Montecito/Tuscany
Estimated Budget and Initial Maintenance Fee Schedule for
(356 units)

08-11-06

	Monthly	Annually
Insurance		
Master Policy	\$18,000	\$216,000
Recreation Center Policy	\$300	\$3,600
Taxes & Government Assessments		
GET	\$45	\$540
Reserves	\$7,200	\$86,400
TOTAL DISBURSEMENTS	\$73,715	\$884,580
Monthly Maintenance Fee Amount	\$207.06	Per Unit
(1) Recording secretary, tally clerk, meeting overtime charges (2) Misc. fence & electric repairs (3) Potable water only. Used in homes and does not include irrigation (4) Non-Potable water used for common area irrigation		

I, Phyllis Okada Kacher, as agent for/and/or employed by Hawaiiana Management Company, Ltd. the condominium managing agent/developer for the Montecito/Tuscany (Area 33 and 39), hereby certify that the above initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.


8-11-06

 Signature Date

Pursuant to 514B-148,7b, Hawaii Revised Statutes, a new association need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. The Developer has not conducted a reserve study for the project. The budget amount for Reserves is an estimate only.

Note: The foregoing maintenance fees do not include the dues payable to the Ewa By Gentry Community Association. At the present time those dues are \$75 per quarter for a total of \$300 per year.

EXHIBIT "G-1"

RECREATION CENTER LICENSE

LICENSE

Effective February 1, 2007 GENTRY HOMES, LTD., a Hawaii corporation ("Gentry") hereby grants a license to the ASSOCIATION OF APARTMENT OWNERS OF MONTECITO/TUSCANY III (the "Association") to use the facilities as described below, subject to the terms and conditions set forth in this License. The Association is an unincorporated association with its address c/o Hawaiiana Management Company, 711 Kapiolani Boulevard, Suite 700, Honolulu, Hawaii 96813.

A. **Facilities.** Gentry is the developer of the Montecito/Tuscany III condominium project, located in Ewa by Gentry, Hawaii. Montecito/Tuscany III is located in the "Merged Area" as defined in that certain Declaration of Intent to Merge recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3314878. Under Gentry's current plans, there will be developed in the Merged Area, the Montecito/Tuscany condominium project (already in existence), the Montecito/Tuscany II condominium project (already in existence) and the Montecito/Tuscany III condominium project (collectively, the "Condominium Projects"). Gentry has completed a recreational facility on Lot 16021, Map 1252, Ld.Ct. App. 1069 (the "Premises"), which will serve all of the residents of the Merged Area. Section 18.3(b) of the Montecito/Tuscany III Declaration provides in part as follows:

"If the Developer completes the development of the Recreation Center prior to the completion of all of the condominium projects within the Merged Area, the Developer may grant to the respective associations of the then-completed condominium projects a license to use the Recreation Center, provided that the association(s) will bear the costs of maintaining and operating the facilities of the Recreation Center. Any such license shall automatically expire upon the conveyance of the fee interest in the Recreation Center to the respective associations in the Merged Area."

Gentry has not yet completed all condominium projects within the Merged Area, and therefore desires to grant a non-exclusive license to the Association at this time, in order to allow the residents of the Association the right to use the Premises. A non-exclusive license to use the Premises has already been granted to the Associations of Apartment Owners of Montecito/Tuscany and Montecito/Tuscany II.

B. **Grant of License; Purpose.** Gentry hereby grants to the Association a non-exclusive license to enter and use the Premises, for the purposes and on the terms and conditions set forth below ("License"). By purchasing a unit in the Montecito/Tuscany III

condominium project, the members of the Association automatically agree to the terms and conditions set forth in this License. The Premises shall be used for recreational purposes only and shall be made available to all members of the Association and all owners, tenants and occupants of the Condominium Projects. Gentry hereby establishes the initial rules and regulations concerning the use of the Premises which are attached to this License. Once Montecito/Tuscany III administratively merges with Montecito/Tuscany and Montecito/Tuscany II, the merged associations shall have the right to impose reasonable rules and regulations concerning the use of the Premises which shall apply to all users. However, said rules and regulations will be subject to Gentry's review and approval until the Premises have been conveyed in fee to the several associations of apartment owners of the Condominium Projects.

C. **Term.** The term of this License shall commence as of the Effective Date and shall automatically end as of the date that the fee interest in the Premises is conveyed to the several associations of the Condominium Projects as tenants in common.

D. **Condition of the Premises.** The Premises are being made available for use by the Association in their "AS IS" condition. Except as set forth in Section E below, Gentry shall not be required to make any repairs or construct any additional improvements to the Premises.

E. **Responsibility to Operate and Maintain.** The merged associations of Montecito/Tuscany and Montecito/Tuscany II have been responsible for the maintenance, operation and repair of the entire Premises as of February 1, 2006. Once the Association of Apartment Owners of Montecito/Tuscany, Montecito/Tuscany II and Montecito/Tuscany III are administratively merged (the "Merged Association"), the Merged Association will assume the responsibility for the maintenance, operation and repair of the entire Premises. Gentry shall have the right to periodically inspect the Premises, and if Gentry reasonably believes that they are not being adequately maintained, then Gentry may give notice of such deficiency to the Merged Association (or its managing agent), and the Merged Association shall take prompt action to remedy the problem. During the terms of this License, the Merged Association shall not make any alterations, additions or improvements to the Premises without the prior written consent of Gentry.

F. **Costs and Expenses.** The Association shall not be required to pay Gentry a license fee for the use of the Premises. Once Montecito/Tuscany, Montecito/Tuscany II and Montecito/Tuscany III have been administratively merged, the Merged Association shall be responsible for all costs and expenses associated with the operation, maintenance and repair of the Premises, including without limitation the following: real property taxes and assessments and insurance allocable to the Premises, utilities (electricity, gas, water, sewer and trash removal), landscaping, and maintenance.

G. **Hazardous Materials.** The Association will not use, produce, store, dispose of or allow to exist on, under or about the Premises, any Hazardous Materials, except in full compliance with all applicable laws, rules and regulations. The Association will indemnify, defend and hold Gentry, and its agents and representatives harmless from and against all losses, claims, damages (including foreseeable or unforeseeable consequential damages) and liabilities which may arise out of or may be directly or indirectly attributable to the Association's use, production, storage, or disposal of any Hazardous Materials on, under or about the Premises. The term "Hazardous Materials" means any and all compounds, substances, elements, and materials which have been determined by any governmental authority to be capable of posing a risk or injury to health, safety or property. If the presence of Hazardous Materials on the Premises caused or permitted by the Association results in the contamination of the Premises, the Association shall at its expense take all action necessary to immediately return the Premises to the condition existing prior to the appearance of the Hazardous Materials.

H. **Indemnification; Insurance.** The Association assumes all risk of bodily injury or death and all negligence, loss or damage to all personal property owned, placed or stored on the Premises and/or relating to the use of the Premises and agrees that Gentry shall not be responsible for such loss or damage. The Association agrees to indemnify and hold Gentry, and its agents, representatives and employees, harmless from and against all losses, claims, damages, or liability arising out of the use or occupancy of the Premises or arising out of the Association's failure to comply with the terms of this License. The Association shall, during the entire term of the License, keep in full force and effect (i) a policy of commercial general liability insurance covering the Premises in the minimum limits of \$1,000,000 per occurrence, \$2,000,000 annual aggregate, and (ii) property insurance covering all improvements on the Premises, including

outdoor properties in or upon the Premises, in an amount equal to one hundred percent of full replacement cost at the time of loss, which policies shall each name Gentry as an additional insured. The Association shall deliver to Gentry a copy of the policies or certificate thereof, within five (5) days after request from Gentry. Any such policy shall provide that it may not be canceled or altered without thirty (30) days' prior written notice to Gentry.

I. **No Assignment.** The Association may not assign, sublet or otherwise transfer this License or its interest in the Premises or any portion thereof without the prior written consent of Gentry.

J. **General.** This License shall be governed and construed in accordance with the laws of the State of Hawaii. This License contains the entire terms and conditions regarding the use of the Premises and it may not be amended unless otherwise agreed to in writing by both Gentry and the Association. The invalidity or unenforceability of any provision of this License shall not affect the validity of any other provision, and all other provisions shall remain in full force and effect. This License shall be binding upon and shall inure to the benefit of the parties and their respective heirs, successors and permitted assigns. Any dispute between the parties arising out of this License shall be subject to the mediation and arbitration provisions set forth in the sales contracts of individual units sold to buyers in the Merged Area.

By signing below this December 15, 2006, Gentry, acting upon its own behalf and as the initial Association of Apartment Owners of Montecito/Tuscany III, agrees with all matters set forth in this License.

GENTRY HOMES, LTD.,
a Hawaii corporation

By Robert W. Brant
Robert W. Brant
Its President

**MONTECITO/TUSCANY III
COMMUNITY CENTER RULES**

1. **NO LIFEGUARD ON DUTY.** *Use of all Community Center facilities is at your own risk.*
2. *Use of the* **POOLSIDE SHOWER IS REQUIRED FOR ALL SWIMMERS BEFORE ENTERING THE POOL. USE WATERPROOF SUNSCREEN ONLY – oils and excess product will damage our pool pump.**
3. **SWIM DIAPERS ONLY** *must be worn by those in diapers to prevent contamination of the pool.*
4. *All swimmers must wear appropriate swim attire. NO STREET CLOTHES allowed in the pool.*
5. **NO DIVING, RUNNING, JUMPING, HORSEPLAY, OR EXCESSIVE NOISE** *allowed at the Community Center.*
6. **NO SPOUTING OF WATER OR DISCHARGING OF BODILY FLUIDS** *allowed in the pool. PLEASE USE THE TOILETS IN OUR RESTROOMS.*
7. **NO PERSONAL FLOTATION DEVICES** *may be used in the pool.*
8. **EARPHONES MUST BE USED** *with audio players and all other electronic devices.*
9. **CHILDREN UNDER THE AGE OF 18 MUST BE ACCOMPANIED AT ALL TIMES** *by an adult owner, resident, sponsored houseguest or representative of the Montecito/Tuscany Community Association.*
10. **GUEST MUST BE ACCOMPANIED AT ALL TIMES** *by a resident of the Montecito/Tuscany Community. There is a maximum of 4 guests per household without a prior reservation.*
11. **NO LOITERING, SOLICITING, GAMBLING OR ALCOHOL** *without prior written approval from management.*
12. **NO ANIMALS PERMITTED** *except for certified guide or signal dogs.*
13. **RETURN ALL POOL FURNITURE** *to its original location after use.*
14. **FOOD AND BEVERAGES ARE PERMITTED** *in approved containers and areas. NO GLASS CONTAINERS. NO FOOD OR DRINKING IN THE POOL. PLEASE CLEAN UP AND DISPOSE OF ALL RUBBISH.*
15. **PAVILIONS MAY BE RESERVED** *(but not the pool deck or lounge chairs). Please see management for reservations.*

16. **POOL MAY BE CLOSED WITHOUT PRIOR NOTICE** *due to inclement weather, hazardous discharge or at the discretion of the general manager or his/her appointed representative.*
17. **KEEP VALUABLES AT HOME.** *The Association, Board of Directors and Staff are not responsible for any loss, damage or theft of personal items.*
18. **BE CONSIDERATE OF OTHERS.** *Disorderly persons will be removed from the premises immediately. The Association, Board of Directors and Staff are authorized to enforce all Community Center Rules and Regulations.*

EXHIBIT "H"

SUMMARY OF SALES CONTRACT

The Sales Contract contains the price and other terms and conditions under which a buyer will agree to buy an apartment in the Project. Among other things, the Sales Contract states the following:

1. Buyer must live in the apartment for at least 365 consecutive days.
2. Buyer has certain obligations if Buyer wants a mortgage loan to cover part of the purchase price.
3. Buyer's money will be held in escrow, under the terms of the Escrow Agreement.
4. Buyer will not receive interest on deposits made under the Sales Contract.
5. The apartment will be subject to various other legal documents which Buyer should examine.
6. The Project will be subject to ongoing construction and sales activities which may result in certain annoyances to Buyer.
7. Seller has no control over certain activities on adjacent property owned by others including agriculture, military, utility and aviation. These activities may cause some inconveniences to Buyer. Buyer will indemnify Seller and the owners of the properties involved except in cases of negligence or willful misconduct.
8. The sales contract will become fully binding when (i) Buyer receives a public report including all amendments with an effective date issued by the Hawaii Real Estate Commission, the condominium project's recorded declaration, by-laws, executed house rules, a letter-sized condominium map any applicable amendments (ii) Buyer signs a receipt for an amended Public Report referencing the recorded condominium documents; (iii) Buyer has had an opportunity to read the amended Public Report (referencing the recorded condominium documents) and waives Buyer's right to cancel as provided in the Receipt and Notice of Right to Cancel.
9. Under certain circumstances where the apartment is ready for occupancy and Buyer has not completed his financing arrangements for the purchase of the apartment, Buyer will be responsible for all of Seller's expenses as a result of Buyer's delay.
10. In the event of default prior to closing under the sales contract:
By Buyer:
 - a. Seller may cancel the sales contract and retain Buyer's initial deposit;
 - b. Seller may file a lawsuit for damages;
 - c. Seller may file a lawsuit for "specific performance"; and
 - d. Buyer shall be responsible for expenses incurred.
By Seller:
 - a. Buyer may file a lawsuit for "specific performance";
 - b. Buyer may cancel the sales contract and Seller will return all deposits, without interest;
 - c. Buyer has all remedies available at law and in equity.

EXHIBIT "I"

SUMMARY OF ESCROW AGREEMENT

The Escrow Agreement describes the arrangement under which the deposits a buyer makes under a Sales Contract will be held by a neutral party ("Escrow"). The following are relevant terms stated in the agreement:

1. Interest on Buyer's deposits will accrue in favor of the Seller and not the Buyer unless the parties specifically provide otherwise.
2. Escrow will arrange for Buyer to sign all necessary documents.
3. The Escrow Agreement describes the conditions upon which a refund will be made to a buyer.
4. The Escrow Agreement describes what will happen to a buyer's funds if a party defaults under the Sales Contract.
5. The Escrow Agreement contains various other provisions and establishes certain charges with which the Buyer should become acquainted.

END OF EXHIBIT "I"

EXHIBIT "J"

CONSTRUCTION WARRANTIES

Building and Other Improvements: The apartment and related common elements will be covered by a Limited Warranty. The Limited Warranty will be for a ten (10) year period which will commence on the recording date of the deed to the Buyer. The coverage amount will be the base sales price of the apartment. The Limited Warranty will be substantially similar to the sample Limited Warranty attached as Exhibit "J-1" to this public report. The Developer reserves the right to make changes to the Limited Warranty without further notification to Buyer. The Developer's obligations under the Limited Warranty are expressly conditioned on prompt notification by Buyer or the Association to the Developer of any defects in the Apartment. In addition, Developer will not be responsible for damage to the Apartment or common elements arising out of the failure of Buyer or the Association to take reasonable and prudent steps to maintain the property or to prevent damage or further damage to the Property. **ROUTINE MAINTENANCE WORK IS NOT COVERED BY ANY WARRANTY.**

Appliances: Warranties on appliances furnished with an apartment are not provided by the Developer. the execution and delivery of the apartment deed will operate as an assignment from the Developer to the Buyer of the respective manufacturer's or dealers' warranties, if any.

EXHIBIT "J-1"

SAMPLE LIMITED WARRANTY

HOME BUILDER'S LIMITED WARRANTY

Administered by Professional Warranty Service Corporation ("PWC")

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**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION, WHICH MAY
BE ENFORCED BY EITHER PARTY**

Throughout this **HOME BUILDER'S LIMITED WARRANTY**, referred to hereinafter as the "**LIMITED WARRANTY**", the words "**YOU**" and "**YOUR**" refer to the **HOMEOWNER**, including any subsequent owners, and, where applicable, a **HOMEOWNERS ASSOCIATION**. The words "**WE**", "**US**" and "**OUR**" refer to the **BUILDER**. The other words and phrases which appear in boldface uppercase type also have special meaning. Refer to the **Section IX. Definitions**, so that **YOU** will understand the terminology applicable to this **LIMITED WARRANTY**.

This **LIMITED WARRANTY** establishes an agreed method for determining when a **CONSTRUCTION DEFECT** exists and a clear understanding of **OUR** responsibilities for remedying any such **CONSTRUCTION DEFECT**. This **LIMITED WARRANTY** also helps distinguish a **CONSTRUCTION DEFECT** that is **OUR** responsibility from those minor imperfections that can reasonably be expected in a **HOME** or the **COMMON ELEMENTS**, or that result from normal wear and tear or the neglect of routine **HOMEOWNER** or **HOMEOWNERS ASSOCIATION** maintenance responsibilities.

This **LIMITED WARRANTY** contains the procedures **YOU** must use to notify **US** of a condition in **YOUR HOME** or the **COMMON ELEMENTS** which **YOU** believe may constitute a **CONSTRUCTION DEFECT**. In the event a condition occurs in the **HOME** or the **COMMON ELEMENTS** that **YOU** believe may constitute a **CONSTRUCTION DEFECT**, **YOU** agree to submit any request for warranty performance in accordance with the procedure described in this **LIMITED WARRANTY**. Based on the information **YOU** provide and, where **WE** deem it necessary, information obtained from **OUR** onsite investigation, inspection and/or testing of the **HOME** or the **COMMON ELEMENTS**, **WE** will determine whether **WE** agree with **YOU** that the condition constitutes a **CONSTRUCTION DEFECT**. If **WE** determine that the condition reported by **YOU** is a **CONSTRUCTION DEFECT**, **WE** will remedy the condition in accordance with the remedies prescribed in this **LIMITED WARRANTY**. **WE** will make this determination in accordance with **Section II, OUR Warranty Obligations**, contained in this **LIMITED WARRANTY**.

THIS LIMITED WARRANTY PROVIDES THAT ANY AND ALL CLAIMS AND DISPUTES BETWEEN YOU AND US WHICH YOU AND WE ARE UNABLE TO RESOLVE BY MUTUAL AGREEMENT, SHALL BE RESOLVED SOLELY AND EXCLUSIVELY THROUGH FINAL AND BINDING ARBITRATION IN ACCORDANCE WITH THE TERMS AND PROCESS DESCRIBED WITHIN THIS DOCUMENT. BY THIS AGREEMENT, BOTH YOU AND WE ARE WAIVING THE RIGHT TO LITIGATE DISPUTES IN COURT.

To the extent permitted by law, all express or implied warranties other than this **LIMITED WARRANTY**, including any oral or written statement or representation made by **US** or any other person, and any implied warranty of habitability, merchantability or fitness for a particular purpose, are hereby disclaimed by **US** and are waived by **YOU**. **YOUR** only remedy in the event of a **CONSTRUCTION DEFECT** in or to the **HOME** or the **COMMON ELEMENTS** or to the real property on which the **HOME** or the **COMMON ELEMENTS** is situated is that provided to **YOU** under this **LIMITED WARRANTY**.

Enclosed with this **LIMITED WARRANTY** is a Limited Warranty Validation Form. The Limited Warranty Validation Form is a part of the **LIMITED WARRANTY** and provides the dates on which the warranty coverage period begins and expires. It is important that this form be retained with the **LIMITED WARRANTY**.

WE have contracted with **PWC** for certain administrative services relative to this **LIMITED WARRANTY**. **PWC's** sole responsibility is to provide administrative services as set forth herein. Under no circumstances or conditions is **PWC** responsible for fulfilling **OUR** obligations under this **LIMITED WARRANTY**.

There may be instances where an additional **PWC** administered Builder's Limited Warranty is issued together with this **LIMITED WARRANTY**. If both of these warranties are issued to **YOU**, **YOU** agree to request warranty performance under either warranty relative to warrantable issues on the **HOME** or the **COMMON ELEMENTS**. **YOU** may not collect twice relative to the same issue.

If any provision of this **LIMITED WARRANTY** is determined to be unenforceable, such a determination will not

affect the remaining provisions. If this **LIMITED WARRANTY** or any provision herein is determined to be unenforceable as to a **HOMEOWNERS ASSOCIATION** or a specific **HOMEOWNER**, such a determination will not affect the enforceability of this **LIMITED WARRANTY** or such provision as to any other **HOMEOWNERS ASSOCIATION** or any other **HOMEOWNER**. Any dispute as to the enforceability of any provision of this **LIMITED WARRANTY**, including any dispute as to the scope or enforceability of the arbitration provision contained herein, shall be determined by binding arbitration as provided for in this **LIMITED WARRANTY**.

I. Warranty Coverage

Coverage under this **LIMITED WARRANTY** is expressly limited to **CONSTRUCTION DEFECTS** which occur during the **WARRANTY PERIOD** indicated on the Limited Warranty Validation Form and which are reported by **YOU** in accordance with the notification requirements of **Section VI. Procedure to Request US To Perform Under This LIMITED WARRANTY**. **OUR** obligations under this **LIMITED WARRANTY** apply to workmanship actually performed and materials actually installed in the **HOME** or the **COMMON ELEMENTS**. Any failure by **US** to complete construction of the **HOME** or **COMMON ELEMENTS**, where such failure is apparent and obvious, is not covered by this **LIMITED WARRANTY** and is not a **CONSTRUCTION DEFECT**.

During the **WARRANTY PERIOD** indicated on the Limited Warranty Validation Form, **WE** warrant that the **HOME** and the **COMMON ELEMENTS** will be free of **CONSTRUCTION DEFECTS**. **OUR** obligation to perform under this **LIMITED WARRANTY** requires that **WE** must receive written notice from **YOU** of the alleged **CONSTRUCTION DEFECT** as soon as reasonably possible after **YOU** become aware of a **CONSTRUCTION DEFECT** but not later than thirty (30) days after the expiration of the coverage. Telephonic or face-to-face discussion is not a substitute for required written notice and will not protect **YOUR** rights under this **LIMITED WARRANTY** (see **Section VI. Procedure to Request US To Perform Under This LIMITED WARRANTY**).

II. OUR Warranty Obligations

Upon **OUR** timely receipt of written notice from **YOU** alleging a **CONSTRUCTION DEFECT** during the **WARRANTY PERIOD**, **WE**, or parties acting on **OUR** behalf, will, where **WE** deem it necessary, inspect, investigate and/or test (including destructive testing) the condition alleged to be a **CONSTRUCTION DEFECT**. If **WE** determine that a **CONSTRUCTION DEFECT** exists, **WE**, or parties acting on **OUR** behalf, will (1) repair or replace the **CONSTRUCTION DEFECT**, (2) pay to **YOU** the actual amount it would cost **US** to repair or replace the **CONSTRUCTION DEFECT**, or (3) pay to **YOU** an amount equal to the diminution in fair market value caused by the uncorrected **CONSTRUCTION DEFECT**. Subject to the limitations described in **Section IV. Coverage Limitations**, if the **HOME** is rendered temporarily uninhabitable by a **CONSTRUCTION DEFECT** or by work necessary to repair a **CONSTRUCTION DEFECT**, **WE** shall pay the reasonable cost for **YOUR** alternate shelter until the **HOME** is restored to a habitable condition. Additionally, in connection with **OUR** remedy of a **CONSTRUCTION DEFECT**, and subject to the limitations described in **Section IV. Coverage Limitations**, **WE** shall repair, replace or pay the reasonable cost for:

- Those surfaces, finishes and coverings that are part of the **HOME** and that are damaged directly by a **CONSTRUCTION DEFECT** or that are damaged in the course of **OUR** repair of a **CONSTRUCTION DEFECT**.
- Home furnishings, carpet or personal property damaged directly by the **CONSTRUCTION DEFECT**.

The decision to repair, replace, or to make payment in lieu of repair or replacement is at **OUR** or **OUR** authorized representative's sole discretion. These remedies are **OUR** only obligations under this **LIMITED WARRANTY**.

A. Standards By Which the Existence of a CONSTRUCTION DEFECT Will Be Determined:

The following factors will be considered in determining whether a condition constitutes a **CONSTRUCTION DEFECT**. If **WE** dispute the existence of a **CONSTRUCTION DEFECT** and that dispute is submitted to binding arbitration, the parties agree these same factors will be considered by the arbitrator:

1. Any performance standards, tolerances or guidelines contained in documents provided to **YOU** by **US** at or prior to closing on the **HOME** or, in the case of a **HOMEOWNERS ASSOCIATION**, prior to transferring title or control to all the **COMMON ELEMENTS**. In the absence of a specific standard, tolerance or guideline in the documents for a condition occurring during the first year of the **WARRANTY PERIOD**, the Residential Construction Performance Guidelines published by the National Association of Home Builders, in effect at the time of construction of the **HOME** or, in the case of the **HOMEOWNERS ASSOCIATION**, at the time of construction of the **COMMON ELEMENTS**, shall apply. If no specific standard, tolerance or guideline is contained in any of the documents identified above, generally accepted local building practices and standards shall apply;
2. Consideration as to whether the condition:
 - materially affects the structural integrity of the **HOME** or **COMMON ELEMENTS**; or
 - has an obvious and material negative impact on the appearance of the **HOME** or **COMMON ELEMENTS**; or
 - jeopardizes the life or safety of the occupants of the **HOME** or the users of the **COMMON ELEMENTS**; or
 - results in the inability of the **HOME** or a **COMMON ELEMENT** to provide the functions that can reasonably be expected in such a **HOME** or **COMMON ELEMENT**.
3. Consideration as to whether a condition is the result of normal wear and tear. Conditions that are normal wear and tear, or that are caused by normal wear and tear are not **CONSTRUCTION DEFECTS**;
4. Consideration as to whether the condition was caused by, or in any way resulted from, the failure of the **HOMEOWNER** or **HOMEOWNERS ASSOCIATION** to perform normal or routine maintenance. Any condition that is determined to be a **HOMEOWNER** or **HOMEOWNERS ASSOCIATION** maintenance issue, or any condition that results from improper or inadequate **HOMEOWNER** or **HOMEOWNERS ASSOCIATION** maintenance, is not a **CONSTRUCTION DEFECT**;
5. Consideration as to whether the condition was caused by persons or entities other than **US** or someone acting on **OUR** behalf. Damage caused by persons or entities other than **US** or someone acting on **OUR** behalf is not a **CONSTRUCTION DEFECT**. For example, a large, visible scratch on marble tile in the entry foyer that was not noted in the pre-closing walk through inspection, but was reported after furniture was moved into the **HOME**, will not be considered a **CONSTRUCTION DEFECT**;
6. Recognition that any condition resulting directly or indirectly from or worsened by changes, additions, alterations or other actions or omissions by persons or entities other than **US** or someone acting on **OUR** behalf, will not be considered a **CONSTRUCTION DEFECT** (this includes, for example, changes to the topography, drainage or grade of the property);
7. Any **Exclusions** contained in this **LIMITED WARRANTY**.

III. Homeowner Maintenance Obligations

Maintenance of the **HOME** and the **COMMON ELEMENTS** is **YOUR** responsibility. All homes and common elements require periodic maintenance to prevent premature deterioration, water intrusion, and to ensure adequate performance of the **SYSTEMS**. **WE** will make a "Homeowner Maintenance Manual" or similar publication available to **YOU** upon request. Whether from this document or others that are readily available to **YOU**, **YOU** must understand and perform the maintenance that the **HOME** and **COMMON ELEMENTS** require. **WE** are not responsible for **HOME** or **COMMON ELEMENTS** maintenance issues or for damage that results from **YOUR** failure to maintain the **HOME** or the **COMMON ELEMENTS**.

IV. Coverage Limitations

Surfaces, finishes and coverings in the **HOME** which require repair due to damage caused by a **CONSTRUCTION DEFECT**, or such damage caused in the course of **OUR** repair of a **CONSTRUCTION DEFECT**, shall be repaired and restored to approximately the same condition as existed prior to the **CONSTRUCTION DEFECT**, but not necessarily to a like new condition. When repairing or replacing surfaces, finishes and coverings, the repair or replacement will attempt to achieve as close a match with the original surrounding areas as is reasonably possible, but an exact match cannot be guaranteed due to such factors as fading, aging and unavailability of the same materials.

Home furnishings, carpet or personal property damaged by a **CONSTRUCTION DEFECT** shall be repaired or replaced at market value of the item at the time of damage. "Market value" shall mean the amount it would cost to repair or replace the damaged item with material of like kind and quality, less allowance for physical deterioration and depreciation, including obsolescence.

Alternate shelter during such time as the **HOME** is uninhabitable due to a **CONSTRUCTION DEFECT** or uninhabitable during work to repair a **CONSTRUCTION DEFECT**, shall be limited to those shelter costs expressly pre-approved by **US** or **OUR** designated representative.

V. Exclusions

- A. This **LIMITED WARRANTY** does not cover:
1. Any loss or damage resulting, either directly or indirectly, from the following causes, or occurring in the following situations:
 - a. Fire (unless caused by a **CONSTRUCTION DEFECT**);
 - b. Lightning;
 - c. Explosion (unless caused by a **CONSTRUCTION DEFECT**);
 - d. Riot and Civil Commotion;
 - e. Smoke (unless resulting from a **CONSTRUCTION DEFECT**);
 - f. Hail;
 - g. Aircraft;
 - h. Falling Objects;
 - i. Vehicles;
 - j. Floods;
 - k. Earthquake;
 - l. Landslide or mudslide originating on property other than the site of the **HOME** or the **COMMON ELEMENTS** or other property developed by the **BUILDER**;

- m. Mine subsidence or sinkholes;
 - n. Changes in the underground water table not reasonably foreseeable by the **BUILDER**;
 - o. Volcanic eruption; explosion or effusion;
 - p. Wind including:
 - (i). Gale force winds;
 - (ii). Hurricanes;
 - (iii). Tropical storms;
 - (iv). Tornadoes;
 - (v). Rain or water intrusion or moisture within the **HOME** resulting from any wind forces described in p. (i) – (iv) above.
 - q. Insects, animals or vermin;
 - r. Changes to the grading of the ground, or the installation or alteration of improvements such as drain or gutter outlets by anyone other than **US** or **OUR** agents, or subcontractors which results in surface drainage towards the **HOME**, or other improper drainage that permits water to pond or become trapped in localized areas or against the foundation;
 - s. Changes, additions, or alterations made to the **HOME** or the **COMMON ELEMENTS** by anyone after the **WARRANTY PERIOD** begins, except those made or authorized by **US**;
 - t. Any defect in material or workmanship supplied by anyone other than **US** or **OUR** agents, or subcontractors, including any loss or damage to the **HOME** or the **COMMON ELEMENTS** resulting from material or workmanship supplied by anyone other than **US** or **OUR** agents, or subcontractors;
 - u. Improper maintenance, negligence or improper use of the **HOME** or the **COMMON ELEMENTS** by **YOU** or anyone other than **US** that results in rot, dry rot, moisture, rust, mildew or any other damage;
 - v. Dampness or condensation due to **YOUR** failure to maintain adequate ventilation;
 - w. Damage resulting from the weight and/or performance of any type of waterbed or other furnishings which exceeds the load-bearing design of the **HOME** or the **COMMON ELEMENTS**;
 - x. Normal wear and tear or normal deterioration of materials;
 - y. Economic damages due to the **HOME'S** or the **COMMON ELEMENTS'** failure to meet expectations of the **HOMEOWNER** or **HOMEOWNERS ASSOCIATION**.
2. Any loss or damage resulting from the actual, alleged or threatened discharge, dispersal, release or escape of **POLLUTANTS**. **WE** will not cover costs or expenses arising from the uninhabitability of the **HOME** or the **COMMON ELEMENTS** or health risk due to the proximity of **POLLUTANTS**. **WE** will not cover costs, or expenses resulting from the direction of any governmental entity to test, clean-up, remove, treat, contain or monitor **POLLUTANTS**;
 3. Any loss or damage resulting from the effects of electromagnetic fields (EMF's) or radiation;
 4. Any damage to personal property that does not result from a **CONSTRUCTION DEFECT**;
 5. Any **CONSEQUENTIAL OR INCIDENTAL DAMAGES**;
 6. Any **CONSUMER PRODUCTS**;
 7. Any **CONSTRUCTION DEFECT** as to which **YOU** have not taken timely and reasonable steps to protect and minimize damage after **WE** or **OUR** authorized representative have provided **YOU** with authorization to prevent further damage;
 8. Any damage to the extent it is incurred after or as a result of **YOUR** failure to notify **US** in the manner and time required under this **LIMITED WARRANTY**;
 9. Any costs or obligations paid or incurred by **YOU** in violation of **Section VI. C.** below;

10. Any non-conformity with local building codes, regulations or requirements where the condition does not meet the definition of a **CONSTRUCTION DEFECT**. While **WE** acknowledge **OUR** responsibility to build in accordance with applicable building codes, this **LIMITED WARRANTY** does not cover building code violations in the absence of a **CONSTRUCTION DEFECT**;
 11. Any deviation from plans and specifications where the condition does not meet the definition of a **CONSTRUCTION DEFECT**.
- B. **OUR LIMITED WARRANTY** does not cover any **CONSTRUCTION DEFECT** which would not have occurred in the absence of one or more of the excluded events or conditions listed in the Exclusions above, regardless of:
1. The cause of the excluded event or condition;
 2. Other causes of the loss or damage; or
 3. Whether other causes acted concurrently or in any sequence with the excluded event or condition to produce the loss or damage.

VI. Procedure to Request US To Perform Under This LIMITED WARRANTY

If **YOU** become aware of a condition that **YOU** believe is a **CONSTRUCTION DEFECT** under this **LIMITED WARRANTY**, **YOU** have the following responsibilities:

A. Notification

YOU must notify **US** in writing as soon as reasonably possible after **YOU** become aware of a condition that **YOU** believe may constitute a **CONSTRUCTION DEFECT**, but in no event may **YOUR** written notice of a **CONSTRUCTION DEFECT** or **YOUR** written request for warranty performance be received by **US** later than thirty (30) days after this **LIMITED WARRANTY** has expired. This extended period for providing notice of a **CONSTRUCTION DEFECT** shall not operate to extend the **WARRANTY PERIOD**.

If the written notice is received by **US** more than thirty (30) days after the expiration of this **LIMITED WARRANTY**, **WE** shall have no obligation to remedy the **CONSTRUCTION DEFECT**. Because of the importance of this written notice requirement, **WE** recommend that notice always be sent by Certified Mail, return receipt requested, in order to establish a record.

B. Cooperate With US

YOU must give **US** and any third parties acting on **OUR** behalf reasonable help in inspecting, investigating, testing (including destructive testing), monitoring, repairing, replacing or otherwise correcting an alleged **CONSTRUCTION DEFECT**. Help includes, but is not limited to, granting reasonable access to the **HOME** or **COMMON ELEMENTS** for the forgoing purposes. If **YOU** fail to cooperate or provide **US** reasonable access to the **HOME** or **COMMON ELEMENTS**, **WE** will have no further obligation under this **LIMITED WARRANTY**.

C. Do Not Make Voluntary Payments

YOU agree not to make any voluntary payments or assume any obligations or incur any expenses for the remedy of a condition **YOU** believe is a **CONSTRUCTION DEFECT** without prior written approval from **US**, or other parties authorized to act on **OUR** behalf. **WE** will not reimburse **YOU** for costs incurred where **YOU** did not obtain prior written approval.

However, **YOU** may incur reasonable expenses in making repairs in an **EMERGENCY CONDITION** without prior written approval, provided the repairs are solely for the protection of the **HOME** or **COMMON ELEMENTS** from further damage or to prevent an unsafe living condition and provided **YOU** notify **US** as soon as is reasonably possible. To obtain reimbursement for repairs made during an **EMERGENCY CONDITION**, **YOU** must provide **US** with an accurate written record of the repair costs.

D. Sign A Release

When **WE** or a third party acting on **OUR** behalf have completed repairing, replacing or paying **YOU** as to any **CONSTRUCTION DEFECTS** and related damage covered by this **LIMITED WARRANTY**, **YOU** may be requested to sign a full release of **OUR** obligation for the **CONSTRUCTION DEFECTS**. The release shall be applicable to the **CONSTRUCTION DEFECTS** and shall not prevent **YOU** from notifying **US** should **YOU** become aware of a subsequent **CONSTRUCTION DEFECT**.

E. If **YOU** Disagree With **US**

If **YOU** believe **WE** have not satisfactorily responded to **YOUR** request for warranty performance or satisfactorily worked with **YOU** to resolve any other claim or dispute between **YOU** and **US**, **YOU** should provide written notice to **PWC** requesting Mediation. Upon **PWC's** receipt of written notice from **YOU**, **PWC** may review and mediate **YOUR** request. **PWC** may communicate with **YOU**, **US**, and any other individuals or entities that **PWC** believes may possess relevant information. If after forty-five (45) days, **PWC** is unable to successfully mediate **YOUR** claim or dispute, or at any earlier time when **PWC** determines that **YOU** and **WE** are at an impasse, **PWC** will notify **YOU** that **YOUR** request remains unresolved and that **YOU** may elect to initiate binding arbitration. Binding arbitration as described in the following section is the sole remedy for the resolution of disputes between **YOU** and **US**.

VII. Binding Arbitration Procedure

Following commencement of the **WARRANTY PERIOD**, any claim, controversy or dispute (hereafter collectively referred to as "dispute") between **YOU** and **US**, or parties acting on **YOUR** or **OUR** behalf, including **PWC**, and any successor, or assign of either **YOU** or **US**, which relates to or arises from this **LIMITED WARRANTY**, or the design or construction of the **HOME** or the **COMMON ELEMENTS**, or the sale of the **HOME** or transfer of title to the **COMMON ELEMENTS**, will be resolved solely by binding arbitration and not through litigation in court before a judge or jury. This agreement to arbitrate is intended to inure to the benefit of, and be enforceable by, **OUR** contractor, subcontractors, agents, vendors, suppliers, design professionals, materialmen, and any of **OUR** direct or indirect subsidiaries or related entities alleged to be responsible for any **CONSTRUCTION DEFECT**. Disputes subject to binding arbitration include, but are not limited to:

- A. Any disagreement that a condition in the **HOME** or the **COMMON ELEMENTS** is a **CONSTRUCTION DEFECT**;
- B. Any disagreement as to the method or scope of repair required to correct a **CONSTRUCTION DEFECT** or whether a **CONSTRUCTION DEFECT** has been corrected in compliance with this **LIMITED WARRANTY**;
- C. Any alleged breach of this **LIMITED WARRANTY**;
- D. Any alleged violation of consumer protection, unfair trade practice, or any other statute;
- E. Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and any other claims arising in equity or from common law;

- F. Any dispute concerning the interpretation of this arbitration provision or the arbitrability of any issue;
- G. Any dispute concerning the timeliness of **OUR** performance and/or **YOUR** notifications under this **LIMITED WARRANTY**;
- H. Any dispute as to the payment or reimbursement of the arbitration filing fee;
- I. Any dispute as to whether this **LIMITED WARRANTY**, or any provision hereof, including, but not limited to, this arbitration clause and any waiver hereunder, is enforceable;
- J. Any other claim arising out of or relating to the sale, design or construction of **YOUR HOME** or the **COMMON ELEMENTS**, including, but not limited to any claim arising out of, relating to or based on any implied warranty or claim for negligence or strict liability not effectively waived by this **LIMITED WARRANTY**.

The arbitration shall be conducted by DeMars and Associates, Ltd. (www.demarsassociates.com) pursuant to its Construction Arbitration Program ("CAP"), or by such other neutral, independent arbitration service that **PWC** shall appoint. If **YOU** object to the arbitration service appointed by **PWC**, **YOU** must so inform **PWC**, in writing, within ten (10) days of **YOUR** receipt of **PWC's** written notice informing **YOU** of the appointed arbitration service. **PWC** will then appoint an alternative neutral arbitration service provider. If **YOU** object to this alternative provider and if **YOU** and **WE** are unable to agree on another alternative, then either party may, pursuant to the applicable provisions of the Federal Arbitration Act (9 U.S.C. § 1, *et seq.*), apply to a court of competent jurisdiction to designate an arbitration service provider, which designation shall be binding upon the parties. Selection of the arbitrator shall be the responsibility of the appointed arbitration service. The rules and procedures of the arbitration service, including its rules and procedures pertaining to its selection of the arbitrator who will conduct the arbitration, that are in effect at the time the request for arbitration is submitted will be followed unless the parties expressly agree otherwise. **PWC** will obtain and provide to **YOU** and **US**, upon request, the rules and procedures of the arbitration organization appointed to administer the arbitration. The arbitration service finally appointed or designated as aforesaid shall administer the arbitration of any and all disputes required to be joined under the law.

This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by and interpreted under the Federal Arbitration Act now in effect and as it may be hereafter amended (the "FAA") to the exclusion of any inconsistent state law, regulation or judicial decision. The award of the arbitrator shall be final and binding and may be entered as a judgment in any court of competent jurisdiction.

Each party shall bear its own attorney's fees and costs (including expert's costs) for the arbitration. If **YOU** initiate the arbitration request, the arbitration filing fee and other fees charged by the arbitration service shall be divided and paid equally by **YOU** and **US**, unless **YOU** and **WE** have otherwise agreed in writing to a different allocation. If **WE** initiate the request for arbitration, **WE** shall pay the entire arbitration filing fee as well as all other fees charged by the arbitration service.

As part of any arbitration award, the arbitrator may, at his/her discretion, direct that **WE** reimburse **YOU** some or all of the arbitration filing fee and other arbitration fees **YOU** paid to the arbitration service, but under no circumstances shall **YOU** be required to reimburse **US** any portion of the arbitration filing fee and other arbitration fees **WE** paid.

Arbitration filing fees and other arbitration fees vary among arbitration service providers. Before submitting a Binding Arbitration Request Form, **YOU** may contact **PWC** to obtain information on the fees charged by the appointed arbitration service provider. The arbitration service's filing fee and other arbitration fees in effect at the time arbitration is requested shall apply.

The process for initiating arbitration is described below.

- Step 1** The Initiating Party Completes A Binding Arbitration Request Form And Mails It To PWC Along With Their Share Of The Arbitration Filing Fee. A Binding Arbitration Request Form is attached to this **LIMITED WARRANTY**. **YOUR** Binding Arbitration Request Form must be received by **PWC** no later than ninety (90) days after the **WARRANTY PERIOD** expires. Please Note that while **YOU** have ninety (90) days after the **WARRANTY PERIOD** expires to file for arbitration, this time period does not extend the **WARRANTY PERIOD** for **CONSTRUCTION DEFECTS**. Additionally, no investigation, inspection, testing, repair, replacement, or payment, nor any promise of same by **US** under this **LIMITED WARRANTY**, nor any dispute resolution efforts, shall extend the term of this **LIMITED WARRANTY** or extend or toll any statutes of limitations or any of **YOUR** rights or remedies.
- Step 2** The Arbitration Service Will Arrange For The Arbitration. The arbitrator or arbitration organization will notify **YOU** and **US** of the time, date and location of the arbitration hearing. If the dispute involves the allegation of a **CONSTRUCTION DEFECT** or **OUR** performance under this **LIMITED WARRANTY**, most often the hearing will be conducted at the **HOME** or, if applicable, the location of the **COMMON ELEMENTS**. Other disputes between **YOU** and **US** that are subject to arbitration, but which do not include a **CONSTRUCTION DEFECT** claim, may be scheduled for hearing at the **HOME** or another location within the county where the **HOME** is located. In scheduling the hearing the arbitrator will set a time and date that is reasonably convenient to all the parties.
- Step 3** The Arbitration Hearing. The parties at the arbitration hearing will include the arbitrator, **YOU**, **US** and/or a third party designated by **YOU** or **US** or acting on **YOUR** or **OUR** behalf. Any party to the proceeding may be represented at the hearing. All persons who are parties to the arbitration, as well as representatives and witnesses, are entitled to attend hearings.

After evidence is presented by **YOU**, **US** or **YOUR** or **OUR** representatives, a decision will be rendered by the arbitrator. The decision is final and binding on **YOU** and **US**. The arbitrator may grant any remedy, including statutory remedies, and other relief that the arbitrator deems just and equitable and within the scope of this **LIMITED WARRANTY** or other applicable agreements.

The arbitrator will decide any dispute between the parties, as described above. Where a **CONSTRUCTION DEFECT** is alleged, the arbitrator will determine whether the alleged **CONSTRUCTION DEFECT** exists and whether it is **OUR** responsibility. If the arbitrator finds **US** responsible for a **CONSTRUCTION DEFECT**, **WE** shall be obligated to perform in accordance with **OUR Warranty Obligations** as described in **Section II** above.

In connection with a **CONSTRUCTION DEFECT** dispute, the arbitrator retains jurisdiction and authority to decide any dispute as to the required scope of repair and the cost to repair the **CONSTRUCTION DEFECT**. In deciding such disputes, the arbitrator considers the terms of this **LIMITED WARRANTY**, any third-party evaluations, binding bids for repair work supplied by either of the parties, any estimates of diminished fair market value, and such other information submitted by the parties and deemed relevant by the arbitrator. Except where otherwise directed by the arbitrator's award, the decision to repair, replace, or to make payment to **YOU** in lieu of repair or replacement is at **OUR** or **OUR** authorized representative's sole option. The arbitrator will also render a decision as to any other claims, disputed matters or issues stated in the Binding Arbitration Request Form.

- Step 4** **OUR** Arbitration Performance Obligations. If an arbitrator concludes that **WE** are responsible for a **CONSTRUCTION DEFECT**, **WE** will perform in accordance with the arbitrator's decision within sixty (60) days from the date of the award or such greater time as may be allowed by the arbitrator's decision. Delays caused by circumstances beyond **OUR** or **OUR** representative's control shall be excused.
- Step 5** Disputes As To Compliance With The Award. If there is any dispute as to **OUR** compliance with an arbitrator's award, either party shall so inform **PWC** in writing at its mailing address specified in this **LIMITED WARRANTY**. **PWC** will mediate this dispute and if it cannot be resolved, either party may

request a compliance inspection arbitration to decide the question of compliance with the arbitration award. If it is determined that **WE** have not properly performed, **WE** will be obligated to immediately comply. As with the original arbitration award, any such subsequent arbitration rulings shall be enforceable by any court of competent jurisdiction.

VIII. General Conditions

A. Separation of This LIMITED WARRANTY From The Contract Of Sale

This **LIMITED WARRANTY** is separate and independent of the contract between **YOU** and **US** for the construction and/or sale of the **HOME** or transfer of the **COMMON ELEMENTS**. Except as otherwise expressly provided herein, the provisions of this **LIMITED WARRANTY** shall in no way be restricted or expanded by anything contained in the construction and/or sales contract or other documents between **YOU** and **US**.

B. Transfer to Subsequent HOMEOWNERS

This **LIMITED WARRANTY**, subject to all of its terms and conditions, including, but not limited to, its mandatory binding arbitration provision, will transfer to new owners of the **HOME** for the remainder of the **WARRANTY PERIOD**. **YOU** agree to provide this **LIMITED WARRANTY** to any subsequent purchaser of the **HOME** as a part of the contract of sale of the **HOME**. Please see the form "SUBSEQUENT HOME BUYER ACKNOWLEDGEMENT AND TRANSFER" contained at the end of this document.

C. Transfer of Manufacturer's Warranties

WE assign to **YOU** all the manufacturer's warranties on all appliances, fixtures and items of equipment that **WE** installed in the **HOME**. Should an appliance or item of equipment malfunction **YOU** must follow the procedures set forth in that manufacturer's warranty to correct the problem. **OUR** obligation under this **LIMITED WARRANTY** is limited to the workmanlike installation of such appliances and equipment. **WE** have no obligation for appliances and equipment defined as **CONSUMER PRODUCTS**.

D. Recovery Rights

If **WE** or a third party designated by **US** or acting on **OUR** behalf repairs, replaces or pays the cost to repair or replace **CONSTRUCTION DEFECT**, or other related damage to the **HOME** or the **COMMON ELEMENTS** covered by this **LIMITED WARRANTY**, or if **WE** elect to pay the diminished market value of the **HOME** in lieu of repair or replacement of a **CONSTRUCTION DEFECT**, **WE** are then entitled, to the extent of **OUR** cost or payment, to take over **YOUR** related rights of recovery from other people and entities, including but not limited to, other warranties and insurance. **YOU** have an obligation not to make it harder for **US** to enforce these rights. **YOU** agree to sign any papers, deliver them to **US**, and do anything else that is necessary to help **US** exercise **OUR** rights.

E. General Provisions

1. If any provision of this **LIMITED WARRANTY** is determined to be unenforceable, such a determination will not affect the remaining provisions. If this **LIMITED WARRANTY** or any provision herein is determined to be unenforceable as to a **HOMEOWNERS ASSOCIATION** or a specific **HOMEOWNER**, such a determination will not affect the enforceability of this **LIMITED WARRANTY** or such provision as to any other **HOMEOWNERS ASSOCIATION** or any other **HOMEOWNER**. The issue of enforceability, as well as all other issues, will be determined by Binding Arbitration as provided for in this **LIMITED WARRANTY**.
2. This **LIMITED WARRANTY** and the binding arbitration process are binding on **YOU** and **US**. It is also binding on **YOUR** and **OUR** heirs, executors, administrators, successors, and assigns.

3. As may be appropriate, the use of the plural in this **LIMITED WARRANTY** includes the singular, and the use of one gender includes all genders.

IX. Definitions

BUILDER means the individual, partnership, corporation or other entity which participates in the Warranty Program administered by the Professional Warranty Service Corporation and provides **YOU** with this **LIMITED WARRANTY**. Throughout this document the **BUILDER** is also referred to as "**WE**", "**US**" and "**OUR**".

COMMON ELEMENTS means the property as specified in the recorded Covenants, Conditions and Restrictions as common area and any other property as to which the **HOMEOWNERS ASSOCIATION** has standing under the law to make a claim. This may include, but is not limited to, streets, slopes, the structure or components of enclosure or other parts of the **HOME**, corridors, lobbies, vertical transportation elements, rooms, balconies, clubhouses or other spaces that are for the common use of the residents of the development in which the **HOME** is located. **SYSTEMS** serving two or more **HOMES**, and the outbuildings that contain parts of such **SYSTEMS** are also included in this definition.

CONSEQUENTIAL OR INCIDENTAL DAMAGES means any loss or injury **other than**:

- A. **OUR** cost to correct a **CONSTRUCTION DEFECT** including the correction of those surfaces, finishes and coverings damaged by the **CONSTRUCTION DEFECT**;
- B. **OUR** cost to repair or replace, at market value, furniture, carpet or personal property damaged by the **CONSTRUCTION DEFECT**;
- C. **OUR** cost to repair damage to the **HOME** which occurs in the course of **OUR** repair or replacement of a **CONSTRUCTION DEFECT**;
- D. The reasonable cost of the **HOMEOWNER'S** alternative shelter when the **HOME** is temporarily uninhabitable due to a **CONSTRUCTION DEFECT** and while the **HOME** is rendered uninhabitable by the work necessary to repair a **CONSTRUCTION DEFECT**.

Time **YOU** take off from work and/or **YOUR** inability to work from the **HOME** as a result of a **CONSTRUCTION DEFECT** or the repair/replacement of a **CONSTRUCTION DEFECT**, are among those damages considered "**CONSEQUENTIAL OR INCIDENTAL DAMAGE**" and are excluded under this **LIMITED WARRANTY**. Diminished fair market value of the **HOME** is also among those damages considered "**CONSEQUENTIAL OR INCIDENTAL DAMAGE**" and is excluded under this **LIMITED WARRANTY** notwithstanding that **WE** reserve the right to elect to pay **YOU** diminished fair market value in lieu of **OUR** repair, replacement or payment for the cost to repair or replace a **CONSTRUCTION DEFECT**.

CONSTRUCTION DEFECT(S) means a condition in the materials or workmanship used in constructing the **HOME** and/or the **COMMON ELEMENTS** that:

- materially affects the structural integrity of the **HOME** or the **COMMON ELEMENTS**; or
- has an obvious and material negative impact on the appearance of the **HOME** or the **COMMON ELEMENTS**; or
- jeopardizes the life or safety of the occupants of the **HOME** or the users of the **COMMON ELEMENTS**; or
- results in the inability of the **HOME** or the applicable **COMMON ELEMENTS** to provide the functions that can reasonably be expected in such a **HOME** or **COMMON ELEMENT**.

CONSUMER PRODUCT means any piece of equipment, appliance or other item that is a **CONSUMER PRODUCT** for purposes of the Magnuson-Moss Warranty Act (15 U.S.C. § 2301, *et seq.*) installed or included in the **HOME**. Examples of Consumer Products include, but are not limited to, dishwasher, garbage disposal, gas or electric cook-top, range, range hood, refrigerator or refrigerator/freezer combination, gas oven, electric oven, microwave oven, trash compactor, automatic garage door opener, clothes washer and dryer, hot water heater, solar water heater, solar water heating panels, furnace, boiler, heat pump, air conditioning unit, humidifier, thermostat, and security alarm system.

EMERGENCY CONDITION means an event or situation that creates the imminent threat of damage to the **HOME** or **COMMON ELEMENTS**, or results in an unsafe living condition due to a **CONSTRUCTION DEFECT**

that **YOU** (or as applicable, the **HOMEOWNERS ASSOCIATION**) become aware of at a point in time other than **OUR** normal business hours and **YOU** were unable to obtain **OUR** or **OUR** authorized representative's prior written approval to initiate repairs to stabilize the condition or prevent further damage.

HOME means a single family residence either attached or detached covered by this **LIMITED WARRANTY** and the land on which it sits, or a condominium or cooperative unit in a multi-unit residential structure/building covered by this **LIMITED WARRANTY**, and the land on which it sits, except to the extent such unit, structure/building or land is part of the **COMMON ELEMENTS**.

HOME BUILDER'S LIMITED WARRANTY means only this express warranty document provided to **YOU** by **US**.

HOMEOWNER means the first person(s) to whom a **HOME** (or a unit in a multi-unit residential structure/building) is sold, or for whom such **HOME** is constructed, for occupancy by such person or such person's family, and such person's(s') successors in title to the **HOME**, or mortgagees in possession and any representative of such person(s) who has standing to make a claim on that person(s) behalf, including any class representative or **HOMEOWNERS ASSOCIATION** making a claim in a representative capacity.

HOMEOWNERS ASSOCIATION means a profit or nonprofit corporation, unincorporated association, organization, partnership, assessment district, limited liability company, limited liability partnership or other entity of any kind that owns, manages, maintains, repairs, administers, or is otherwise responsible for and has standing to make a claim as to any part of the **COMMON ELEMENTS**.

POLLUTANTS means all solid, liquid, or gaseous irritants or contaminants. The term includes, but is not limited to, petroleum products, smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, radon gas, and waste materials, including materials to be recycled.

PWC means Professional Warranty Service Corporation which administers the warranty program in which **WE** participate. As such, **PWC** assumes no other liabilities in connection with this **LIMITED WARRANTY**. The **PWC** mailing address is: **Professional Warranty Service Corporation**
P.O. Box 800 Annandale, VA 22003-0800

SYSTEMS means the following:

- (a) Plumbing system - gas supply lines and fittings; water supply, waste and vent pipes and their fittings; septic tanks and their drain fields; and water, gas and sewer services piping and their extensions to the tie-in of a public utility connection or on-site well and sewage disposal system.
- (b) Electrical system - all wiring, electrical boxes, switches, outlets, and connections up to the public utility connection.
- (c) Heating, Cooling, and Ventilation system - all duct-work; steam, water and refrigerant lines; and registers, connectors, radiation elements and dampers.

WARRANTY PERIOD shall commence on the date the title to the **HOME** is transferred to the first **HOMEOWNER**. Notwithstanding anything to the contrary set forth in this **LIMITED WARRANTY**, the **WARRANTY PERIOD** for the **COMMON ELEMENTS** of an individual structure/building commences on the date the title for the first **HOME** in the structure/building is transferred to the first **HOMEOWNER** or, as concerns clubhouses or outbuildings or other **COMMON ELEMENTS** not part of the **HOME**, the earlier of the date of substantial completion or the date title to these structures is transferred to the **HOMEOWNERS ASSOCIATION**. The dates the **WARRANTY PERIOD** begins and ends are indicated on the Limited Warranty Validation Form which is attached to and made part of this **LIMITED WARRANTY**.

WE, US, OUR means the **BUILDER**.

YOU, YOUR means the **HOMEOWNER** and the **HOMEOWNERS ASSOCIATION**.

BINDING ARBITRATION REQUEST FORM

Prior to requesting binding arbitration under the terms of the HOME BUILDER'S LIMITED WARRANTY, the initiating party should have sent the other party a clear and specific written request outlining the claim(s) or dispute(s) that are being submitted for decision through binding arbitration. If you have taken this step and believe the other party has not satisfactorily responded in accordance with the HOME BUILDER'S LIMITED WARRANTY, fill out this form and send it to PWC along with the arbitration filing fee. Be sure to attach a copy of all pertinent correspondence between you and the other party relative to the issue.

The information you need to fill out this form can be found on the Limited Warranty Validation Form. However, if you do not know the answers to any questions, write "Don't Know." Please do not leave any item blank.

Homeowner name(s): _____

Address: _____

_____ CITY STATE ZIP

Home Phone :(_____) Business Phone:(_____)

LIMITED WARRANTY #: _____ Date Warranty Period begins: _____

Builder's Name: _____

Address: _____

Business Phone: (_____) _____

Describe the dispute that you wish to submit to binding arbitration under the terms of the HOME BUILDER'S LIMITED WARRANTY. If the dispute is relative to a construction defect please include information on when the construction defect(s) first occurred or when you first noticed the construction defect. (Attach additional sheets, if necessary).

I/we are hereby requesting PWC to initiate a binding arbitration to resolve the dispute described herein above.

Signature Date Signature Date

INSTRUCTIONS: Photo-copy this form and complete the fields.
Obtain the required arbitration filing fee by contacting PWC at 1-800/850-2799.
Send this Binding Arbitration Request Form and the arbitration filing fee to:

PROFESSIONAL WARRANTY SERVICE CORPORATION
P. O. BOX 800
ANNANDALE, VIRGINIA 22003-0800

SUBSEQUENT HOME BUYER ACKNOWLEDGMENT AND TRANSFER

Any coverage remaining under the **HOME BUILDER'S LIMITED WARRANTY** applicable to the home specified on the Limited Warranty Validation Form is transferred to the subsequent homeowner.

The undersigned home buyer(s) hereby acknowledge and agree:

I/we acknowledge that I/we have reviewed, understand and agree to all the terms of the **HOME BUILDER'S LIMITED WARRANTY** document (PWC Form No. 117).

I/we understand and acknowledge that Professional Warranty Service Corporation ("PWC") is not the warrantor of the **HOME BUILDER'S LIMITED WARRANTY**.

I/we understand that I/we am/are responsible for the maintenance of the home including maintenance of the grade of the land surrounding the home, and that the Builder shall not be responsible for any defect or damage to the home which is the result of my/our failure to maintain the home.

I/we acknowledge and agree to the Binding Arbitration Procedure contained in the **HOME BUILDER'S LIMITED WARRANTY**.

Signature(s) of Subsequent Home Buyer(s): _____

Date: _____

Date: _____

Print above name(s): _____

Re-issuance of the Limited Warranty Validation Form with the name(s) of the new Home Buyer(s) is not necessary for you to receive the coverage remaining under the **HOME BUILDER'S LIMITED WARRANTY**. Upon receipt of this signed form, PWC will update its records to reflect the name(s) of the new homeowner(s). If you want PWC to issue another Limited Warranty Validation Form with your name(s) on the form, please check the box below and send a check in the amount of \$20.00 made payable to "PWC" with your submission of this form.

YES, re-issue the Limited Warranty Validation Form in the above name(s) (check box) Initial _____

Address of Home: _____

Limited Warranty No.: _____

INSTRUCTIONS: Photo-copy this form. Provide information requested, sign, fill in Limited Warranty # in the space provided (this number is provided on the Limited Warranty Validation Form), and provide a telephone number where you can be reached (_____) _____. If you want the Limited Warranty Validation Form reissued in your name, enclose your check to PWC in the amount of \$20.00 (check box above and initial). To reach PWC by phone, call: 1-800/850-2799.

Mail this form and a photocopy of applicable settlement/closing documents indicating transfer of title, to:

PROFESSIONAL WARRANTY SERVICE CORPORATION P.O. BOX 800 ANNANDALE, VA 22003-0800