

**AMENDMENT 1 TO  
DEVELOPER'S PUBLIC REPORT  
FOR A CONDOMINIUM**

CONDOMINIUM PROJECT NAME:	KAMALU KB CONDOMINIUM
PROJECT ADDRESS:	Lot 2 of the Nonou Rise Estates Subdivision, Wailua, Hawaii 96746
REGISTRATION NUMBER:	7155 (partial conversion)
EFFECTIVE DATE OF REPORT:	<b>March 11, 2013</b>
THIS AMENDMENT:	<input checked="" type="checkbox"/> Must be read together with <input checked="" type="checkbox"/> Developer's Public Report dated <u>October 21, 2011</u> <input type="checkbox"/> Amended Report dated _____ <input type="checkbox"/> Supersedes all prior amendments: Includes all prior amendment(s) and <u>must</u> be read together with <input type="checkbox"/> Developer's Public Report dated _____ <input type="checkbox"/> Amended Report dated _____
DEVELOPER(S):	KAMALU KB, LLC, a Hawaii limited liability company

**Preparation of this Amendment**

The Developer prepared this amendment pursuant to the Condominium Property Act, Section 514B-56, Hawaii Revised Statutes (HRS), as amended from time to time. Section 514B-56, HRS, requires that after the Commission has issued an effective date for the Developer's Public Report, if there are any changes, either material or pertinent changes, or both, regarding the information contained in or omitted from the Developer's Public Report, or if the developer desires to update or change the information set forth in the Developer's Public Report, the developer shall immediately submit to the Commission an amendment to the Developer's Public Report or an amended Developer's Public Report clearly reflecting the change, together with such supporting information as may be required by the Commission, to update the information contained in the Developer's Public Report.

The law defines "material change" as used in parts IV and V of Chapter 514B, HRS means 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 law defines "pertinent change" to mean, as determined by the commission, a change not previously disclosed in the most recent public report that renders the information contained in the public report or in any disclosure statement inaccurate, including, but not limited to (1) The size, construction materials, location, or permitted use of a unit or its appurtenant limited common element; (2) The size, use, location, or construction materials of the common elements of the project; or (3) The common interest appurtenant to the unit. A pertinent change does not necessarily constitute a material change.

The filing of an amendment to the Developer's Public Report or an amended Developer's Public Report, in and of itself, shall not be grounds for a purchaser to cancel or rescind a sales contract. A purchaser's right to cancel or rescind a sales contract shall be governed by sections 514B-86 and 514B-87, HRS, the terms and conditions of the purchaser's contract for sale, and applicable common law.

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This Amendment 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 amendment to the 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, material changes, or pertinent changes 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.

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 amendment may be used by the Developer for promotional purposes only if it is used with the last Developer's Public Report in its entirety.

Prospective purchasers and purchasers are encouraged to read this amendment carefully and to seek professional advice.

Summary of Changes from Earlier Developer's Public Report are Described Beginning on the Next Page

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Summary of Changes from Earlier Developer's Public Report.

This summary contains a general description of the changes, if any, made by the developer since the last Developer's Public Report was issued an effective date. It is not necessarily all inclusive. Prospective purchasers and purchasers must read this amendment together with the last Developer's Public Report with the effective date as noted on the top of page 1 if they wish to know the specific changes that have been made.

Changes made are as follows (include a description of what the change is and page number and or exhibit alphabet or number; additional pages may be used):

1. Unit B and Unit C have been consolidated into one unit and is hereafter designated as Unit B.
2. The Condominium Map has been amended to note the consolidation of Units B and C into one unit and is designated as Unit B.
3. The allocation of land coverage of Unit A and Unit B has been changed as follows:  
Unit A – 40%; and Unit B – 60%.
3. A First Amendment To Declaration of Condominium Property Regime of Kamalu KB Condominium is recorded as Document No. A-47220694, to note items 1, 2 and 3 above.

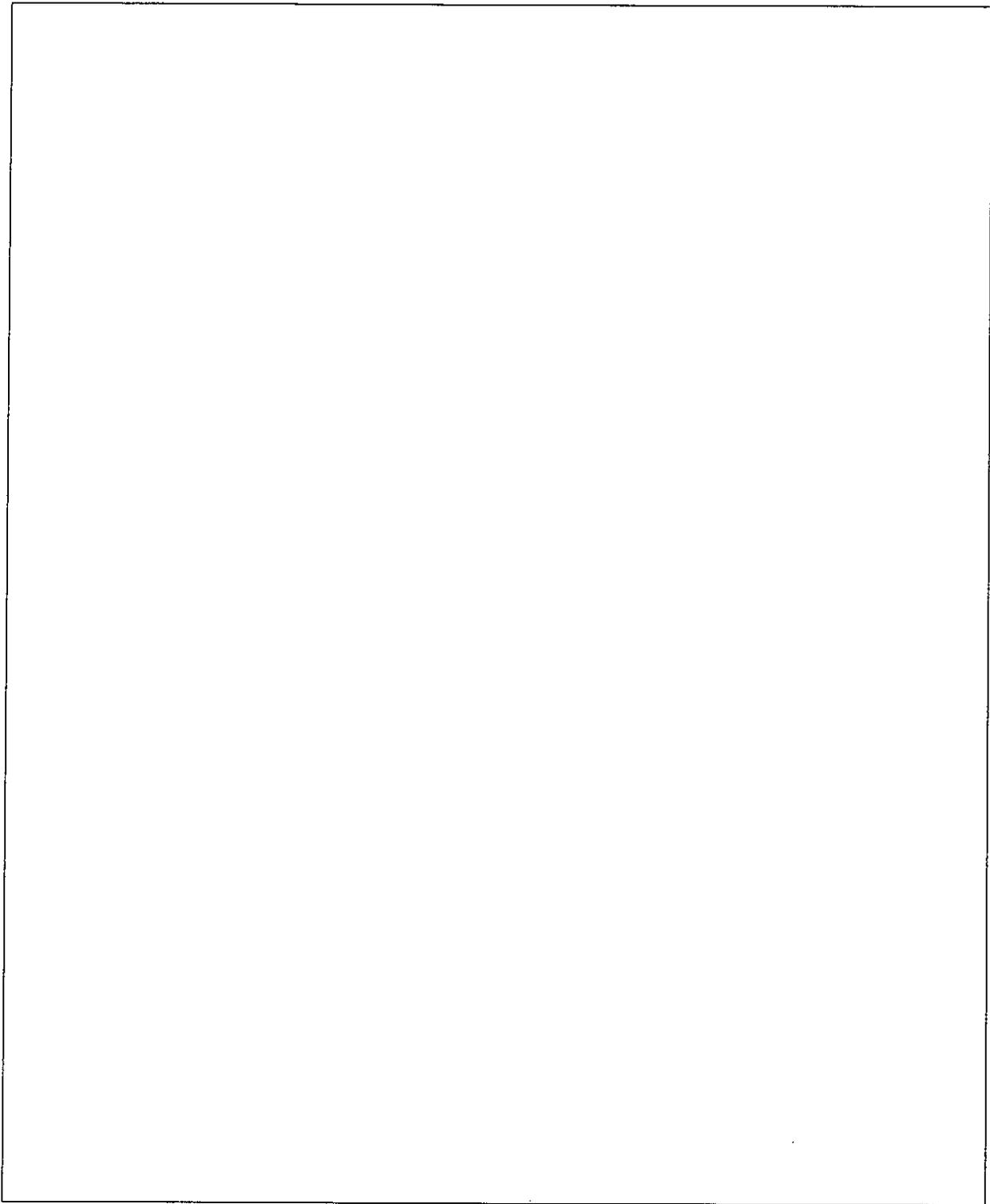
Pursuant to the foregoing, the following changes are made to the Developer's Public Report:

- A. All references pertaining to Unit C have been deleted from pages 3, 6, 18, Exhibits "A", "B", "C" and "J".
- B. Page 10 is amended to note the recording of the First Amendment to the Declaration of Condominium Property Regime, and the amendment to the Condominium Map.
- C. Exhibit "E" is amended to note the recording of the First Amendment to Declaration of Condominium Property Regime.
- D. Exhibit "N" is amended to change the allocation of land coverage.

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Changes continued:



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The Developer declares subject to the penalties set forth in Section 514B-69, HRS, that this project continues to conform 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, as amended, 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 as amended, 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 as amended and the exhibits attached to this report (if any) as amended 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 as amended 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 as amended at least 30 days prior to the anniversary date of the effective date of this report.

KAMALU KB, LLC  
a Hawaii limited liability company

\_\_\_\_\_  
Printed Name of Developer

  
\_\_\_\_\_  
Duly Authorized Signatory\*

11-6-12  
\_\_\_\_\_  
Date

STEVEN LEE, Its Manager  
\_\_\_\_\_  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, \_\_\_\_\_ County of Kauai

Planning Department, \_\_\_\_\_ County of Kauai

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

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# 1. THE CONDOMINIUM PROJECT

## 1.1 The Underlying Land

Fee Simple or Leasehold Project	<input checked="" type="checkbox"/> Fee Simple	<input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner	N/A	
Address of Project	Lot 2 of the Nonou Rise Estates Subdivision, Wailua, Hawaii 96746	
Address of Project is expected to change because	New addresses will be assigned by the County as houses are constructed.	
Tax Map Key (TMK)	(4) 4-2-003-051	
Tax Map Key is expected to change because	CPR numbers will be added to the current tax map key number.	
Land Area	5.781 acres	
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	N/A	

## 1.2 Buildings and Other Improvements

Number of Buildings	1 on Unit A; 3 on Unit B
Floors Per Building	Unit A – one floor; Unit B residence – two floors
Number of New Building(s)	0
Number of Converted Building(s)	4 conversion
Principal Construction Materials (concrete, wood, hollow, tile, steel, glass, etc.)	Wood

## 1.3 Unit Types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc.)	Total Area
A	1	2/1	1,120 sq. ft.	110 sq. ft.	Deck and porch	1,230 sq. ft.
B	1	3/4	4,850 sq. ft.	1,181 sq. ft.	Lanai, landing, storage	6,031 sq. ft.
B-1	1	0/0	0	228 sq. ft.	Shed	228 sq. ft.
B-2	1	0/0	0	272 sq. ft.	Pergola	272 sq. ft.
See Exhibit "A"						

3	<b>Total Number of Units</b>
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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.

**1.13 Uses Permitted by Zoning and Zoning Compliance Matters**

Uses Permitted by Zoning					
	Type of Use	No. of Units	Use Permitted by Zoning		Zoning
<input type="checkbox"/>	Residential		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/>	Commercial		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/>	Mix Residential/Commercial		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/>	Hotel		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/>	Timeshare		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/>	Ohana		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/>	Industrial		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input checked="" type="checkbox"/>	Agricultural	2	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Open
<input type="checkbox"/>	Recreational		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input checked="" type="checkbox"/>	Other (specify):		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Open
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 damages 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"/>

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:

### 3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS

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

#### 3.1 Declaration of Condominium Property Regime

The Declaration of Condominium Property Regime contains a description of the land, buildings, units, common interests, common elements, limited common elements, and other information relating to the condominium project.		
Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	May 19, 2011	2011-091061

Amendments to Declaration of Condominium Property Regime		
Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	November 15, 2012	A-47220694

#### 3.2 Bylaws of the Association of Unit Owners

The Bylaws of the Association of Unit Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Unit Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters that affect how the condominium project will be governed.		
Land Court or Bureau of Conveyances	Date of Document	Document Number
Bureau of Conveyances	May 19, 2011	2011-091062

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	
Bureau of Conveyances Map Number	4999
Dates of Recordation of Amendments to the Condominium Map:	

## 6. MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT

1. The use of hazardous material is restricted except as provided under Article H of the Declaration and all hazardous materials laws.
2. For the purpose of Exhibit "J" of the Final Condominium Public Report the Developer has not conducted a reserve study in accordance with § 514B-148, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.
3. Purchasers should be aware of the following zoning restrictions:
  - (a) The Project is located within the County of Kauai Open District. Property within the Open district is restricted to 10% lot coverage.
  - (b) The available land coverage and developable area shall be allocated to each Unit as set forth in Exhibit "N".
  - (c) Purchaser's should be aware of the matters concerning the Project's compliance with zoning requirements as set forth in the Developer's Zoning Compliance Declaration attached hereto as Exhibit "O".
4. For as long as the Project is within the State Agricultural District and subject to the farm dwelling requirement set forth in HRS Section 205-4.5, all residential dwelling units must meet the requirements of a farm dwelling.

In order for any purchaser to obtain a building permit to construct a single family residential unit (farm dwelling), the County of Kauai will require the purchase to sign a Farm Dwelling Agreement in the form attached hereto as Exhibit "I".

In addition, Section K.2. of the Declaration imposes a duty of each unit owner to bear an equal burden proportionate to the unit owner's respective appurtenant interest in the common area for the cost of maintaining agricultural activities on the Project that are satisfactory to the Planning Department of the County of Kauai and that will allow the issuance of a Farm Dwelling Agreement and corresponding building permit to all of the units with the Project. See Section K.2. of Exhibit "B", Alteration of Project.

5. Portions of the Project are located within the AE Zone and the Floodway areas of Kalama Stream as shown on the Condominium Map and the Flood Insurance Rate Map No. 1500020211E. All Development in these special flood hazard areas need to comply with the County's Flood Plain Management Ordinance set forth in Chapter 15 of the Kauai County Code.
6. Unit A is subject to Easements A and B as shown on the Condominium Map, for access and utility purposes in favor of Lot 1 and Unit B.
7. Unit A is subject to Easement W-1, as shown on the Condominium Map for waterline purposes in favor of Lot 1 and Unit B.
9. Unit B is subject to Easements A and B as shown on the Condominium Map for access and utility purposes in favor of Lot 1.

- 10 Purchasers should be aware that all of the condominium Units are subject to the restrictions contained in that certain Declaration of Covenants and Restrictions, a summary of which is attached hereto as Exhibit "P".
11. Purchasers should be aware that all of the condominium Units are subject to an assessment to maintain and repair Easements A, B and C as set forth in the Nonou Rise Estates Easement Declarations. To date the Nonou Rise Estates Easement Association has not assessed any Lot to maintain or repair any easement. An assessment may be made in the future but, the Developer is unable to provide an estimate as to when or the amount of any future assessment. The Project's percentage of these assessments is 30% whenever such assessments are made.

## EXHIBIT "A"

### A. UNIT DESCRIPTIONS:

The project contains two (2) units, described as follows:

1. Unit A located as shown on the Condominium Map, consists of a two-story residential constructed primarily of wood on a post and pier foundation. It contains two bedrooms, one bathroom, a living room, kitchen and office. It has a net living area of 1,120 square feet, a deck and porch with an area of 110 square feet, for a total of 1,230 square feet.

2. Unit B, B-1 and B-2 located as shown on the Condominium Map, consists of the following:

(a) Unit B is a two-story residential structure constructed primarily of wood on a post and pier foundation. It contains 3 bedrooms, 4 bathrooms, a living room, family room, laundry area, meditation room, and a studio. It has a net living area of 4,850 square feet, with a lanai and landings with an area of 592 square feet, a storage area of 589 square feet, for a total area of 6,031 square feet.

(b) Unit B-1 is a shed constructed primarily of wood, with an area of 228 square feet.

(c) Unit B-2 is Pergola constructed primarily of wood, with an area of 272 square feet.

NOTE: THE FLOOR AREAS ARE APPROXIMATE ONLY. THE DECLARANT MAKES NO REPRESENTATION OR WARRANTIES WHATSOEVER AS TO THE FLOOR AREA OF A PARTICULAR UNIT.

### B. UNIT LOCATIONS:

Units A and B are located as shown on the Condominium Map.

### C. UNIT ACCESS TO PUBLIC ROAD:

1. Unit A has access across its appurtenant limited common element and Easements A, B and C for access and utility purposes to a government road to-wit: Kamalu Road.

2. Unit B has access across its appurtenant limited common element and Easements A, B and C for access and utility purposes to a government road to-wit: Kamalu Road.

### D. COMMON ELEMENTS:

The common elements of the project shall specifically include, but are not limited to, the following:

1. The land described in Exhibit "A" attached to the Declaration in fee simple.

2. All central and appurtenant installations for common services, including power, light, water, telephone and sewer.

3. Any and all apparatus and installations of common use and all other parts of the project necessary or convenient to its existence, maintenance and safety, or normally in common use.

4. Easements A, B and C as shown on the Condominium Map.

E. LIMITED COMMON ELEMENTS:

Units A and B shall have appurtenant thereto easement for the exclusive use of certain limited common elements as follows:

1. Unit A. Unit A shall have appurtenant to it a limited common element which consists of the land area under and surrounding Unit A, contains approximately 1.399 acres as designated on the Condominium Map and described in Exhibit 1 to the Declaration, and is reserved for the exclusive use of Unit A for the support of the building and other improvements comprising Unit A, and for the purposes described in the Project Documents.

2. Unit B. Unit B shall have appurtenant to it a limited common element which consists of the land area under and surrounding Unit B contains approximately 4.382 acres as designated on the Condominium Map and described in Exhibit 2 to the Declaration, and is reserved for the exclusive use of Unit B for the support of the building and other improvements comprising Unit B, and for the purposes described in the Project Documents.

**EXHIBIT "B"**

**PARKING PLAN**

Units A and B shall provide a minimum of two (2) parking spaces within the limited common element appurtenant to their respective units.

## EXHIBIT "C"

### ALTERATION OF PROJECT

1. Provided that the unit owner satisfies the applicable terms and conditions of the Project Documents and obtains all of the necessary governmental permits, each unit owner shall have the right at his sole option at any time and from time to time, as hereinafter set forth, without the consent and/or approval of the owner of any other unit or any other persons or entity (unless such consent is required by any governmental agency, in which case it shall be promptly given), to construct, reconstruct, repair, maintain, improve, renovate, remodel, make additions to, enlarge, remove, replace, alter, restore or use the improvements to or in his unit or portions thereof or upon or within any limited common elements or easements appurtenant to his unit (collectively, the foregoing are referred to as "alterations"). Each unit owner who makes such alterations (hereinafter referred to as the "Altering Owner") shall have the right without the consent or joinder of any other person to amend this declaration and the Condominium Map to accomplish any such alterations. If required by the Act, promptly upon completion of such alterations the Altering Owner shall duly record such amendment to this declaration in the Bureau of Conveyances, together with a complete set of the floor plans of such unit as so altered, certified by a registered architect or professional engineer to fully and accurately depict the altered portions of the property as built. All existing unit owners and all future unit owners and their mortgagees, by accepting an interest in a unit, consent to all such alterations and agree to give and shall be deemed to have given the Altering Owner a power of attorney to execute an amendment to the declaration solely for the purpose of describing the alterations to such unit in the declaration so that the Altering Owner shall hereafter have a power of attorney from all the other unit owners to execute such amendment to the declaration. This power of attorney shall be deemed coupled with each owner's interest in his unit (including his common interest) and shall be irrevocable. If, despite the provisions of this paragraph, any governmental agency shall require some or all of the owners of units in the Project (other than the Altering Owner) to sign the necessary governmental permit application or related documents, then all of the other unit owners shall be required to sign any such permit applications or related documents (including authorizations allowing the Altering Owner to sign such governmental permits on behalf of such other owners) as may be necessary to allow a unit owner to obtain the governmental permit authorized by this paragraph. Any such unit owner who wrongfully refuses to sign such permits or provide the Altering Owner with the necessary authorizations: shall be liable to the Altering Owner for all such damages (including costs and attorneys' fees) incurred by the Altering Owner as a result of such refusal; and shall be subject to such other legal and/or equitable remedies as may be available to the Altering Owner.

2. H.R.S. Chapter 205 may require that the Condominium Houses located within the Project qualify and be used as Farm Dwellings. If so, each unit owner will be required to enter into an agreement with the County of Kauai certifying that the Farm Dwelling will be used in connection with a farm or where agricultural activity provides income to the family occupying the Farm Dwelling. In addition, the Planning Department of the County of Kauai may not allow any Farm Dwelling to be constructed after the first Farm Dwelling within the Project unless the Planning Department inspects the Project to confirm whether agricultural activities are being conducted on the Project in accordance with H.R.S. Chapter 205. In such case, each unit owner in the Project will be required to bear an equal burden proportionate to the unit owner's respective appurtenant interest in the common area, for the cost of maintaining agricultural activities on the Project that are satisfactory to the Planning Department of the County of Kauai and that will allow the issuance of a Farm Dwelling Agreement and corresponding building

permit to all of the units within the Project. Any assessment that may be necessary to maintain agricultural activities pursuant to this paragraph may be imposed upon each unit in accordance with the Bylaws as a common expense of the association in connection with the operation of the Project.

3. Any alteration of a unit pursuant to Paragraph K of the Declaration shall be subject to the following conditions:

(a) All such alterations shall conform with all applicable governmental regulations, laws and ordinances.

(b) Such alterations may decrease or increase the size of improvements located on or within the unit's appurtenant limited common element, provided that no alteration shall extend or place such improvements outside of the limits of the unit's appurtenant limited common element.

(c) All such alterations shall be at the sole expense of the unit owner making the change and shall be completed within eighteen (18) months of the issuance of all necessary governmental permits for the commencement thereof and in a manner that will not unreasonably interfere with any other unit owner's use of his unit.

(d) With the prior consent of the Board of Directors, the owner of the altered unit, at such owner's sole expense, shall have the right to: utilize, relocate, construct, reconstruct, realign and/or develop additional, central and appurtenant installations for services to the unit affected by such alteration for electricity, sewer and other utilities and services; and when necessary, add, delete, relocate, realign, designate and grant easements and rights-of-way over, under and on the common elements as necessary or desirable in connection therewith. Provided, however, that no work done pursuant to this paragraph shall cause any unreasonable interruption in the service of such utilities to any other part of the Project, nor shall it unreasonably interfere with any other unit owner's use or enjoyment of his unit.

4. Each and every conveyance, lease and mortgage or other lien made or created on any unit and all common interests, limited common elements, and other appurtenances thereto shall be subject to the provisions of this paragraph and any lease of a unit shall reserve to all unit owners the rights set forth in this paragraph.

5. If, despite the provisions of Paragraph K to the Declaration, any governmental agency shall require some or all of the Owners of Units in the Project (other than the Altering Owner) to sign any governmental permit application or related documents, then all of the other Unit Owners shall sign any such permit applications or related documents (including authorizations allowing the Altering Owner to sign such governmental permits on behalf of such other Owners) as may be necessary to allow an Altering Owner to obtain the governmental permit authorized by said paragraph K.5. Any such Unit Owner who wrongfully refuses to sign such permits or provide the Altering Owner with the necessary authorizations shall be liable to the Altering Owner for all such damages (including costs and attorneys' fees) incurred by the Altering Owner as a result of such refusal, and shall be subject to such other legal and/or equitable remedies as may be available to the Altering Owner.

6. When applying for or submitting Farm Dwelling Agreements, building permits, use permits, zoning permits or any other land use permits with governmental agencies, the governmental agency may require some or all of the owners of the Project to sign the permit forms. In such case, all unit owners shall be required to sign such permit applications and

related documents as may be necessary for any unit owner to obtain such permits, so long as the requesting unit owner has complied with the Condominium Documents.

7. The issuance of an effective date for the Condominium Public Report should not be construed to mean that all governmental laws, ordinances and regulations have been complied with and all subsequent development and use shall comply with applicable governmental laws, ordinances and regulations. Additionally, the creation of the Condominium Property Regime does not mean that the land has met the subdivision requirements of the County. As such, certain facilities and improvements normally associated with County approved subdivisions may not be necessarily included as part of this Project.

8. The owner of each unit shall be allowed to construct, place and/or maintain the following Improvements within the limited common element appurtenant to the owner's unit:

(a) The owners of Units A and B shall each be entitled to construct, place, and/or maintain one Condominium House; two (2) Agricultural Buildings; one garage; fences; walls; landscaping; roads; walkways; recreational facilities; underground utilities; wells; parking areas; patios; and other improvements allowed by the Board. No unit owner shall be entitled construct a Guest House.

(b) The right to construct, place and/or maintain Improvements and other uses on all Units shall be further restricted by the provisions contained in the CZO, in the Restrictive Covenants, and in this Declaration, including but not limited to the following: the location of Buildings and Structures from property lines and Unit boundary lines are subject to the setback requirements contained in the CZO, Restrictive Covenants, and this Declaration; the height of Buildings and Structures are subject to the height limitations contained in the CZO and the Restrictive Covenants; the location of Buildings and Structures from each other are subject to the set-backs contained in the CZO and Restrictive Covenants; and the amount of land coverage within a unit are subject to the restrictions contained in the CZO, the Restrictive Covenants, and this Declaration.

**EXHIBIT "E"**

**ENCUMBRANCES AGAINST TITLE**

1. Possible rollback or retroactive property taxes. Reference is made to the Department of Taxation, County of Kauai.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Land Patent Grant No. 8620:  

"Also, excepting and reserving the waters and all riparian and other rights in or to the stream aforesaid and in or to the streams passing over and across said lot."
3. Building setback line and drainageway shown on survey map dated December 18, 1989, prepared by Wayne T. Wada, Registered Professional Land Surveyor.
4. Location of the boundary of Kalama Stream and the effect, if any, upon the area of the land described herein, and the free flowage thereof.
5. RIGHT-OF-ENTRY to CITIZENS UTILITIES COMPANY dated February 22, 1991, recorded as Document No. 91-042805, granting a right-of-entry for building, constructing, repairing, maintaining and operating pole and wire lines, and/or underground lines, etc.
6. The terms and provisions contained in the following:  

DECLARATION dated June 28, 1991, recorded as Document No. 91-090301.

JOINDER TO DECLARATION OF COVENANTS AND RESTRICTIONS NONOU RISE ESTATES dated October 7, 1991 recorded as Document No. 91-159455.
7. Designation of EASEMENT "A" as shown on subdivision map prepared by Wayne T. Wada, Land Surveyor, approved by the County of Kauai on January 11, 1991.
8. Designation of EASEMENT "B" as shown on subdivision map prepared by Wayne T. Wada, Land Surveyor, approved by the County of Kauai on January 11, 1991.
9. Easement "H" as shown on the Tax Map.
10. The terms and provisions contained in the following:  

NONOU RISE ESTATES EASEMENT DECLARATION dated October 7, 1991, recorded as Document No. 91-159456.

The foregoing includes, but is not limited to, matters relating to Assessments and Allocation of Costs.
11. GRANT to CITIZENS UTILITIES COMPANY, whose interest is now held by KAUAI ISLAND UTILITY COOPERATIVE, dated February 11, 1992, recorded as Document No. 92-074312, granting a right and easement for utility purposes.

12. The terms and provisions contained in the FARM DWELLING AGREEMENT dated October 25, 1999, recorded as Document No. 99-189698, by and between KAREN MAVEC and GRAEME MARSH, and COUNTY OF KAUAI PLANNING DEPARTMENT.
13. MORTGAGE dated June 8, 2010, in favor of KOKUA VISIONARY INVESTMENTS, LLC, a Hawaii limited liability company, recorded as Document No. 2010-106224.
14. The terms and provisions contained in the following:  
  
DECLARATION OF THE CONDOMINIUM PROPERTY REGIME OF KAMALU KB CONDOMINIUM dated May 19, 2011, and recorded as Document No. 2011-091061.  
  
Condominium Map No. 4999 and any amendments thereto.  
  
FIRST AMEMDMENT TO DECLARATION OF CONDOMINIUM PROPERTY REGIME OF KAMALU KB CONDOMINIUM dated November 15, 2012, and recorded as Document No. A-47220694.
15. The terms and provisions contained in the BY-LAWS OF THE ASSOCIATION OF UNIT OWNERS OF KAMALU KB CONDOMINIUM dated May 19, 2011, recorded as Document No. 2011-091062.
17. Any unrecorded leases and matters arising from or affecting the same.

**EXHIBIT "J"**

ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee</u> x 12 months = <u>Yearly Total</u>
Unit A	\$30.00 x 12 = \$360.00
Unit B	\$30.00 x 12 = \$360.00

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



Pursuant to §514B-144, HRS, the association will be required to adopt an annual budget. Pursuant to §514B-148, HRS, the annual budget shall include both total replacement reserves as of the date of the budget, and estimated replacement reserves. The association shall assess the unit owners to either fund a minimum of fifty percent of the estimated replacement reserves or fund one hundred percent of the estimated replacement reserves when using a cash flow plan; provided that a new association need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. For each fiscal year, the association shall collect the amount assessed to fund the estimated replacement for that fiscal year reserves, as determined by the association's plan.

The association shall compute the estimated replacement reserves by a formula that is based on the estimated life and the estimated capital expenditure or major maintenance required for each part of the property. The estimated replacement reserves shall include:

(1) Adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and

(2) Separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve.

"Capital expenditure" means an expense that results from the purchase or replacement of an asset whose life is greater than one year, or the addition of an asset that extends the life of an existing asset for a period greater than one year.

"Cash flow plan" means a minimum twenty-year projection of an association's future income and expense requirements to fund fully its replacement reserves requirements each year during that twenty-year period, except in an emergency; provided that it does not include a projection of special assessments or loans during that twenty-year period, except in an emergency.

"Major maintenance" means an expenditure for maintenance or repair that will result in extending the life of an asset for a period greater than one year.

"Replacement reserves" means funds for the upkeep, repair, or replacement of those parts of the property, including but not limited to roofs, walls, decks, paving, and equipment, that the association is obligated to maintain.

NOTE: Developer discloses that Developer has not conducted a reserve study in accordance with §514B-148, HRS, and the replacement reserve rules, if any, adopted by the Real Estate Commission.

NOTE: A unit owner will not be obligated for the payment of the owner's share of the common expenses until such time as the developer sends the owners written notice that, after a specified date, the unit owners shall be obligated to pay for the portion of common expenses that is allocated to their respective units. The Developer will mail the written notice to the owners, the association, and the managing agent, if any, at least thirty days before the specified date.

NOTE: The estimated budget is based on a cash basis.

**EXHIBIT "N"**

**LAND COVERAGE**

Land coverage shall be allocated to the Units as follows:

1. The total land coverage ("Total Land coverage") for the project is 10% of the total size of the Project (5.781 acres). As a result, the Total land coverage is  $.10 \times 5.781$  acres = .5781 acres or approximately 25,182.036 square feet.

2. The net land coverage for the Project ("Net Land Coverage") is the Total Land Coverage minus the land coverage within Easements A, B and C.

3. Unit A shall be allocated 40% of the net land coverage for the Project, and Unit B shall be allocated 60% of the net land coverage for the Project.