

SECOND AMENDED  
DEVELOPER'S PUBLIC REPORT  
FOR A CONDOMINIUM

CONDOMINIUM PROJECT NAME	KUKUNA AT MEHANA
Project Address	1101 Kukulū Street Kapolei, Hawaii 96707
Registration Number	7324
Effective Date of Report	<b>December 8, 2014</b>
Developer(s)	D.R. Horton-Schuler Homes, LLC, a Delaware limited liability company dba D.R. Horton-Schuler Division

**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.

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

## SPECIAL ATTENTION

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

This Second Amended Developer's Public Report SUPERSEDES the prior Amended Developer's Public Report with an effective date of October 23, 2013.

Pursuant to the rights reserved to the Developer under the Declaration of Condominium Property Regime of Kukuna at Mehana, the Developer has taken the following actions:

1. The Declaration of Condominium Property Regime of Kukuna at Mehana ("Declaration") was amended to annex Units into the Community, and Supplemental Declarations of Annexation were recorded to evidence the completion of construction with respect to the Units identified therein. The following instruments were filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii:

a. Amendment to Declaration of Condominium Property Regime of Kukuna at Mehana, filed November 15, 2013 as Document No. T-8719369;

b. Amendment to Declaration of Condominium Property Regime of Kukuna at Mehana, filed January 17, 2014 as Document No. T-8782244;

c. Supplemental Declaration of Annexation for Mehana at Kapolei (Units 4, 5, 6, 7, 8, 9, 10, 12, 15, 71 and 72), filed February 11, 2014 as Document No. T-8807193;

d. Amendment to Condominium Map of Condominium Property Regime of Kukuna at Mehana Condominium Map No. 2192, filed March 10, 2014 as Document No. T-8834106;

e. Supplemental Declaration of Annexation for Mehana at Kapolei (Units 11, 13, 14, 16, 17, 18, 21, 25, 65, 68 and 73), filed April 23, 2014 as Document No. T-8878297;

f. Supplemental Declaration of Annexation for Mehana at Kapolei (Units 20, 23, 26, 29, 31, 32, 58, 66, 67, and 70), filed May 7, 2014 as Document No. T-8892190;

g. Supplemental Declaration of Annexation for Mehana at Kapolei (Units 59 and 61), filed June 20, 2014 as Document No. T-8936275;

h. Supplemental Declaration of Annexation for Mehana at Kapolei (Units 19, 22, 27, 28, 30, 33, 57, 64 and 69), filed July 17, 2014 as Document No. T-8963183;

i. Supplemental Declaration of Annexation for Mehana at Kapolei (Units 3, 24, 34, ), filed July 17, 2014 as Document No. T-8963183;

j. Supplemental Declaration of Condominium Property Regime of Kukuna at Mehana Evidencing Completion of Units 1, 2 and 50, filed September 19, 2014 as Document No. T-9027214; and

k. Supplemental Declaration of Condominium Property Regime of Kukuna at Mehana Evidencing Completion of Units 35 through 49, inclusive, and Unit 60, filed October 15, 2014 as Document No. T-9053169

( continued on page 1b)

Copies of these documents have been provided to buyers and have been submitted to the Real Estate Commission with this Second Amended Developer's Public Report. Buyers SHOULD read these documents.

2. The Budget for the Kukuna at Mehana Community has been updated.

3. An Amendment to the House Rules, dated April 1, 2014, was adopted.

B. This resulted in changes to the following pages and exhibits to the Amended Developer's Report:

1. Section 1.12 on page 5 of the Amended Developer's Report was updated to reflect the revised Preliminary Report.

2. Section 3.1 on page 10 of the Amended Developer's Report was updated to include the recordation information for the above instruments.

3. Exhibit L (Section 1.12 – Encumbrances Against Title) has been revised to include the items above

4. Exhibit P (Section 4.2 -- Estimate of the Initial Maintenance Fees) has been updated to provide the updated budget

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The Condominium Map (8 1/2 x 11) will NOT be provided to Buyer. Pursuant to Section 514B-86(a)(1) (A) of the Act, Seller advises Buyer that it is impractical, for legibility reasons, to provide buyers a letter-sized Condominium Map. Accordingly, Buyer shall have the opportunity to examine the Condominium Map at the Sales Office of Seller upon request.

## **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	1101 Kukulu Street, Kapaolei Hawaii 96707
Address of Project is expected to change because	New address may be assigned to individual units.
Tax Map Key (TMK)	(1) 9-1-160-037, H.P.R. Nos. 001 through 073
Tax Map Key is expected to change because	
Land Area	9.1 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	73 See Exhibit A
Floors Per Building	20 Units are 1 story, the remainder have 2 floors
Number of New Building(s)	73
Number of Converted Building(s)	N/A
Principle Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	concrete, wood, metal, glass, hollow tile, aluminum, composite, synthetic and other construction materials

**1.3 Unit Types and Sizes of Units**

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc)	Total Area
See Exhibit <u>    B    </u> .						

73	<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.

#### 1.4 Parking Stalls

Total Parking Stall in the Project:	164 (includes 2 per garage and 18 guest stalls)
Number of Guest Stalls in the Project:	18 (parking stalls marked with a "G" on Condo Map)
Number of Parking Stalls Assigned to Each Unit:	2 included in each Unit garage
Attach Exhibit <u>C</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.	
See Exhibit D	

#### 1.5 Boundaries of the Units

Boundaries of the unit:
In this report, a "unit" is sometimes described as a "home" or "residence". See Exhibit E for a description of the unit boundaries.

#### 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 F

#### 1.7 Common Interest

<b>Common Interest:</b> 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 <u>G</u> _____.
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): See Exhibit H

**1.9 Common Elements**

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

Described in Exhibit I.

Described as follows:

Common Element	Number
Elevators	0
Stairways	0
Trash Chutes	0

**1.10 Limited Common Elements**

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

Described in Exhibit J.

Described as follows:

**1.11 Special Use Restrictions**

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

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

**1.12 Encumbrances Against Title**

An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of a unit in the project. Encumbrances shown may include blanket liens which will be released prior to conveyance of a unit (see Section 5.3 on Blanket Liens).

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

Date of the title report: September 15, 2014

Company that issued the title report: Title Guaranty of Hawaii, Inc.

**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	73	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	R-5
<input type="checkbox"/>	Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Mix Residential/Commercial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Hotel		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Timeshare		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Ohana		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Industrial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Agricultural		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Recreational		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Other (Specify):		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is/Are this/these use(s) specifically permitted by the project's Declaration 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			N/A	

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

**1.16 Project In Agricultural District**

<p><b>Is the project in an agricultural district as designated by the land use laws of the State of Hawaii?</b>  <b>If answer is "Yes", provide information below.</b></p>	<p><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><b>Does the project contain any assisted living facility units subject to Section 321-11(10), HRS?</b>  <b>If answer is "Yes", complete information below.</b></p>	<p><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><b>2.1 Developer(s)</b></p>	<p>Name: D.R. Horton-Schuler Homes, LLC, a Delaware Limited liability company, dba D.R. Horton-Schuler Division</p> <p>Business Address: 130 Merchant Street, Suite 112 Honolulu, Hawaii 96813</p> <p>Business Phone Number : (808) 521-5661</p> <p>E-mail Address: mtjones@drhorton.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>See page 9a</p>
<p><b>2.2 Real Estate Broker</b></p>	<p>Name: D.R. Horton-Schuler Homes, LLC</p> <p>Business Address: 130 Merchant Street, Suite 112 Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 521-5661</p> <p>E-mail Address: mflood@drhorton.com</p>
<p><b>2.3 Escrow Depository</b></p>	<p>Name: Title Guaranty of Hawaii, Inc.</p> <p>Business Address: 235 Queen Street Honolulu, HI 96813</p> <p>Business Phone Number: (808) 539-7777</p>
<p><b>2.4 General Contractor</b></p>	<p>Name: Vertical Construction Corporation</p> <p>Business Address: 130 Merchant Street, Suite 112 Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 521-5661</p>
<p><b>2.5 Condominium Managing Agent</b></p>	<p>Name: Hawaiiana Management Company, Ltd.</p> <p>Business Address: 711 Kapiolani Boulevard, Suite 700 Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 593-9100</p>
<p><b>2.6 Attorney for Developer</b></p>	<p>Name: Case Lombardi &amp; Pettit/Dennis M. Lombardi, Esq.</p> <p>Business Address: 737 Bishop Street, Suite 2600 Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 547-5400</p>

**Names of officers and directors of developers who are corporations; general partners of a partnership; partners of a Limited Liability Partnership (LLP); or manager and members of a Limited Liability Company (LLC) (attach separate sheet if necessary):**

Donald Horton, Chairman of the Board; Donald Tomnitz, Vice Chairman, President & Chief Executive Officer; Ted Harbour, Sr. Vice President & Assistant Secretary; Bill W. Wheat, Executive Vice President & Chief Financial Officer; Stacey H. Dwyer, Executive Vice President & Treasurer; Michael T. Jones, Vice President/Division President; William Mayer III, Vice President & Assistant Secretary; Kelly White, Vice President & Assistant Secretary; R. Dale Eggleston, Vice President; Joan L. Fleming, Vice President; Mary K. Flood, Vice President; Tracy Nagata, Vice President; Frank Jason, Vice President; Alan Labbe, Vice President; Mariette Menne, Vice President; Deborah Porter, Vice President; Jonathan Smith, Vice President; Randy Miyashiro, Vice President; Laurie Tennison, Vice President; Thomas Montano, Secretary; David Morice, Assistant Secretary; Cathy Hendrickson, Assistant Secretary; Robert Bruhl, Vice President; Matthew J. Farris, Vice President & Regional President; Paula Hunter-Perkins, Assistant Secretary; and Kelly Alsbrook, Assistant Secretary. All officers are officers of Vertical Construction Corporation, the Developer's manager.

### 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	February 13, 2013	T-8444434

#### Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	July 19, 2013	T-8605336
Land Court	November 14, 2013	T-8719369
Land Court	January 16, 2014	T-8782244
See page 10a attached hereto		

#### 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	February 13, 2013	T-8444435

#### 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	2192
Bureau of Conveyances Map Number	
Dates of Recordation of Amendments to the Condominium Map: July 24, 2013, March 10, 2014	

Section 3.1 Continued

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	February 6, 2014	T-8807193
Land Court	April 10, 2014	T-8878297
Land Court	May 6, 2014	T-8892190
Land Court	June 10, 2014	T-8936275
Land Court	July 10, 2014	T-8963183
Land Court	August 11, 2014	T-8995167
Land Court	September 10, 2014	T-9027214
Land Court	October 7, 2014	T-9053169

### 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"/>	2/15/13 (as amended)
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%	See Exhibit N
Bylaws	67%	See Exhibit N

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

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

#### 4. CONDOMINIUM MANAGEMENT

##### 4.1 Management of the Common Elements

<p><u>Management of the Common Elements:</u> The Association of Unit Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.</p>	
<p>The initial Condominium Managing Agent for this project is (check one):</p>	
<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

<p><u>Estimate of the Initial Maintenance Fees:</u> The Association will make assessments against your unit to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your unit and the unit may be sold through a foreclosure proceeding. Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.</p>	
<p>Exhibit P__ contains a breakdown of the estimated annual maintenance fees and the monthly estimated maintenance fee for each unit, certified to have been based on generally accepted accounting principles, with the Developer's statement as to when a unit owner shall become obligated to start paying the unit owner's share of the common expenses.</p>	

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

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

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

<p>If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fee:</p>	
<input checked="" type="checkbox"/>	Electricity for the Unit only
<input type="checkbox"/>	Gas for the Unit only
<input checked="" type="checkbox"/>	Water
<input checked="" 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**

<input checked="" type="checkbox"/>	Specimen Sales Contract Exhibit <u>Q</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: November 20, 2012 Name of Escrow Company: Title Guaranty Escrow Services, Inc. Exhibit <u>R</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 checked="" type="checkbox"/>	There are <u>no blanket liens</u> affecting title to the individual units.
<input 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

**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 page 13a
Appliances: See page 13a

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

<p>Status of Construction: Construction commenced in May 2013 and is currently underway.</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: See page 14a.</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.</p> <p><i>If this box is checked, Section 5.6.2, which follows below, will not be applicable to the project.</i></p>
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**5.6.2 Purchaser Deposits Will Be Disbursed Before Closing**

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

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

<p><b>Box A</b></p> <p><input type="checkbox"/></p>	<p>The Developer has submitted all information and documents required by law and the Commission prior to the disbursement of purchaser deposits before closing. This means that the Developer may use such deposits before closing. If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>If Box A is checked, you should read and carefully consider the following notice, which is required by law:</p> <p><b><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.</b></p>
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<p><b>Box B</b></p> <p><input type="checkbox"/></p>	<p>The Developer has <u>not</u> submitted all information and documents required by law and the Commission, and, until all such information and documents are submitted, thus, the Developer cannot use purchaser deposits.</p> <p>If the Developer later submits all information and documents required by law and the Commission for the use of purchaser deposits, then the Developer must provide an amendment to this report or an amended developer's public report to each purchaser who has signed a sales contract. At such time, the <b><u>Important Notice Regarding Your Deposits</u></b> set forth immediately above will apply to all purchasers and will be restated in the amendment to this report or an amended developer's public report. When an effective date for such an amendment or an amended developer's public report is issued, <b><u>you will not have the right to rescind or cancel the sales contract by reason of such submission and amendment.</u></b> (This, however, does not affect your right to rescind for material changes or any other right you may have to rescind or cancel the sales contract, as described in Section 5.8 below.) If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>You should understand that, although the <b><u>Important Notice Regarding Your Deposits</u></b> set forth above does not currently apply to you, it might apply to you in the future, and, therefore, you should read and carefully consider it now to ensure that you understand the risk involved in deciding whether to proceed with your purchase.</p>
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**Material House Bond.** If the Developer has submitted to the Commission a completion or performance bond issued by a material house instead of a surety as part of the information provided prior to the use of purchaser deposits prior to closing or conveyance of a unit, the Developer shall disclose the same below and disclose the impact of any restrictions on the Developer's use of purchaser deposits.

## 5.7 Rights Under the Sales Contract

Before signing the sales contract, prospective purchasers should carefully review all documents relating to the project. These include but are not limited to the documents listed below. Items 2, 3 and 4 are made a part of this public report, as well as Item 5, if any, and are being delivered to you with this report.

1.	<b>Developer's Public Report</b>
2.	<b>Declaration of Condominium Property Regime (and any amendments)</b>
3.	<b>Bylaws of the Association of Unit Owners (and any amendments)</b>
4.	<b>Condominium Map (and any amendments)</b>
5.	House Rules, if any
6.	Escrow Agreement
7.	Hawaii's Condominium Property Act (Chapter 514B, HRS, as amended) and Hawaii Administrative Rules (Chapter 16-107, adopted by the Real Estate Commission, as amended), provided that rules and regulations under Chapter 514B have not yet been adopted.
8.	Other:  All documents as provided in Exhibit L.

Copies of the condominium and sales documents and amendments made by the Developer are available for review through the Developer or through the Developer's sales agent, if any. The Condominium Property Regime law (Chapter 514B, HRS) and the Administrative Rules (Chapter 107, HAR), are available online. Please refer to the following sites:

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

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

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

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

### 5.8.1 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 30<sup>th</sup> 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**

See Exhibit U.

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.

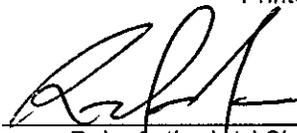
For any conversion, if any variances have been granted, they are specified in Section 1.14 of this report, and, if purchaser deposits are to be used by the Developer to cure any violations of zoning, permitting requirements or rules of the county in which the project is located, the violation is specified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

D.R. HORTON - SCHULER HOMES, LLC, a Delaware  
limited liability Company, dba D.R. Horton-Schuler  
Division, by Vertical Construction Corporation, its  
Manager

Printed Name of Developer

By:

  
Duly Authorized Signatory\*

11/25/14

Date

Robert Q. Bruhl President, Hawaii Division

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

### Section 1.2 -- Buildings and Other Improvements

#### DESCRIPTION OF BUILDINGS

The Community (the term "Community" shall have the same meaning herein as "project" in HRS 514B) shall have seventy-three (73) single family detached residences. The buildings shall be constructed principally of concrete, wood, metal, glass, hollow tile, aluminum, composite, synthetic and other construction materials. Each building is identified on the Condominium Map with its unit number and plan type.

#### DESCRIPTION OF UNITS

The Community shall contain seventy-three (73) Units.

There are four (4) different unit types in the Community, designated as Plan 1, Plan 2, Plan 3, Plan 3 w/ Option 1. Unit types designated with an "R" on the condominium map are reverse floor plans.

A description of each Unit type is as follows:

##### Plan 1/1R Unit Type

These Unit types are single-story Units containing 3 bedrooms, 2 bathrooms, living/dining area, kitchen, a two car garage, and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1,214 square feet, a two car garage area of approximately 395 square feet, a lanai area of approximately 54 square feet and an entry area of approximately 9 square feet. There are twenty (20) of these Unit types in the Community.

##### Plan 2/2R Unit Type A/AR

These Unit types are two-story Units containing 3 bedrooms, 2.5 bathrooms, living/dining area, kitchen, lanai, a two car garage, and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1,372 square feet, a two car garage area of approximately 451 square feet, a lanai area of approximately 72 square feet, and an entry area of approximately 24 square feet. There are twenty-six (26) of these Unit types in the Community.

##### Plan 3/3R

These Unit types are two-story Units containing 3 bedrooms, 2.5 bathrooms, living/dining area, family room, kitchen, lanai, a two car garage, and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1,413 square feet, a two car garage area of approximately 435 square feet, and a lanai area of approximately 68 square feet, and an entry area of approximately 33 square feet. There are fourteen (14) of these Unit types in the Community.

Plan 3 w/ Option 1

These Unit types are two-story Units containing 4 bedrooms, 3 bathrooms, great room area, kitchen, lanai, two car garage and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1,548 square feet, a two car garage area of approximately 435 square feet, a lanai area of approximately 63 square feet, and an entry area of approximately 33 square feet. There are thirteen (13) of these Unit types in the Community.

**LOCATION AND NUMBERING OF UNITS:**

Each Unit shall be designated by a number. The Unit numbers and locations are more fully illustrated on the Condominium Map.

**ACCESS TO COMMON ELEMENTS:**

Each Unit in the Community has access to the common elements of the Community.

**ACCESS TO A PUBLIC STREET:**

The community will have access to Kukulū Street and then to Kunehi Street and then to Kapolei Parkway and thereafter to Fort Barrette Road, a public street.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE BUILDINGS AND OTHER IMPROVEMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

**EXHIBIT B**

Section 1.3 -- Unit Types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living Area (sf)	Other Areas (lanai & garage)
Plan 1/1r	20	3/2	1,214	458
Plan 2/2r	26	3/2.5	1,372	547
Plan 3/3r	14	3/2.5	1,413	536
Plan 3/3 w/ Option 1/r	13	4/3	1,548	531

Note regarding Net Living Areas: Throughout the Kukuna at Mehan documentation, the area of individual units is generally expressed as "net living area" square footage. This measurement represents the architect's best estimate of the interior square footage of the unit as measured from the unit's perimeter walls, which are included in the unit. This measurement is based upon the plans for the construction of the unit and different architects performing the same measurement may obtain a larger or smaller result.

Units followed by a "/R" represent a reverse floor plan configuration from that reflected on the condominium map.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE UNIT TYPES AND SIZES OF UNITS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

## **EXHIBIT C**

### Section 1.4 – Designation of Garage and/or Assignment of Parking Stall to Unit (Kukuna at Mehana)

Each Unit has assigned two unnumbered parking stalls within the two car garage that is included within the Unit.

#### **Guest Parking Stalls:**

Guest Stalls: 1-18, as shown on the Condominium Map.

Declarant reserves to itself the right to amend the Declaration to establish spatial Units consisting of one or more of the foregoing parking stall, all without the joinder or consent or notice to any Owner, Owner's mortgagees, or Person. Declarant further reserves the right to amend the Declaration in any manner to assign additional parking stalls that are reserved to the Declarant to any Unit as appurtenant Limited Common Element(s) to such Unit. Further Developer may assign such stalls to any unit and reserves all right of use and access to such stalls together with the right to sell the stalls and/or transfer the stalls to another unit. Such amendment reassignment is hereby specifically declared not to constitute a material amendment of the Declaration or, when appropriate, the Condominium Map.

#### **Disclaimer Regarding Parking Stall Designations**

Parking stalls may be "standard" or "compact" in size and may not be marked on the Condominium Map to reflect their respective sizes. In that regard, if marked on the Condominium Map, parking stalls marked with a "C" are compact sized parking stalls. Any parking stalls designated as a standard sized parking stall may be constructed as a compact sized parking stall and such modification is approved by the Buyer and the Association. Any parking stalls designated as a compact sized parking stall may be constructed as a standard sized parking stall and such modification is approved by the Buyer or the Association. Any parking stalls designated as a covered or uncovered parking stall may be constructed contrary to its designation and such modification is approved by the Buyer or the Association. There may be parking stalls in the Community that are suited or adaptable for use by persons with disabilities. To the extent not assigned to individual Units, adaptable guest stalls (or any Developer Reserved Stall) may be retrofitted for exclusive use by disabled persons. Declarant reserves the right to transfer one or more guest parking stalls or any one or more of the Developer Reserved Stalls to a Unit, provided that if a guest parking stall or stalls are so transferred Declarant shall designate a substitute parking stall or stalls, as may be the case, therefor.

In all such cases, Declarant reserves the right to and may amend (i) the Declaration to reflect such parking stall transfers and (ii) the Condominium Map to reflect the as-built parking stall designations (compact, standard, covered, uncovered) without the joinder or consent or notice to any person.

\_\_\_\_\_

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE PARKING STALL ASSIGNMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

## EXHIBIT D

### (Section 1.4 -- Reserved Right to Assign or Re-Assign Parking Stalls)

Developer shall have the reserved right, to effect such modifications to the Units and common elements in the Community and/or to execute, record and deliver any amendments to the Declaration, the Condominium Map as well as the Bylaws and rules and regulations promulgated thereunder, as may be necessary or required to effect compliance by the Community, the Association, or by Developer with laws which apply to the Community, including, without limitation, the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 et seq., including any and all rules and regulations promulgated thereunder, and the Americans With Disabilities Act, as amended, 42 U.S.C. §§ 12101 et seq., including any and all rules and regulations promulgated thereunder. Without limitation, Developer may amend the Declaration (and, when appropriate, the Condominium Map) in any manner required to retrofit guest parking stalls, including adaptable or other parking stalls, so they are suited for use by persons with disabilities and to assign such stalls as appurtenant limited common elements to any one or more of the units intended for use by persons with disabilities upon substitution therefor of alternate guest parking stall(s). Such assignment may be made to Units, the Owners of which Developer, in its sole judgment, determines require a parking stall accessible to persons with disabilities. Such reassignment is hereby specifically declared not to constitute a material amendment of the Declaration or, when appropriate, the Condominium Map. All costs of such reassignment shall be borne as determined by Developer. Notwithstanding the foregoing, Developer also reserves the right, but does not hereby undertake any obligation, to interchange guest parking stalls and the disabled guest parking stalls to accommodate Unit Owners in need of such parking. The rights of Developer under this Section may be assigned to the Association, without the consent of joinder of the Board.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE RESERVED RIGHT TO ASSIGN OR RE-ASSIGN PARKING STALLS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

## **EXHIBIT E**

### **Section 1.5 -- Boundaries of the Units**

Each Unit includes all walls, columns and partitions (both load bearing and not load bearing) which are within the Unit's perimeter walls including without limitation the Unit's perimeter walls, the Unit's foundation, all floors (to a depth of two feet below the finished floor elevation), ceilings, roofs, doors, windows, sliding glass doors, screen doors, door frames and window frames, the air space within the Unit, the garage including its floor and foundation (to a depth of two feet below the finished floor elevation), ceiling, roof, doors and perimeter walls, the lanais, if any, shown on the Condominium Map, all rollers, locks, handles, tracks, and appurtenant hardware associated with all windows, doors and exterior automobile garage doors and all sliding or swinging screen doors and all glass window screens and all fixtures originally installed in the Unit, and all pipes, plumbing (including water heaters), wires, conduits and other utility or service lines and facilities servicing only the Unit. The Units shall also include all load-bearing columns, girders, beams, building components and other elements included within each Unit. The Unit shall not include any pipes, shafts, wires, conduits or other utility or service lines running through a Unit which are utilized for or serve more than one Unit, all of which are deemed common elements as provided in this Declaration. If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that unit is a Limited Common Element appurtenant solely to that Unit, and any portion thereof serving more than one Unit or any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE BOUNDARIES OF THE UNITS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

## EXHIBIT F

### Section 1.6 -- Permitted Alterations

1. Except as provided in the Declaration, repair, reconstruction, restoration, replacement of the Community or any building or other structure or unit within the Community or construction of any additional building or other structure or structural alteration or addition thereto, different in any material respect from the Condominium Map shall be undertaken by the Association or any Unit Owners only pursuant to an amendment of the Declaration. Except as expressly provided otherwise in the Declaration, any such amendment shall be duly executed by or pursuant to the affirmative vote of seventy-five percent of the Unit Owners and accompanied by the written consent of the eligible holders of first mortgage (as hereinafter defined) on Units to which at least sixty-seven percent of the votes of Units subject to mortgages held by such eligible holders are allocated, and in accordance with complete plans and specifications therefor first approved in writing by the Board. Promptly upon completion of such repair, reconstruction, restoration, replacement, construction, alteration or addition, the Association shall duly record and file of record such amendment together with a complete set of floor plans of the Community as so altered, certified as-built by a licensed, registered architect or professional engineer.

2. Any alterations or additions solely within a Unit, or within a Limited Common Element appurtenant to and for the exclusive use of a Unit or more than one Unit, shall in all instances comply with the requirements of the Cluster Housing Permit and Cluster Housing Permit Declaration, the Declaration, the Design Guidelines and the Community Rules, and shall require the written approval thereof, including the plans thereof, by the Owners of such Unit(s), by the holders of first mortgage liens affecting such Unit(s) (if the lien holder require such approval), by the appropriate agencies of the State of Hawaii and the County, if such agencies so require, the DRC, if created, and by the Board (which approval shall not be unreasonably or arbitrarily withheld or delayed), and by all other Owners thereby directly affected as determined in a reasonable manner by the Board (as the same may be limited, directed or constrained by the Community Rules); provided, however, that the Board shall always have the right to disapprove a proposed addition or alteration that the Board reasonably determines could jeopardize the soundness or safety of the Property, impair any easement, or interfere with or deprive any non-consenting Owner of the use or enjoyment of any part of the property. Upon completion of such alterations or additions, the Unit Owner(s) directly affected shall duly Record and file of record an amendment to the Declaration together with the approved plans showing only such alterations or additions within a Unit space or within a Limited Common Element as aforesaid. Such amendment to the Declaration need only be executed by the Unit Owner(s) directly affected and their first mortgagees, as may be required. Notwithstanding the foregoing, no alteration of a Unit may be made that causes or requires a protrusion through a common element wall.

3. Any other provision in the Declaration to the contrary notwithstanding, Declarant does hereby reserve the rights described in this Section unto Declarant, its successors and assigns. Prior to the later of (i) the time that all Units in the Community have been sold and the conveyance thereof Recorded, (ii) December 31, 2035, and (iii) the filing by Declarant of the "as built" verified statement (with plans, if applicable) required by Section 514B-34(a) of the Act, Declarant shall have the right, but not the obligation, and without being required to obtain the consent or joinder of any person or group of persons, including the Association, any Unit Owner or any Mortgagee, lienholder, Unit purchaser, or any other person who may have an interest in the Community, to do the following:

(a) Configuration of Units, and Other Changes. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being

required to obtain the consent or joinder of or provide notice to any Unit Owner, lien holder, or other persons, to make alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Unit (and the Limited Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, which right includes the ability to change the overall "product mix" (e.g., change the Unit types or change the configuration of Unit built on a particular floor of a building), (3) to alter the Common Elements to create Limited Common Element(s) benefitting a single or more than one Unit (inclusive of private yard areas), and/or (4) to alter the Common Elements or the Limited Common Elements to convert the same into a Unit or for any purpose benefitting one or more Units, including without limitation by creating, expanding or reducing lanais, fenced areas, gates, pathways and sidewalks, utility placement locations. Without limitation of the foregoing, Declarant may change or remove all or part of any Common Element feature and/or an intervening Common Element wall, floor, and/or ceiling separating two (2) Units owned by the Declarant or Limited Common Elements controlled by the Declarant, install doors, stairways, and other Improvements in such opening or openings in the intervening Common Element, seal hallways or other openings, and make any other reasonable related changes or additions Declarant determines expedient or necessary. Further, Declarant may consolidate any two (2) adjacent Units owned by the Declarant into a single Unit and make any Common Element walls, floors, or ceilings between the Units part of the Unit or its Limited Common Elements. In that regard, Declarant may change the designation of the Limited Common Elements appurtenant to any two (2) adjacent Units owned by the Declarant so that one or more Limited Common Elements appurtenant to one Unit will be appurtenant to the other Unit or to both of the Units. Declarant also reserves the right to (i) modify exterior elevations of buildings, exterior door and window types (open versus fixed, slider versus awning or otherwise) and the location of the same, roof types and materials, (ii) to change the size and location of lanais and lanai railings and coverings, parking stall locations and coverings, air conditioning unit locations, (iii) to add, delete, and/or relocate exterior stairways, (iv) to alter, building materials, exterior stairways and rails, walkways, air conditioning units, fences and walls (installation and deletion of same) and utility locations from those reflected on the Condominium Map, (v) to substitute any included appliances as standard, and (vi) to create an enclosed and/or covered storage area. In addition to the foregoing, Declarant shall have the right to amend the Declaration, Bylaws and/or Community Rules to change the name of the Community, alter the pet policy of the Community, and make such other changes to the Community Rules as Declarant desires.

(b) Right to Improve and Fix Location of Recreation Facilities and Barbeque Areas. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owner, lien holder, or other persons, to improve any area within the Community with recreational facilities, which may include, but are not limited to, barbeque areas, pathways, and play and/or exercise structures or facilities. These areas, facilities and structures may result in the creation of public activity zones that may negatively impact the Owner's use, views, privacy and enjoyment of their Unit. Upon the construction of such items, they shall be Common Elements of the Community.

(c) Alterations to the Community. Generally without limitation by virtue of the foregoing, Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owner, lien holder, or other persons, to make other alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) to change the Community and Association name and/or to make changes in any Unit in the Community or in the Common

Elements that do not affect the physical location, design, or size of any Unit that has been sold and the conveyance thereof Recorded.

(d) Amendment to Declaration and Condominium Map. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owner, lien holder, or other persons, to amend the Declaration and the Condominium Map as necessary or convenient to describe any new Improvements constructed on the Property in accordance with the Declaration and to make such amendments to the Declaration as are appropriate to describe any rights and obligations in respect of such new Improvement in accordance with this Section.

4. Notwithstanding anything to the contrary contained herein but subject to (1) the Easements and other rights and licenses reserved for the benefit of other Unit Owners, (2) compliance with the Design Guidelines, the Master Design Guidelines, the Master Declaration, the Cluster Permit Declaration, and (3) such other limitations specified below, each Unit Owner has the following rights:

(a) Each Owner has the right to make any of the following changes, additions and Improvements solely within the Owner's Unit or Limited Common Element that such Owner controls, subject to the Owner's compliance with the Design Guidelines:

(i) To install, maintain, remove, and rearrange partitions and other structures from time to time within the Unit or Limited Common Element; provided that the Owner shall not have the right to enclose any exterior lanai or Private Yard Area;

(ii) To finish, change, or substitute any plumbing, electrical, or other fixtures attached to the ceilings, floors, or walls as appropriate for the use of the Unit or Limited Common Element;

(iii) To decorate, paint, repaint, wallpaper or otherwise change the appearance of any walls, floors, and ceilings of the Unit or Limited Common Element that are not readily visible from outside the Unit or Limited Common Element;

(iv) To tile, finish, carpet, re-carpet, and install, change, or remove other flooring in the Unit or Limited Common Element which is not readily visible from outside the Unit or Limited Common Element, subject to the limitation on the installation of "hard" flooring as may be contained in the Design Guidelines; or

(v) To make such changes, additions and improvements to the Unit or Limited Common Elements to facilitate handicapped accessibility within the Unit or Limited Common Element.

(b) Any Owner has the right, with Board approval, to install air conditioning unit(s) and any exterior improvements associated with the installation of such air conditioning unit(s).

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE PERMITTED ALTERATIONS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

**EXHIBIT G**  
Section 1.7 -- Common Interest

**COMMON INTERESTS FOR ALL INCREMENTS**  
(assuming all increments are constructed)

Unit type	Unit Number	Undivided Common Interest of Each Unit (Fraction)	Undivided Common Interest of Each Unit (Percentage)
Plan 1/1R (20)	3, 5, 8, 10, 22, 24, 26, 33, 37, 38, 42, 46, 48, 50, 53, 55, 57, 63, 66, 70	.0121572628	1.21572628
Plan 2/2r (26)	2,6, 11, 13, 15, 16, 18, 20, 25, 27, 29, 31, 32, 36, 40, 45, 49, 51, 54, 58, 60, 62, 64, 68, 71, 72	0.013739510	1.3739510
Plan 3/3r (14)	4, 9, 14, 17, 19, 21, 28, 30, 43, 44, 52, 59, 61, 67	0.0141500930	1.41500930
Plan 3 w/ Option 1 (13)	1, 7, 12, 23, 34, 35, 39, 41, 47, 56, 65, 69, 73	0.015502014	1.5502014

Developer contemplates that the Community shall proceed in one (1) to eleven (11) increments. Developer, however, reserves the right to construct the Community in one (1) or more increments or multiple increments in Developer's sole discretion. If Developer exercises its right to construct the Community in more than one (1) increment then upon the development of subsequent increments, all common profits and expenses of the Community shall be allocated to and shared among those Units for which a Developer's Certificate of Completion of increment and a Supplemental Declaration of Annexation has been Recorded, proportionate to the common interests appurtenant to such Homes within increment 1 and such subsequent increments.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE COMMON INTEREST CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

## **EXHIBIT H**

### **Section 1.8 -- Recreational and Other Common Facilities**

The recreational and other common facilities include mailbox(es) and pathways as shown on the Condominium Map, and other common elements identified in Exhibit I attached hereto. The Developer has reserved the right but is not obligated to improve such areas with other recreational facilities, which may include, but are not limited to recreational/ exercise equipment/ facilities, picnic tables and barbeque area(s). Discharge from the Community into the sewer system or the drainage easement shall be subjected to all applicable laws, ordinances, rules and regulations, including but without limitation to, all Hazardous Material Laws made by any governmental authority.

The Developer shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owner, lien holder, or other persons, to make other alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) which make minor changes in any Unit in the Community or in the common elements that do not affect the physical location, design, or size of any Unit that has been sold and the conveyance thereof Recorded.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE RECREATIONAL AND OTHER COMMON FACILITIES CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

**EXHIBIT I**  
Section 1.9 -- Common Elements

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

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

1. The Land and those improvements to the Land, excluding the Units and Private Yard Areas, if any, but including without limitation the Community Access Road, exterior lighting fixtures located along and/or adjacent to the Community Access Road, the common area landscaping and similar improvements.
2. All the benefits, if any, inuring to the land or to the Community from all easements, if any, shown on the Condominium Map or listed in **Exhibit "A"** attached to the Declaration of Condominium Property Regime.
3. If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that unit is a Limited Common Element appurtenant solely to that Unit, and any portion thereof serving more than one Unit or any portion of thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.
4. All yards, grounds, gardens, planters, plants, landscaping, sidewalks, pathways, curbs, mailbox(es), lamp, lamp posts, trash receptacle areas, if any, and trash enclosures/recycle bins if any.
5. All fences and walls as shown on the Condominium Map, other than fences enclosing a Private Yard Area.
6. All drainage facilities or swales, pipes, shafts, wires, conduits, retention basin, or other utilities or service lines running through a Unit, or Private Yard Area, if any, which are utilized for or serve more than one Unit, or Private Yard Area, if any, or other features of the Community.
7. Loading area(s), if any, as shown on the Condominium Map, and eighteen (18) guest parking stalls. Developer reserves the right to designate additional guest parking stalls and transfer guest parking stalls with Units, without affecting the total number of guest parking stalls.
8. Any and all apparatus and installations of common use and all other parts of the Community necessary or convenient to its existence, maintenance and safety, or normally in common use.
9. All ducts, electrical equipment, transformers, wiring, pipes and other central and appurtenant transmission facilities and installations over, under and across the Community or individual Private Yard Areas, if any, shown on the Condominium Map, which are utilized by or serve more than one Unit or for services such as power, light, water, gas, sewer, drainage, telephone and radio and television signal distribution, if any.
10. All other parts of the Community not included in the definition of a Unit.

11. The Entry Sign Monument identifying the Community, which may be covered by a grant of easement in favor of the Association.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE COMMON ELEMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

**EXHIBIT J**  
Section 1.10 -- Limited Common Elements

Each Unit shall have appurtenant to the Unit easements for the exclusive use of certain limited common elements as follows:

1. Private Yard Area:

Certain units may include Private Yard Areas. This land area appurtenant to each Unit, as described in the Declaration and if shown on the Condominium Map, is a limited common element. Private Yard Areas are not legally subdivided lots. Private Yard Areas include the land beneath the Unit, the yard area in front of, to the rear and the sides of the Unit as demarked at the sole election of Developer as evidenced by the recording of a Supplemental Declaration by (1) fencing of the yard area or rear yard and/or front yard areas of the Unit; (2) appropriate physical monuments at the corners of the Private Yard Area and/or locations shown on the Condominium Map; or (3) by metes and bounds noted on the Condominium Map or contained in such Supplemental Declaration.

2. Parking Stall Assignments:

All Units have two (2) assigned parking stalls, which are located within the two car garage that is a component of the Unit.

3. Partially Included in Unit

If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that unit is a Limited Common Element appurtenant solely to that Unit, and any portion thereof serving more than one Unit or any portion of thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE LIMITED COMMON ELEMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

## EXHIBIT K

### Section 1.11 -- Special Use Restrictions

1. No livestock, poultry, or other animals whatsoever shall be allowed or kept in or on any part of the Community, except that dogs, cats, or other common household pets as described in the Bylaws, in reasonable number, may be kept by Owners and Occupants in their respective Units. Pets shall not be allowed on any common elements of the Community except on a leash or when carried. Owners and Occupants shall be responsible for the immediate and proper removal and disposal of all fecal matter of pets while the pets (whether on a leash or carried) are on any common elements of the Community. The Owner or Occupant of any Unit in which a pet is to be kept pursuant to these rules shall register the pet with the Board or the Managing Agent prior to or immediately upon bringing such pet onto the Community. Pets shall not be kept, bred or used for any commercial purpose. Any personal injury or property damage to the structures, grounds, flooring, walls, trim, finish, tile, carpeting, stairs or other portion of the Community caused by a pet will be the full responsibility of the pet owner and the Owner of the Unit in which the pet is kept. Any pet which is a nuisance or causes unreasonable disturbance to any Occupant or causes damage to the Community shall be removed by its Owner or by the Occupant of the Unit in which it is kept promptly upon the request of the Board.
2. The number of occupants shall be in accordance with any limitations imposed by State or municipal law or ordinances.
3. The Units shall at all times be occupied and used only for residential purposes in accordance with applicable laws, the Declaration and the Bylaws, and for no other purposes.
4. The Units or any interest therein shall not be sold, transferred, conveyed, leased, occupied, rented or used for or in connection with any timesharing purpose or under any timesharing plan, arrangement or program, including without limitation any so-called "vacation license," "travel club membership," or "time-interval ownership" arrangement. The term "timesharing" as used in the Declaration shall be deemed to include, but is not limited to, any plan, program or arrangement under which the right to use, occupy, own or possess a Unit rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association or club membership, license, rental or use agreement, co-tenancy agreement, partnership or otherwise. This Section shall not apply to Developer, who may by Supplemental Declaration designate Units within the Community that may be used for such purposes.
5. The Unit Owners shall have the absolute right to sell, lease, rent or otherwise transfer their respective Units subject to all provisions of the Act and the Community Documents. All Units may not be leased or rented for an initial term of such period as may be required by ordinance of the County to avoid classification of the Unit as a "transient vacation unit", and may not be rented in any manner by which the occupants of the Unit are provided customary hotel or similar services, such as room service, maid service, laundry or linen service or bell service. Any lease or rental agreement of a Unit shall be in writing and shall provide that it shall be subject in all respects to the provisions of the Community Documents and that the failure of the lessee or tenant to comply with the terms of the Community Documents shall be a default under the lease or rental agreement. This Section shall not apply to Developer, who may by Supplemental Declaration designate Units within the Community that may be used for such purposes.

6. A Unit Owner shall not use his or her Unit and/or any appurtenant limited common element for any purpose which will injure the reputation of the Community or suffer anything to be done or kept in his or her Unit or elsewhere in the Community which will (a) jeopardize the soundness of any building in the Community, (b) create a nuisance or interfere with or unreasonably disturb the rights of other Owners and occupants, (c) increase the rate of fire insurance on any structure or the contents of any structure, or (d) reduce the value of the Community or any structure in the Community.

7. Use of those parking stalls, if any, which are not designated as limited common elements appurtenant to any specific Unit, may be governed by rules and regulations adopted in accordance with the Bylaws to assure equitable use of the stalls by all Owners. The Board of Directors may install parking meters, gates, security devices, checkpoints and other equipment appropriate to this end and may issue stickers or adopt an allocation system.

8. The common elements and their use is subject to an express limited warranty by Declarant in favor of the Association, which is conditioned on, among other items, appropriate regular and routine maintenance, inspection and repair of the Common Elements by the Association set out in Declarant's Limited Warranty, which shall be effective upon the recording of the Declaration and a copy of which shall be provided to the Association. An appropriate validation form, described below and in Declarant's Limited Warranty, will be delivered to the Association NOT later than the first annual meeting of the Owners. It is expressly understood and agreed by and between Declarant and each Owner and the Association that, other than this express limited warranty, **DECLARANT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE COMMON ELEMENTS, THE COMMUNITY OR CONSUMER PRODUCTS OR OTHER THINGS WHICH MAY BE INSTALLED OR WHICH ARE CONTAINED IN THE COMMON ELEMENTS OR THE COMMUNITY, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS FOR A PARTICULAR USE.** During the term of Declarant's Limited Warranty, the Association shall in each and all instances permit Declarant or Declarant's designated representative to repair any and all items classified by Declarant as items covered by Declarant's Limited Warranty. The Association and its members shall have no further rights and Declarant no further obligation to the Association and/or its members in respect of such matters repaired by Declarant or Declarant's representative.

In providing for the maintenance, management and repair of the Common Elements pursuant to this Section, the Association shall comply with each of those obligations specified in the attached form of Declarant's Limited Warranty and undertake each of those actions therein required to be taken by the Association. In that regard, the Association shall let appropriate contracts to service professionals in order to provide and shall provide regular and routine maintenance, inspection and repair of the Common Elements. Without limitation of the obligations imposed on the Association pursuant to this Section, the Association, through its Board, shall execute all necessary documents in order to effectuate Declarant's Limited Warranty, including without limitation, the "Limited Warranty Validation Form". With respect to the Declarant's Limited Warranty, the Association acknowledges and agrees:

- With respect to items covered under Declarant's Limited Warranty, the Association hereby waives all other express or implied warranties, as set forth in Declarant's Limited Warranty, to the fullest extent permitted by law.

- The Association shall satisfy each and every requirement contained in Declarant's Limited Warranty, including without limitation those for written notice, access, right of repair and review etc., as detailed in Declarant's Limited Warranty.

- The Board has received and shall maintain a copy of Declarant's Limited Warranty and further understands and acknowledges that only those Defects identified in Declarant's Limited Warranty are covered by the limited warranty and only to the extent provided in Declarant's Limited Warranty.

- The Association has and undertakes to perform those affirmative maintenance obligations as set forth in Declarant's Limited Warranty, in addition to any maintenance obligations otherwise required by the Declaration or by applicable law.

9. Each Unit Owner may use the common elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Unit Owners, provided that the Board of Directors shall have the right:

(a) To change the use of the common elements upon approval of seventy-five percent of the Owners;

(b) On behalf of the Association, to lease or otherwise use for the benefit of the Association those common elements that, in accordance with Section 514B-38(5) of the Act, the Board determines are not actually used by any Unit Owners for a purpose permitted in the Declaration so long as it does not adversely affect Developer's rights and interests in the common elements, provided that, unless the approval of sixty-seven percent (67%) of the Owners is obtained, such lease shall not have a term of more than five (5) years and shall contain a provision that the lease or agreement for use may be terminated by either party thereto on not more than sixty (60) days' written notice;

(c) To lease or otherwise use for the benefit of the Association those parts of the common elements not falling within subsection (b) above, upon obtaining the approval of seventy-five percent of the Owners, including all directly affected Owners and in the case of limited common elements, all Owners of Units to which such limited common elements are appurtenant, and the approval of all mortgagees of record on Units with respect to which Owner approval is required, if such lease or use agreement would be in derogation of the interest of such mortgagees: and

(d) To enact, amend and repeal rules and regulations reasonably restricting and regulating use of the common elements, provided that such rules and regulations shall be enacted, amended or repealed in accordance with and shall be consistent with the terms of the Community Documents, and shall not be in derogation of the rights reserved to Developer in the Community Documents.

10. Lanais. Without limiting the generality of any other provision of the Declaration, the following provisions shall apply to lanais:

(a) Use of Lanais. Lanais shall be used only as outdoor living areas containing patio furniture, other similar outdoor furnishings, and those items that comply with the standards governing the appearance of such items as set forth in the Community Rules. Said furnishings shall be equipped with protective leg caps or other devices to prevent damage to the floor of the lanais. No Improvement shall be nailed, bolted, or otherwise attached to the floor, walls, or any other portion of the lanais. Any

plants permitted in accordance with the Community Rules must be placed on lanais must have sufficiently large receptacles to contain all drainage from such plants, and must not be allowed to collect condensates or moisture between the receptacles and the floor of the lanais.

(b) Limitations on Lanai Use-Generally. Lanais of all Units shall be used only as permitted under the Community Rules. Lanais shall be maintained in a clean, neat, and sanitary condition at all times, and nothing shall be placed on Lanais so as to render them unsightly or offensive to the other Owners or to any other Units in the Community or its occupants. No dust, dirt, or other substances shall be shaken, swept, or thrown from or hosed off the lanais on or into any Common Elements. Any item which in the opinion of the Board or the Board is unsightly or offensive shall be removed from the lanais upon receipt of written notice of such determination from the Board or the Board. No Owner shall change or alter the surface or exterior of any lanais without the consent of the Board. Use of all lanais shall be subject to the provisions in the Community Rules.

11. Rights of Persons with Disabilities. Subject to the provisions of the Declaration, each Owner shall have the right to modify the Owner's Unit and the Board and/or the Developer has the right to modify the route over the common elements leading to the front door of the Unit, at the Owner's sole cost and expense, in order to facilitate access to the Unit by persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to such persons. The rights granted by the Declaration are further subject to the following conditions: (i) the modifications shall be consistent with applicable building code requirements; (ii) the modifications shall be consistent with the intent of otherwise applicable provisions of the Declaration pertaining to safety or the aesthetic integrity of the Community; (iii) the modifications which are external to the Unit shall not prevent reasonable passage by other Owners or Invitees on the Community, and shall be removed by the Owner when the Unit is no longer occupied by persons requiring those modifications; (iv) any Owner who intends to modify a Unit pursuant to the Declaration shall submit their plans and specifications to the Board for review to determine whether the modifications comply with the provisions of the Declaration; and (v) any change in the exterior appearance of a Unit shall be in accordance with the provisions of the Declaration and all applicable provisions of law. Any Owner with a disability desiring such a modification shall make such request, in writing, to the Board. That request shall set out, with specificity and in detail, the nature of the request and the reason that the requesting party needs to be granted such the modification. The Board shall not unreasonably withhold or delay its consent to such request and the Board shall not deny approval of the proposed modifications under the Declaration without good cause.

12. Improvements and Pests. Except as otherwise specifically provided in the Declaration, any Supplemental Declaration, or any agreement with the Association, the performance and cost of all maintenance and repair of each Limited Common Element or private yard area, if so designated, and all structures, parking areas, landscaping and other Improvements located on or within such area shall be the sole responsibility of the Owner of the Unit to which such area is appurtenant. Each Owner shall maintain all Improvements, including landscaping in a state of good condition and repair in accordance with the Declaration. No Owner or occupant shall landscape or plant in any area controlled by the Association or otherwise interfere with the landscaping and maintenance of such landscaping as performed by the Association. No such Owner or occupant shall interfere in any manner with the proper and effective operation of the irrigation facilities, if any, located in or on such Common Elements or easement areas, including any automatic or electric timer system(s) associated with such facilities. Further, each Owner acknowledges and agrees that the Owner is responsible for the control of pests (termites,

insects, rodents and the like) in or around the Owner's Unit and appurtenant Limited Common Element(s). Notwithstanding anything to the contrary in the Declaration, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. Notwithstanding anything to the contrary contained in the Declaration, each Owner shall have and shall comply with each of those obligations specified in Declarant's Limited Warranty and undertake each of those actions therein required to be taken by the Unit Owner.

13. Maintenance.

(a) Appearance of Improvements. Each Owner shall maintain the exterior appearance of the Unit and Limited Common Elements in a neat and attractive manner, consistent with the surrounding areas in accordance with the provisions of the Declaration and the maintenance responsibilities set out in Exhibit "E" of the Declaration.

(b) Improper Maintenance. In the event any portion of a Unit or Limited Common Element is being used in a manner which violates the Declaration, the Community Rules or any applicable Supplemental Declaration, or in the event the Owner of a Unit is failing to perform any of his or her obligations under the Declaration, any applicable Supplemental Declaration or Community Rules, the Board may by resolution, make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto, give notice to the offending Owner that, unless corrective action is taken within ten (10) days, the Board may cause such action to be taken at the Owner's cost. If, at the expiration of said ten (10) day period of time, the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be a Special Assessment against the offending Owner and the Owner's Unit, secured by a special assessment lien enforceable in accordance with the Declaration.

14. Design Guidelines. Each Owner shall comply with the Mehana Design Guidelines, the Mehana Supplemental Design Guidelines, and the Design Guidelines set forth in the Community Rules.

15. Trees and Planting Strip Area. The Declarant may plant trees in the Common Elements along the Community Access Drives in the Community, including without limitation the planting strip between the curb and the sidewalk (the "**Planting Strip Area**"). No trees planted by the Declarant shall be removed, changed or relocated without the prior written consent of the Declarant and the County agency or agencies with jurisdiction over the Planting Strip Area. The Association shall be responsible for the proper maintenance and care of any trees planted. Under no circumstances may the Association or an Owner alter the Planting Strip Area without written permission of the Board of Directors and the Declarant. Each Owner is prohibited from altering, modifying, removing, or adding any tree to the Planting Strip Area and may not without limitation (i) fill in the ground area of the Planting Strip Area, (ii) pile building materials or equipment in the Planting Strip Area, (iii) poison any landscaping in the Planting Strip Area, (iv) post any signs or notices in the Planting Strip Area, and (v) damage any tree in the Planting Strip Area. County ordinance restricts the removal of trees growing in the Planting Strip Area and may restrict the alteration of any landscaping in the Planting Strip Area, without first obtaining a permit from DPP, or in emergencies, the traffic engineer and the chief engineer of the County. Owners may not plant trees in the Planting Strip Area, landscape, or alter the landscaping in the Planting Strip Area without first obtaining an appropriate Street Tree Planting Permit from the DPP and/or approval of the Declarant. The County may prohibit any person from injuring or destroying street trees in any manner, including but not limited to: (i) the filling in

of the ground area around the tree; (ii) the piling of building materials or equipment which may injure the tree; (iii) poisoning the tree or parking strip area; (iv) the posting of any signs or notices on any tree; and (v) the damaging of any tree.

16. Existing Drainage Facilities and Easements. Neither the Association or any Owner shall alter the existing drainage pattern within the Community. The Association shall be responsible for maintaining the existing drainage pattern within the Community

17. Existing Fences and Walls. Among the Improvements constructed by Declarant are various vinyl or aluminum fences and masonry or cementitious walls located within Community. The locations of the fences or walls shown on the Condominium Map are tentative and may be changed at any time, all without further notice to Owner. The final locations of the fences and walls will be shown on the Condominium Map filed with the "as built" statement.

18. Future Additions and Alterations. No Owner shall add to or alter any Improvement constructed by the Declarant, including the Units, without the prior written consent of DPP, and the Association's Board. All Improvements constructed made to a Unit or Limited Common Element by an Owner shall conform with the requirements of the Declaration and the Design Guidelines. In the event of a conflict between the Declaration and the Design Guidelines, the more restrictive provision shall control.

19. Right of Removal. Any construction, alteration, or other work done in violation of the Declaration shall be deemed to be nonconforming. Upon written request from the Board, the Owner(s) shall, at his, her or their own cost and expense, remove such nonconforming construction, alteration, or other work and shall restore the altered area to substantially the same condition as existed prior to the nonconforming construction, alteration, or other work. Should an Owner fail to remove and restore as required in this Section, the Board or its designee(s) shall have the right to enter the Unit or Limited Common Element, remove the violation and restore the property to substantially the same condition as existed prior to the nonconforming construction, alteration or other work. The Owner shall be liable for all costs thereof together with interest thereon at the maximum rate allowed by law, and the Association shall have an assessment lien to secure the payment of such costs.

20. Dispute Resolution. All disputes among Unit Owners concerning the common or individual responsibility for items described in the Declaration shall first be reviewed by the Board or a committee thereof designated for that purpose and the Board's non-binding opinion may be accepted by the disputing parties. Any Owner dissatisfied with such non-binding opinion may thereafter resolve the matter pursuant to the Declaration.

21. Cluster Housing Permit. All uses and Improvements to be undertaken within Kukuna shall comply with the Cluster Housing Permit and the Cluster Housing Permit Declaration.

22. Exterior Lighting. Any exterior lighting used on any Private Yard Area shall be suitably dimmed, screened, shaded or diffracted so that no offensive glare from the light sources is visible from any neighboring Private Yard Area or from the street. Owners shall properly maintain any exterior lighting fixtures located within Owners' respective Private Yard Areas.

23. Hazardous Materials. An Owner shall not cause or permit any Hazardous Material to be generated, used, transported, stored or disposed of upon, in or about his or her Unit or the Common Elements, except in a manner that complies with all applicable Hazardous Materials Laws.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE SPECIAL USE RESTRICTIONS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

**EXHIBIT L**

Section 1.12 -- Encumbrances Against Title

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. The terms and provisions contained in the following:

INSTRUMENT: AMENDED DOCUMENT LISTING CONDITIONS AND PRE-CONDITIONS TO RECLASSIFICATION  
DATED: November 14, 1989  
FILED: Land Court Document No. 1684751  
PARTIES: TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED

Said Amended Document Listing Conditions and Pre-Conditions to Reclassification was amended by instrument dated September 11, 1995, filed as Land Court Document No. 2260756, recorded as Document No. 95-119179.

3. The terms and provisions contained in the following:

INSTRUMENT: AMENDED AND RESTATED DOCUMENT LISTING CONDITIONS TO RECLASSIFICATION  
DATED: September 11, 1995  
FILED: Land Court Document No. 2260754  
RECORDED: Document No. 95-119177  
PARTIES: TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED

Said Amended and Restated Declaration Listing Conditions to Reclassification was amended by instrument dated September 11, 1995, filed as Land Court Document No. 2260756, recorded as Document No. 95-119179.

4. GRANT in favor of HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation, and VERIZON HAWAII INC., a Hawaii corporation (now known as HAWAIIAN TELCOM, INC.), dated July 25, 2002, filed as Land Court Document No. 2829229, granting a right and easement for utility purposes, further described therein
5. The terms and provisions contained in the following:

INSTRUMENT: UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING  
DATED: November 17, 2004  
FILED: Land Court Document No. 3195643  
PARTIES: TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, "Declarant"

6. The terms and provisions contained in the following:

INSTRUMENT: TRUSTEES' LIMITED WARRANTY DEED WITH COVENANTS  
AND RESERVATION OF RIGHTS  
DATED: December 14, 2005  
FILED: Land Court Document No. 3368412

ASSIGNMENT OF RIGHTS dated December 13, 2010, filed as Land Court Document No. 4051714.

7. GRANT in favor of HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation, and HAWAIIAN TELCOM, INC., a Hawaii corporation, dated January 23, 2008, filed as Land Court Document No. 3707463; granting a perpetual right and easement for maintenance purposes, over, under, upon, across and through those certain premises located off Barbers Point Naval Air Station Access Road, more particularly described therein.
8. Access rights in favor of Lot(s) 18256, 18257 and 18259, as set forth by Land Court Order No. 176856, filed November 10, 2008.
9. Access in favor of Lot(s) 18707 and 18708, both as shown on Map 1463, as set forth by Land Court Order No. 179795, filed August 3, 2009, as amended by Land Court Order No. 182953, filed June 3, 2010.
10. DESIGNATION OF EASEMENT "7119"  
  
PURPOSE: utility  
SHOWN: on Map 1028, as set forth by Land Court Order No. 139733, filed October 4, 2000
11. DESIGNATION OF EASEMENT "10145"  
  
PURPOSE: access, sewer, drainage, street light, traffic control, water, electric, and telecommunications  
SHOWN: on Map 1463, as set forth by Land Court Order No. 179795, filed August 3, 2009
12. GRANT  
  
TO: HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation, and HAWAIIAN TELCOM, INC., a Hawaii corporation  
DATED: November 10, 2009  
FILED: Land Court Document No. 3917221  
GRANTING: a perpetual right and easement over, under, upon, across and through said Easements "10145" and "10146" for manholes, handholes, pullboxes, and underground wire lines
13. DESIGNATION OF EASEMENT "10147"  
  
PURPOSE: landscaping and irrigation

- SHOWN: on Map 1463, as set forth by Land Court Order No. 179795,  
filed August 3, 2009
14. DESIGNATION OF EASEMENT "10508"
- PURPOSE: drainage and sewer  
SHOWN: on Map 1531, as set forth by Land Court Order No. 188009,  
filed August 8, 2011
15. DESIGNATION OF EASEMENT "10509"
- PURPOSE: drainage and sewer  
SHOWN: on Map 1531, as set forth by Land Court Order No. 188009,  
filed August 8, 2011
16. DESIGNATION OF EASEMENT "10510"
- PURPOSE: drainage  
SHOWN: on Map 1531, as set forth by Land Court Order No. 188009,  
filed August 8, 2011
17. DESIGNATION OF EASEMENT "10511"
- PURPOSE: irrigation  
SHOWN: on Map 1531, as set forth by Land Court Order No. 188009,  
filed August 8, 2011
18. DESIGNATION OF EASEMENT "10512"
- PURPOSE: drainage and sewer  
SHOWN: on Map 1531, as set forth by Land Court Order No. 188009,  
filed August 8, 2011
19. DESIGNATION OF EASEMENT "10513"
- PURPOSE: flowage  
SHOWN: on Map 1531, as set forth by Land Court Order No. 188009,  
filed August 8, 2011
20. DESIGNATION OF EASEMENT "10886"
- PURPOSE: access, sewer, drainage, street light and traffic control, water  
electric, and telecommunications  
SHOWN: on Map 1585, as set forth by Order filed as Land Court  
Document No. T-8415242
21. DESIGNATION OF EASEMENT "10887"
- PURPOSE: flowage and access

- SHOWN: on Map 1585, as set forth by Order filed as Land Court Document No. T-8415242
22. DESIGNATION OF EASEMENT "10888"
- PURPOSE: drainage (underground), sewer, and access  
SHOWN: on Map 1585, as set forth by Order filed as Land Court Document No. T-8415242
23. DESIGNATION OF EASEMENT "10889"
- PURPOSE: access, sewer, drainage, street light and traffic control, water, electric and telecommunications  
SHOWN: on Map 1585, as set forth by Order filed as Land Court Document No. T-8415242
24. DESIGNATION OF EASEMENT "10890"
- PURPOSE: transformer pad  
SHOWN: on Map 1585, as set forth by Order filed as Land Court Document No. T-8415242
25. DESIGNATION OF EASEMENT "10891"
- PURPOSE: transformer pad  
SHOWN: on Map 1585, as set forth by Order filed as Land Court Document No. T-8415242
26. DESIGNATION OF EASEMENT "10886"
- PURPOSE: access, sewer, drainage, street light and traffic control, water electric, and telecommunications  
SHOWN: on Map 1585, as set forth by Order filed as Land Court Document No. T-8415242
27. DESIGNATION OF EASEMENT "10887"
- PURPOSE: flowage and access  
SHOWN: on Map 1585, as set forth by Order filed as Land Court Document No. T-8415242
28. DESIGNATION OF EASEMENT "10888"
- PURPOSE: drainage (underground), sewer, and access  
SHOWN: on Map 1585, as set forth by Order filed as Land Court Document No. T-8415242
29. DESIGNATION OF EASEMENT "10889"

PURPOSE: access, sewer, drainage, street light and traffic control, water,  
electric and telecommunications  
SHOWN: on Map 1585, as set forth by Order filed as Land Court  
Document No. T-8415242

30. DESIGNATION OF EASEMENT "10890"

PURPOSE: transformer pad  
SHOWN: on Map 1585, as set forth by Order filed as Land Court  
Document No. T-8415242

31. DESIGNATION OF EASEMENT "10891"

PURPOSE: transformer pad  
SHOWN: on Map 1585, as set forth by Order filed as Land Court  
Document No. T-8415242

32. DESIGNATION OF EASEMENT "10892"

PURPOSE: walkway lighting meter cabinet  
SHOWN: on Map 1585, as set forth by Order filed as Land Court  
Document No. T-8415242

33. DESIGNATION OF EASEMENT "10893"

PURPOSE: switch pad  
SHOWN: on Map 1585, as set forth by Order filed as Land Court  
Document No. T-8415242

34. DESIGNATION OF EASEMENT "10894"

PURPOSE: flowage  
SHOWN: on Map 1585, as set forth by Order filed as Land Court  
Document No. T-8415242

35. DESIGNATION OF EASEMENT "10895"

PURPOSE: drainage and sewer  
SHOWN: on Map 1585, as set forth by Order filed as Land Court  
Document No. T-8415242

36. Condominium Map No. 2192 filed in the Land Court, as the same may be further amended and/or supplemented.

37. The terms and provisions contained in the following:

INSTRUMENT: DECLARATION OF CONDOMINIUM PROPERTY REGIME OF  
KUKUNA AT MEHANA

DATED: February 13, 2013  
FILED: Land Court Document No. 8444434

Said Declaration of Condominium Property Regime was amended and/or supplemented by instruments recorded as Document Nos. T-8605336, T-8719369, T-8782244, T-8807193, T-8878297, T-8892190, T-8936275, T-8963183, T-8995167, T-9027214, and T-9053169.

37. Real property taxes due and payable. For more information contact the Real Property Assessment Office, City and County of Honolulu.

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE ENCUMBRANCES AGAINST TITLE CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

**EXHIBIT M**

Reserved.

## EXHIBIT N

### Section 3.5 -- Changes to the Condominium Documents

Owners may not amend any provisions in the Declaration and Bylaws reserving rights to the Developer without the consent of Developer.

#### Amendment to Declaration:

Pursuant to the Declaration, Developer may amend the Declaration, the Bylaws and/or the Condominium Map, without the approval, consent or joinder of any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community, to correct typographical or mathematical errors and to make such amendments as may be required by law, by the Real Estate Commission of the State of Hawaii, by any title insurance company issuing a title insurance policy on the Community or any of the Units, by any institutional lender lending funds on the security of the Community or any of the Units, or by any governmental agency (including without limitation the VA, HUD, FHA, FNMA and/or FHLMC) or as otherwise required by Developer (including specifically without limitation the right to alter, adjust, or reassign guest parking stalls, retrofit adaptable parking stalls and limit the use thereof, and to change covered and uncovered parking stalls); provided, however, that, except as otherwise provided herein, no such amendment which would change the common interest appurtenant to a Unit or substantially change the design, location or size of a Unit or the building in which it is located shall be made without the consent to such amendment by all persons having an interest in such Unit.

Pursuant to the Declaration, Developer may amend the Declaration (and when appropriate the Condominium Map) without the approval, consent or joinder of any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community or in any Unit, to file a verified statement of the developer, a registered architect, or a professional engineer certifying that the final Recorded Condominium Map fully and accurately depicts the layout, location, house numbers and dimensions of the Units, as built, or that any revised plans being filed simultaneously with the amendment involve only immaterial changes to the layout, location and dimensions of the Units as built or any change in any house number, or such other changes as Developer is permitted to make pursuant to the Declaration.

Pursuant to the Declaration, notwithstanding the sale and Recording of conveyances for all Units within the Community, Developer may amend the Declaration, the Condominium Map and/or the Bylaws as may be provided in the Declaration in connection with the exercise of any right reserved to Developer, without the approval, consent or joinder of any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, or any other person who may have an interest in the Community or in any Unit.

Pursuant to the Declaration, restoration of the Community with less than all of the units after any casualty or condemnation may be undertaken by the Association, except where required by law, only pursuant to an amended declaration, duly adopted by the affirmative vote of not less than eighty percent (80%) of the Unit Owners, including at least eighty percent (80%) of the Owners of Units that will not be restored, and by all holders of liens affecting all or any part of the Community.

Pursuant to the Declaration, except as provided in the Declaration, repair, reconstruction, restoration, replacement of the Community or any building or other structure or unit within the Community or construction of any additional building or other structure or structural alteration or addition thereto, different in any material respect from the Condominium Map shall be undertaken by the Association or any Unit Owners only pursuant to an amendment of the Declaration, which amendment shall be duly executed by or pursuant to the affirmative vote of seventy-five percent of the Unit Owners and accompanied by the written consent of the eligible holders of first mortgage (as hereinafter defined) on Units to which at least sixty-seven percent of the votes of Units subject to mortgages held by such eligible holders are allocated, and in accordance with complete plans and specifications therefor first approved in writing by the Board.

Pursuant to the Declaration, except as otherwise expressly provided in the Declaration or in the Act, the Declaration may be amended by the affirmative vote or written consent of not less than seventy-five percent of the owners at a meeting of the Association called for that purpose, and effective only upon the recording of an instrument setting forth such amendment and vote, duly executed by any two officers of the Association; provided, however, that, except as otherwise expressly provided in the Declaration or in the Act, the approval of eligible holders of first mortgages on Units to which at least fifty-one percent of the votes of Units subject to mortgages held by such eligible holders are allocated, together with such other approval requirements as set forth in the Declaration, shall be required to materially amend any provision of the Declaration, or to add any material provisions set forth in the Declaration.

Any provision of the Declaration to the contrary notwithstanding, and in addition to such other approval requirements as are set forth in the Declaration, to the extent permitted by Section 514B-106(d) of the Act, the prior written approval of Developer is required before any amendment which would impair or diminish the rights of Developer to complete the Property or sell or lease Units therein in accordance with the Declaration shall become effective. Notwithstanding any other provisions of the Declaration, until such time as Developer no longer owns any Unit in the Community, the following actions, before being undertaken by the Association, shall first be approved in writing by Developer:

(a) Mortgagee Approval. Any amendment or action requiring the approval of Mortgagees pursuant to the Declaration;

(b) Capital Improvement Assessment. The levy of a capital improvement Assessment for the construction of new facilities not constructed in the Common Element by Declarant;

(c) Reduction in Services. Subject to any restrictions contained in the Bylaws regarding limitations on general assessment increases, any significant reduction of Association maintenance or other services;

(d) Assessments. Alteration in the method of fixing and collecting assessments or any increases in assessments beyond the amounts permitted under the Bylaws;

(e) Responsibility for Repairs. Reduction in the level of, or change in allocation of, responsibility for maintenance of and repairs to all or any portion of the Common Element subject to the Declaration, or any other maintenance obligations of the Association set forth in the Declaration;

(f) Common Elements. Conveyance or dedication by the Association of all or any portion of the Common Elements;

(g) Ka Malanai DRC Enforcement and Review Procedures. Modification of the enforcement and review procedures of the Board or Ka Malanai DRC, or any change in the architectural and landscaping design originally installed by Declarant;

(h) Improvements to and Maintenance of Common Elements. Modification to Improvements to the Common Elements or to the level or frequency of maintenance of the Common Elements;

(i) Enforcement of the Declaration. Alteration in the method of enforcing the provisions of the Declaration; or

(j) Declarant's Reserved Rights. Any modification of the rights reserved and granted to Declarant herein with respect to development or sale of the Property or which are for the express benefit of Declarant.

Amendment to Bylaws:

Pursuant to Section 3.2 of the Bylaws, the Bylaws may be amended to reduce the number of Board members where at least seventy percent (70%) of the unit owners do not reside at the Community by the written consent of a majority of Owners or the vote of a majority of a quorum at any annual meeting or special meeting called for that purpose.

Pursuant to Section 11.2 of the Bylaws, the Bylaws may be amended in any respect not inconsistent with law or the Declaration by the affirmative vote or written consent of not less than sixty-seven percent (67%) of the Owners.

Until such time as the Declarant has turned over administration of the Community to the Association, Declarant shall have the right to amend the Bylaws without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE CHANGES TO THE CONDOMINIUM DOCUMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

## EXHIBIT O

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

The Developer has the right to change the condominium documents for any of the following reasons or purposes:

In addition to the easements established as Limited Common Elements and any easements and reserved rights described in Exhibit "A" attached to the Declaration, (including without limitation the rights reserved to Declarant and others in Section F of the Declaration and the rights of Declarant reserved under the Merger Declaration), the Units and Common Elements shall have and be subject to the following easements and reserved rights by Declarant:

1. **Easement Rights Exercisable by Declarant.** Declarant shall have the right to designate, grant, convey, transfer, cancel, relocate and otherwise deal with any easements over, under, across or through the Common Elements of the Community for any reasonable purpose, which may include, but shall not be limited to, those purposes which are necessary for the operation, care, upkeep, maintenance or repair of any Unit, the Common Elements or any easements for utilities or for any public purpose.

2. **Declarant's Reserved Rights Concerning Easements.** Declarant reserves a present easement over the whole of the Land and Common Elements, together with the right for itself and its successors and assigns, to designate, grant, convey, transfer, cancel, relocate, reserve or otherwise deal with any easements, licenses, and rights of way at any time for utilities, air conditioning service or access ways or stairs for one or more units, any public-type facility (mailboxes and the like), sanitary and storm sewers, cable television transmission facilities, party walls (including the creation of the same on the Community boundaries), refuse disposal, sight distance, landscape, maintenance, driveways, parking areas, Community Access Drives and other similar purposes, on, over, across, under and through the Common Elements of the Community. Without limiting the generality of the foregoing, Declarant reserves the right to utilize any common roadway and utility facilities (including without limitation water, sewer, electrical, telephone, and cable) described in the prior sentence (such as, but not limited to, waterlines, sewer lines, Community Access Drive and the like) whether located in designated easement areas or otherwise, together with the right of entry to construct, reconstruct, operate, maintain, repair and relocate such lines, facilities and appurtenances and to grant any such easements or rights of way to governmental or quasi-governmental authorities, utility or service companies, homeowner's associations or other entities and the right to grant, dedicate, designate, use and enjoy easements and/or rights-of-way for access purposes (including for vehicular and pedestrian access). Declarant may, in its discretion, complete any construction of intended facilities in advance of the designation or creation and granting of the easement covering the facilities so constructed. Without limiting the generality of the foregoing, Declarant reserves the right to grant easements in favor of the Master Association, including, without limitation, for landscape, electricity, utility, tot lot, and maintenance purposes. The rights reserved to Declarant include specifically without limitation the right to utilize any utility service to the Community to complete such construction, to perform warranty or punchlist repair services within the Community and to serve adjacent and separate developments outside of the Community provided Declarant with respect to such separate and/or adjacent communities submeters such use, and may use the Community Access Drives to serve adjacent developments provided the association controlling such development shares pro rata in the cost of maintenance and repair of the Community Access Drives and reimburses the Association for any submetered use. Without limiting the generality of the foregoing, Declarant, for itself and for

the benefit of the Association, reserves the right to install a submeter for water and/or electricity usage at the tot lot. The easements retained in this Section and these reserved rights shall be exercised in a manner that will not materially impair or interfere with the use of any Unit. In the event of a submetered use (such as water service), the Association shall be entitled to confirm submeter readings. Each Owner, by purchasing a Unit, consents to any such designation, granting, conveyance, transfer, cancellation, relocation and reservation of easements and/or rights of way as provided above without the necessity of any Owner or those claiming by, through or under an Owner entering into any further agreement respecting such action or document; provided, however, that such Owner and those claiming by, through or under an Owner agrees to join in and execute such documents and instruments and do such other things as may be necessary or convenient to effect the same promptly at the request of Declarant without payment of additional consideration.

3. **Easement to Conduct Extensive Sales Activities.** Declarant, and its agents, successors, mortgagees and assigns, shall, have the right and an easement to conduct extensive sales activities on and at the Community, including the use of any Unit owned by Declarant (and any other Unit, with the express permission of the Owner of such Unit) and the Common Elements (excluding Limited Common Elements appurtenant to other Units) for model homes, sales and management offices, parking and extensive sales displays and activities, and the posting and maintenance of signs and other advertisements relating to such sales activities. Without limitation of the foregoing, Declarant reserves, for itself and its successors and assigns, the right during the course of Declarant's sales of Units in the Community to supplement, modify and amend the estimated breakdown of annual maintenance fees and estimated cost of assessment to each Unit, as Declarant deems appropriate, to reflect changes in estimated expenses applicable to ownership of Units attributable to the increase in cost of service or modification of proposed service to the Association reflected in the budget for annual maintenance fees. Upon such modifications, Declarant may supplement and amend its public report applicable to the Community, which modification shall not be deemed material in any respect.

4. **Declarant's Easement to Complete Construction and Make Repairs.** Declarant and its agents, employees, contractors, licensees, successors, mortgagees and assigns shall have an easement over, under and upon any portion of the Community, including the Common Elements, any utility service, Limited Common Elements and any Unit, as may be reasonably necessary for the inspection of and for the completion of improvements to and correction of defects and other "punchlist" and warranty items in the Unit or the Community. The rights reserved in this Section shall continue until ten (10) years after the later of: (i) the Recording of the "as built" verified statement required by Section 514B-34 of the Act; (ii) the "date of completion" of the improvements as defined in Section 507-43(f), Hawaii Revised Statutes of the last Unit constructed in the Merged Community; (iii) the date of the sale of the last Unit owned by Declarant in the Merged Community; or (iv) the expiration of the applicable limited warranty period for any portion or portions of the Common Elements.

5. **Declarant's Easements for Development, Construction, and Sale.** Declarant and its agents, employees, contractors, licensees, successors, mortgagees and assigns shall have an easement over, under and upon the Community and each and any portion of the Community and the individual Units to create and cause noise, dust, vibration and other nuisances or annoyances created by and resulting from any work connected with or incidental to the development, construction and sale of any Unit or other Improvement to the Community, any additional increment to the Community, or any other community which Declarant, its successors or assigns, may develop on property adjacent to or in the vicinity of the Community. Each and every Owner or other person acquiring any interest in the Community waives any and

all rights, claims or actions that might otherwise be asserted against Declarant, its agents, employees, licensees, successors, mortgagees and assigns, based on any such noise, dust, vibration and other nuisances or annoyances. Without limitation of the foregoing:

(a) Declarant, its agents, employees, consultants, contractors, licensees, successors, mortgagees and assigns, shall have an easement over, under and upon the Community as may be reasonable or appropriate for additional construction, the completion of renovations to the improvements of the Community, and (at the option of Declarant) the correction of defects therein. In addition to any other easements reserved to Declarant under the Declaration, in connection with, and to the extent necessary for the development and construction of Units, common facilities, and/or Increments following the transfer of ownership of any Unit to an individual or entity other than Declarant, Declarant shall have the right to enter upon the Community premises with employees, agents and contractors for all purposes reasonably necessary for or useful to constructing and completing all Increments in accordance with the Declaration and the Condominium Map. Such rights shall include, but are not limited to, the following:

(i) An easement over, under and across the Common Elements of the Community and all utility service to the Community for the purposes of all work connected with or incidental to the development, construction and sale of the Units or increments; and

(ii) The right in the nature of an easement over and upon the existing buildings and Common Elements of the Community to create and cause dust, noise, vibration and other nuisances created by and resulting from any work connected with or incidental to the development, construction and sale of the Increments or Units.

(b) Declarant, its contractors, subcontractors, licensees, mortgagees and assigns, and their respective employees and agents, shall have the right and an easement in favor of Declarant and its successors and assigns is hereby granted at any time and from time to time prior to the later of the thirtieth (30th) anniversary date from the recording of the Declaration or until the date two (2) years following the date of the sale of the last Apartment owned by Declarant in the Merged Community, to enter upon, use, remove, replace, add to, or otherwise alter the Common Elements and the Limited Common Elements of the Community and to do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any additional increment to the Community, connecting any such additional Increment to the utility installations of the Community, and selling the Units contained within any such additional or increment, including, but not limited to, the right to consolidate any parcel(s) of land covered hereby with any other parcel(s) of land in connection with the merger of increments; provided that the exercise of the rights granted herein shall not cause any permanent or avoidable interruption in the service of utilities to the Community, and provided further that any person exercising such rights shall use reasonable efforts, without additional cost to Declarant and consistent with maintaining the progress of the design, development, construction, completion and sale of the additional increment, to minimize interference with the Owners' use and enjoyment of the Property. Declarant further reserves the right to grant, for the benefit of the owner or owners from time to time of all or any portion of each of the other Increments, and without the consent or joinder of, or notice to, any party having any interest in the Community, easements over, under, across, along, upon and through the Common

Elements of the Community for ingress and egress purposes, access purposes, electrical, gas, sight distance, communications and other utility purposes, sanitary sewer, drainage and drainline, waterline, and flowage purposes, and all other purposes, to the State of Hawaii, the County, the Board of Water Supply of the County, any other appropriate governmental agency, and/or any public or private utility or other corporation, partnership, individual or entity, provided that such easements and rights-of-way do not materially impair or interfere with the use of any Unit in the Community or the Common Elements of the Community.

(c) Without limiting the foregoing, anything to the contrary notwithstanding, Declarant shall have the following retained and reserved construction easements:

(i) A non-exclusive easement in all structural members, footings, foundations, columns and beams and any other supporting components located in or constituting a part of the Community;

(ii) A non-exclusive easement for access to, the right to connect to and the use for their intended purposes and maintenance, of all facilities located in the Community including heating, ventilating and air conditioning systems, boilers and hot water systems, sewer systems and water supply systems;

(iii) A non-exclusive easement permitting encroachments in the event and to the extent that, by reason of the original construction or any reconstruction or replacement of any improvements currently located or hereafter constructed on any part of the Community or the subsequent settlement or shifting of any part of the improvements on any portion of the Community;

(iv) A non-exclusive easement in and for the use of all common walls, floors and ceilings common to the Community;

(v) A non-exclusive easement for ingress and egress of persons and vehicles through, over and along all portions of the Community as they exist on the date the Declaration is Recorded and which, by their nature, currently permit the passage of persons and motor vehicles, respectively, for the purpose of affording access to and egress from the public alleys, walkways, pathways and streets adjoining the Community; and

(vi) A non-exclusive easement for ingress and egress of persons and vehicles through, over and along all portions of the Community to construct and maintain facilities therein, provided that the existence of the facilities when completed does not materially interfere with the use of the Community through or in which the facilities are constructed for their intended purpose. During construction of the facilities, Declarant and its contractors may restrict the use of the Common Elements of the Community as would be normal for the type of construction involved, provided that the Common Elements of the Community can still be used for the purpose for which they were designed, or reasonable alternative services are available.

(d) The purpose of the easements declared and granted in this Section is to enable Declarant to fully exploit and use the Community or any portion thereof for any lawful purpose whatsoever and to construct thereon any improvements which Declarant is lawfully permitted to construct, and, in connection with such construction, to connect

to, rest upon, abut and otherwise receive support for any improvements which may be created, from the improvements currently located on the Community adjoining the area of such improvement and for ingress and egress through the Common Elements of the Community as currently enjoyed. Declarant's exercise of rights reserved in this Section are subject to Declarant's agreement to repair at its sole cost, in a good and workmanlike manner and in accordance with all laws any damage caused to the Community by reason of the exercise of the easements granted by this Section. The easements granted in this Section shall terminate the later of thirty (30) years following Recordation of the Declaration or the date two (2) years following the date of the sale of the last Apartment owned by Declarant in the Merged Community, and may be assigned in whole or in part, subject to such limitations as may be determined appropriate by Declarant in Declarant's sole discretion, by Declarant to one or more Owners.

6. **Declarant's Reserved Right Regarding County Licenses and Permits.**

Developer shall have the reserved right for a period of twenty-five (25) years following the Recordation of the Declaration, without the approval, consent or joinder of, and without notice to, the Association, any purchaser or Owner of any Unit, or any other party with any interest in the Unit (including any tenant), which may be exercised as herein provided or as provided in Section R.2 of the Declaration to (a) amend any of the Community Documents, including, without limitation, the Declaration or the Merger Declaration, (b) enter into any agreements, including, without limitation, to declare and subject the Land and Improvements to restrictive covenants, (c) designate and grant easements, (d) secure any other governmental permits, and (e) do all things necessary and convenient to satisfy, alter or amend the requirements of any land use or other permits pertaining to the Community, including, without limitation, such permits as may be issued authorizing the Community, including one or more building permits, Conditional Use Permit(s) (Minor), Zoning Adjustment(s), and Special District (Major) Permit(s), issued by the applicable planning department of the County (the "DPP") relating to the development of the Community, and to execute, file and deliver any and all documents necessary to effect the same, including, but not limited to, any amendments to the Declarations, Condominium Map, or such permits.

Without limitation of the foregoing, each Owner acknowledges and agrees that Declarant, on behalf of the Association or Declarant, may (i) seek or has obtained certain licenses and permits from the DPP and other government agencies relating to the development of the Community, including, but not limited to items that may include or address the public storm sewer system, conditional use permit (major or minor), and the joint development of the Land subject to the Declaration; (ii) enter and Record as an encumbrance on the Land any declaration regarding improvements or use of the Property Declarant is required to impose on the Land in order to proceed with the development of the Land and/or (iii) impose on the Association obligations imposed on Land and the development of the Land by such licenses and permits, the declarations required to proceed with the improvement, use, or development of the property, and/or the applicable Unilateral Agreement (collectively these items and all such items of a substantially equivalent nature are described as the "**licenses and permits**"). To the extent that any such licenses or permits have not been issued to the Association, Declarant and its agents, employees, contractors, licensees, successors, mortgagees and assigns, reserve the right to transfer to the Association any and all obligations arising under or imposed in connection with such permits. Declarant hereby reserves the right, without the joinder or consent of, or notice to, the Association or any Owner or their mortgagees, (a) to enter and/or to amend such license or permit as may be required or issued by the DPP or other government agency or in respect of which Declarant has reserved such right in the applicable instrument, (b) to encumber

the Land and the Association with the obligations thereunder arising, and (c) to modify Improvements to the Community to conform to the licenses and permits. In connection with such licenses and permits, the Association shall have the responsibility to comply at all times now and in the future with all requirements and obligations under such licenses and permits transferred to the Association or that encumber the Land, and all DPP regulations and any other applicable statutes, ordinances and rules and regulations of Federal, State or County agencies relating to the discharge, drainage and runoff of storm water and surface water, and their constituents, from the Community into the public storm sewer system. Neither the Association nor any Owner shall take any actions that may in any way undermine the Association's obligations to comply with the foregoing requirements. Each Owner and the Association shall execute any and all documents required by Declarant in Declarant's sole discretion to transfer, if required, any applicable license or permit to the Association, including without limitation any license relative to discharge, drainage and runoff.

Without limitation of the foregoing, the rights reserved to Declarant by this Section include by way of example and not limitation, the right: (i) to provide open space(s) and a sidewalk for use by the public in the Community; (ii) to establish a private park area(s) at the Community; (iii) to designate one or more areas and/or to record against the Community one or more agreements with the Department of Land and Natural Resources of the State of Hawaii for purposes of addressing the preservation, establishment, location and/or relocation of any burial or historic sites or artifacts found during development of the Community and protected under the laws of the State of Hawaii; (iv) to amend the Community Declaration and to modify the Condominium Map and scope of any Limited Common Element or Common Element, including, without limitation, the recreational facilities and parking facilities to effect the foregoing; (v) to perform such additional offsite requirements as may be mandated, including, without limitation, road widening improvements and/or the provisioning of utilities, traffic signals, bus stops and/or stop signs; (vi) to modify building types, unit types (alter the number of rooms and Net Living Area, and location within the Community), the overall "product mix", the landscaping plan, or available number of parking stalls (both Common Element and Limited Common Element parking stalls); and (vii) to prohibit enclosure of the lanais to any Unit in the Community. The Association and each Owner shall indemnify and hold harmless Declarant, its successors and assigns, from and against any and all claims and demands for damages in connection with the Association's fulfillment of its obligations under transferred licenses and permits, including, without limitation, any storm sewer connection obligations.

**7. Declarant's Reserved Right Regarding Grading and Drainage Channels.**

Declarant hereby reserves to itself and the Association, and their respective officers, agents, employees, successors, and assigns, an easement to enter upon, across, over, in, and under any portion of the Community, for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of any portion of the Community for all reasons determined appropriate by Declarant, including without limitation so as to improve the drainage of water within the Community. Reasonable efforts shall be made to use this easement so as to disturb as little as possible the uses of the Owners, the Association and Declarant, as applicable, to prosecute such drainage work promptly and expeditiously, and to restore any areas affected by such work to a slightly and usable condition as soon as reasonably possible following such work. The rights reserved in this Section shall continue until ten (10) years after the later of: (a) the Recording of the "as built" verified statement required by Section 514B-34 of the Act; (b) the "date of completion" of the improvements as defined in Section 507-43(f), Hawaii Revised Statutes of the last Unit constructed in the Merged Community or (c) the expiration of the applicable limited warranty period for any portion or portions of the Common Elements.

8. **Declarant's Right for Roadway and Utility Purposes.** Declarant hereby reserves an easement for roadway and utility purposes on and over the Community Access Drive as shown on the Condominium Map. Declarant further reserves the right to grant to the State of Hawaii, County or Hawaiian Electric Company or any agency or organization acting on their behalf any or all of the easement areas designated under the Condominium Map or in the Declaration herein, without joinder or consent of, or notice to, the Association, any Owner, or any Owner's mortgagee.

9. **Declarant's Reserved Right to Transfer Property to the Association.** The Association shall accept title to any property, including any Improvements thereon and personal property transferred to the Association by Declarant, together with the responsibility to perform any and all duties associated therewith, which, upon conveyance or dedication to the Association, the Association shall maintain at its expense for the benefit of the Owners as provided in the Declaration. Property interests transferred to the Association by Declarant shall constitute Common Elements of the Community, which may include, without limitation, any contract relating to Community facilities, any landscaping, flowage, drainage, or utility easements (pending dedication of all or portions of the affected easement areas to the County), the adjacent roadways, parks, walkways, pathways, landscape buffers, any trade name, any unassigned parking stall or parking stall reserved to Declarant under the terms of the Declaration, and may encompass fee simple title, easements, leasehold interests and licenses to use; provided, however, that any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board, be transferred to the Association "as-is," "where-is," free and clear of all liens and encumbrances except for the following: (a) the lien for property taxes and assessments not then due and payable; (b) the terms of the Declaration and the terms of any Supplemental Declaration annexing the property to the Property; (c) easements, rights-of-way, reservations, covenants, conditions, restrictions and equitable servitudes or other non-financial encumbrances as Declarant in its discretion may deem appropriate; and (d) such financial encumbrances as may be reasonably accepted and assumed by the Association and specifically approved by resolution of the Board. Any property or interest in property transferred to the Association by Declarant shall not impose any unreasonable or special burden on the Association other than the normal burdens of ownership and maintenance of property and the operation of facilities thereon; provided, however, such conveyance instrument may contain an indemnity of the Declarant by the Association. Each Owner, by accepting title to any portion of the Property and becoming an Owner, is deemed to approve and accept the acquisition by the Association of Common Elements as provided herein, and any Common Expenses which may relate thereto. The conveyance by Declarant may be without warranty of any kind except as aforesaid and without the benefit of escrow or title insurance, provided, however, the Association may purchase such title insurance, at the Association's expense, as the Association may wish. Upon transfer, the Association agrees to assume the obligations of the Declarant under any applicable leases, contracts, and other agreements. Furthermore, and notwithstanding anything to the contrary contained or implied in the Declaration, Declarant shall have the absolute right, without consent or joinder of, or notice to, the Association, or any member thereof or its Board, to convey to the Association the Common Element(s) and properties described in this Section.

10. **Declarant's Reserved Rights Regarding Alterations and Repairs.** Any other provision in the Declaration to the contrary notwithstanding, Declarant does hereby reserve the rights described in this Section unto Declarant, its successors and assigns. Prior to the later of (i) the time that all Units in the Community have been sold and the conveyance thereof Recorded, (ii) December 31, 2025, and (iii) the filing by Declarant of the "as built" verified statement (with plans, if applicable) required by Section 514B-34(a) of the Act, Declarant shall

have the right, but not the obligation, and without being required to obtain the consent or joinder of any person or group of persons, including the Association, any Unit Owner or any Mortgagee, lienholder, Unit purchaser, or any other person who may have an interest in the Community, to do the following:

(a) Configuration of Units and Other Changes. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owner, lien holder, or other persons, to make alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) (1) to change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Unit (and the Limited Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, (2) to change the overall "product mix" (e.g., change the Unit types or change the configuration of Unit built on a particular floor of a building), (3) to alter the Common Elements to create Limited Common Element(s) benefitting a single or more than one Unit (inclusive of private yard areas), and/or (4) to alter the Common Elements or the Limited Common Elements to convert the same into a Unit or for any purpose benefitting one or more Units, including without limitation by creating, expanding or reducing lanais, fenced areas, gates, pathways and sidewalks, utility placement locations. Without limitation of the foregoing, Declarant may change or remove all or part of any Common Element feature and/or an intervening Common Element wall, floor, and/or ceiling separating two (2) Units owned by the Declarant or Limited Common Elements controlled by the Declarant, install doors, stairways, and other Improvements in such opening or openings in the intervening Common Element, seal hallways or other openings, and make any other reasonable related changes or additions Declarant determines expedient or necessary. Further, Declarant may consolidate any two (2) adjacent Units owned by the Declarant into a single Unit and make any Common Element walls, floors, or ceilings between the Units part of the Unit or its Limited Common Elements. In that regard, Declarant may change the designation of the Limited Common Elements appurtenant to any two (2) adjacent Units owned by the Declarant so that one or more Limited Common Elements appurtenant to one Unit will be appurtenant to the other Unit or to both of the Units. Declarant also reserves the right to (i) modify exterior elevations of buildings, door and window types (open versus fixed, slider versus awning or otherwise) and the location of the same, roof types and materials, (ii) to change the size and location of lanais and lanai railings and coverings, parking stall locations and coverings, air conditioning unit locations, (iii) to add, delete, and/or relocate exterior stairways, (iv) to alter utility locations from those reflected on the Condominium Map, and (v) to substitute any included appliances as standard. In addition to the foregoing, Declarant shall have the right to amend the Declaration, Bylaws and/or Community Rules to change the name of the Community, alter the pet policy of the Community, and make such other changes to the Community Rules as Declarant desires.

(b) Right to Improve and Fix Location of Recreation Facilities and Barbeque Areas. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owner, lien holder, or other persons, to improve any area within the Community with recreational facilities, which may include, but are not limited to, barbeque areas, pathways, and play and/or exercise structures or facilities. These areas, facilities and structures may result in the creation of public activity zones that may negatively impact

the Owner's use, views, privacy and enjoyment of their Unit. Upon the construction of such items, they shall be Common Elements of the Community.

(c) Alterations to the Community. Generally without limitation by virtue of the foregoing, Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owner, lien holder, or other persons, to make other alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) which make changes in any Unit in the Community or in the Common Elements that do not affect the physical location, design, or size of any Unit that has been sold and the conveyance thereof Recorded.

(d) Amendment to Declaration and Condominium Map. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owner, lien holder, or other persons, to amend the Declaration and the Condominium Map as necessary or convenient to describe any new Improvements constructed on the Property in accordance with the Declaration and to make such amendments to the Declaration as are appropriate to describe any rights and obligations in respect of such new Improvement in accordance with this Section.

(e) Right of Inspection. Declarant reserves the right, but not the obligation, to make any inspection the Common Elements, Limited Common Elements, or Units.

(f) Right to Relocate and/or Redesign the Drainage Facilities. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owners, lien holder, or other persons, to relocate the drainage facilities within the Community, and/or to redesign such areas to increase or decrease the size of such easement area within the Community, provided such modifications do not interfere as to the existing drainage, except during the period of connection, reconstruction, repair or replacement of the relocated or redesigned such easement area, and provided further that such relocation and/or redesign of such easement area does not reduce the design capacity of the drainage system.

11. Right to Improve Private and Public Parks. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of or provide notice to any Unit Owner, lien holder, or other persons, to improve Common Elements with other recreational facilities, which may include, but are not limited to, picnic tables and barbeque areas, all of which upon such construction shall be Common Elements of the Community. Declarant has reserved the right to include these and other items within the Community, but Declarant has no obligation to provide these or any additional items and has made no promise to do so.

12. Right of Inspection. Declarant reserves the right, but not the obligation, to make any inspection of the Common Elements, Limited Common Elements, or Units.

13. Alterations and Transfers of Common Interest. Declarant reserves and shall have the right to alter the common interest and easements appurtenant to each Unit, which otherwise shall have a permanent character, as noted in the Declaration. The common interest, voting rights and easements appurtenant to each Unit may be altered (diminished or increased) by a Recorded amendment to the Declaration: (a) as may be determined necessary by

Declarant, without the joinder or consent of or notice to any party, to correct typographical or mathematical errors in the statement of such common interests, (b) filed by Declarant, without the joinder or consent of or notice to any party, upon the alteration of the Community as permitted pursuant to the Declaration, and/or (c) upon the action or consent of all Owners of Units affected thereby, and the consent of the holders of any mortgage affecting such Units as shown in the Association's records of ownership, or who have given the Board notice of their interest.

14. **Declarant's Right to Change Parking Stall Types and to Change Unit Numbering or Other Designations.** Declarant reserves the right, without being required to obtain the consent or joinder of, or provide notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, Unit purchaser or any other person who may have an interest in the Community or in any Unit, and notwithstanding the sale of a Unit provided the conveyance therefor have not been Recorded, (a) to change the designation of compact and standard sized parking stalls, (b) to change covered and uncovered parking stalls from that depicted on the Condominium Map, (c) to relocate or renumber parking stalls, (d) to reassign parking stalls designated as Limited Common Elements appurtenant to a Unit provided such Unit shall have assigned to it not less than one (1) parking stall, and (e) to amend the Declaration and Condominium Map as necessary or convenient to describe such changes. Any parking stall designated on the Condominium Map as a standard sized parking stall may be constructed as a compact sized parking stall or visa versa.

15. **Declarant's Right to Change Construction Increments.** Any other provision in the Declaration to the contrary notwithstanding, the Declarant shall have the right (but shall not be obligated) at its sole discretion under this Section, without being required to obtain the consent or joinder of, or provide notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, Unit purchaser or any other person who may have an interest in the Community or in any Unit, to develop, construct, transfer, convey and/or sell the Units hereunder in legal phases or Increments on a building by building basis, or to abandon and not develop or construct such increments as Declarant may determine in its sole and absolute discretion. For purposes of the Declaration the term "Increment" means any cluster or clusters of Units in this Community together with related facilities appurtenant thereto as reflected on the Condominium Map, developed and built on an incremental basis in accordance with this Section. The Community consists of those Units described in **Exhibit "B-1"**, to be developed. Declarant shall develop the Community in no more than eleven (11) increments, and shall proceed initially with only the development of Increment 1, Before proceeding with development of future increments. Declarant shall and hereby reserves the right to amend the Declaration to evidence the incorporation and annexation of the Units included in such future increments within the Community. However, Declarant reserves the right to construct the Community in one (1) or more Increments in Declarant's sole discretion. Upon the completion of any Unit within an Increment, the Declarant may, notwithstanding the incompleteness of any other Increment(s) or other Units in the pending Increment, but subject to the Community Documents and the provisions of the sales contract for the sale of a Unit in such Increment, thereupon transfer ownership of Units in such Increment to Unit purchasers.

16. **Completion of Increments and Community.** In connection with, and to the extent necessary for the development and construction of the Community, other Units and/or Increments following the transfer of ownership of any Unit to an individual or entity other than the Declarant, the Declarant shall have the right to enter upon the Community premises with employees, agents and contractors for all purposes reasonably necessary for or useful to constructing and completing all Increments in accordance with the Declaration and the Condominium Map without any obligation to reimburse the Association for any cost or benefit

attribute to the exercise of Declarant's rights reserved under this Section. Such rights shall include, but are not limited to, the following:

(a) An easement over, under and across the Common Elements of the Community for the purposes of all work connected with or incidental to the development, construction and sale of the Community, other Units and all Increments;

(b) The right in the nature of an easement over and upon the existing buildings and Common Elements and Limited Common Elements of the Community to create and cause dust, noise, vibration and other nuisances created by and resulting from any work connected with or incidental to the development, construction and sale of the Increments;

(c) The right to enter the Common Elements of the Community for the purpose of showing prospective purchasers Units in the Community;

(d) The right to place signs upon the Community in conjunction with sales of Units;

(e) The right of the Declarant to use any Unit owned or rented by the Declarant for sales or display purposes until all Units and Property within the Community have been sold; and

(f) The right to use utility services benefiting the Community.

17. **Declarant's Right to Alter Common Elements and Limited Common Elements.** The Declarant, its contractors, subcontractors, licensees, mortgagees and assigns, and their respective employees and agents, shall have the right and an easement in favor of the Declarant and its successors and assigns is hereby granted at any time and from time to time prior to the twentieth (20th) anniversary date hereof, to enter upon, use, remove, replace, add to, or otherwise alter the Common Elements and the Limited Common Elements of the Community and to do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any additional increment to the Community, connecting any such additional increment to the Community Access Drives and utility installations of the Community, and selling the Units contained within any such additional increment, including, but not limited to, the right to consolidate any parcel(s) of land covered hereby with any other parcel(s) of land in connection with the addition of an increment; provided that the exercise of the rights granted herein shall not cause any permanent or avoidable interruption in the service of utilities to the property, and provided further that any person exercising such rights shall use reasonable efforts, without additional cost to the Declarant and consistent with maintaining the progress of the design, development, construction, completion and sale of the additional increment, to minimize interference with the Owners' use and enjoyment of the property. Declarant further reserves the right to grant, for the benefit of the owner or owners from time to time of all or any portion of each of the other Increments, and without the consent or joinder of, or notice to, any party having any interest in the Community, easements over, under, across, along, upon and through the Common Elements of the Community for ingress and egress purposes, access purposes, electrical, gas, mail, communications and other utility purposes, sanitary sewer, drainage and drainline, waterline, and flowage purposes, and all other purposes, to the State of Hawaii, the County, the Board of Water Supply of the County, any other appropriate governmental agency, and/or any public or private utility or other corporation, partnership, individual or entity, provided that such easements and rights-of-way do not

materially impair or interfere with the use of any Unit in the Community or the Common Elements of the Community.

18. **Declarant's Reserved Rights Regarding Incremental Development.** The rights reserved to the Declarant in **Paragraphs 16** and **17**, above, are subject to the following terms and conditions:

(a) Construction shall be in accordance with complete plans and specifications therefor prepared by a licensed architect or engineer and in accordance with the Declaration and the Condominium Map (as the same may be amended pursuant to the Declaration), and each increment shall be generally consistent with the other Increments in terms of quality of construction;

(b) No plans and specifications shall require the alteration or demolition of any existing Units or Limited Common Elements, except that the Declarant shall have the right to utilize, relocate and realign existing, and/or to develop additional, central and appurtenant installations for services to the additional Units for electricity, hot and cold water and other applicable utilities and services and, when applicable, to add, delete, relocate, realign, designate, cancel and grant easements and rights-of-way over, under and on the Common Elements as necessary and desirable in connection therewith; provided that the same shall not cause an interruption, other than a temporary interruption, in the service of such utilities to any other part of the Community;

(c) Construction of each Increment shall be at the Declarant's expense and shall be completed within five (5) years of commencement thereof, subject to delays beyond the control of the Declarant;

(d) During the entire course of such construction, the Declarant will cause to be maintained at its expense builder's all-risk insurance in an amount not less than the estimated cost of construction. The Association may be named as an additional insured and evidence of such insurance may be deposited with the Board of Directors;

(e) Prior to commencement of such construction, the Declarant may, in Declarant's sole discretion, deposit with the Association evidence of a payment and performance bond or an irrevocable letter of credit issued by a bank, material house or other entity authorized to do business in the State of Hawaii, naming the Association as a co-obligee, in an amount not less than one hundred percent (100%) of the cost of construction as estimated by the Declarant, or in lieu thereof a guarantee issued by Declarant against mechanic's and materialmen's liens;

(f) The Declarant shall not in any way encumber individual Units no longer owned by the Declarant in connection with the financing of construction of Increments, provided that the Declarant may assign, by way of security, its interest in the Units owned by the Declarant; and

(g) Promptly upon the annexation of each Increment, Declarant shall duly Record and file of record an amendment to the Declaration (which may be titled "Supplemental Declaration of Annexation") evidencing the incorporation and annexation of the Increment, without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community. Upon completion of each increment Declarant shall Record a certificate

evidencing the completion of construction of the increment, together with a complete set of floor plans of the Community as so altered, certified, if required, as-built by a licensed, registered architect or professional engineer, or verified as complete by Declarant in the form of a Declarant's certificate of completion (a "**Declarant's Certificate of Completion**").

19. **Amendment to Declaration and Condominium Map.** Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of or provide notice to any Unit Owner, lien holder, or other persons, to amend the Declaration and the Condominium Map as necessary or convenient to describe any new Improvements constructed on the Property in accordance with the Declaration or Merger Declaration and to make such amendments to the Declarations as are appropriate.

20. **Assignment of Declarant's Rights.** The rights of the Declarant under this Section shall extend to the Declarant and its respective successors and assigns. Without limitation of the foregoing, Declarant may, by Recorded instruments or by Supplemental Declaration, assign or partially assign, while retaining equivalent rights to Declarant, to any assignee, including without limitation the Association, any one or more of the rights and easements reserved to Declarant in the Declaration or Merger Declaration.

21. **Declarant's Reserved Right to Assign Parking Stalls to Unit and Regarding Parking Stalls.** Declarant reserves the right, without being required to obtain the consent or joinder of, or provide notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, Unit purchaser or any other person who may have an interest in the Community or in any Unit, and notwithstanding the sale of a Unit provided the conveyance therefor have not been Recorded, (a) to change the designation of compact and standard sized parking stalls, (b) to change covered and uncovered parking stalls from that depicted on the Condominium Map, (c) to relocate or renumber parking stalls, (d) to reassign parking stalls designated as Limited Common Elements appurtenant to a Unit provided such Unit shall have assigned to it not less than one (1) parking stall, and (e) to amend this Declaration and Condominium Map as necessary or convenient to describe such changes. Any parking stall designated on the Condominium Map as a standard sized parking stall may be constructed as a compact size parking stall or vice versa.

22. **Declarant's Reserved Right to Reconfigure, Annex, Include, Delete or Withdraw Land.** Declarant or its authorized representatives shall have the right, in their respective sole and absolute discretion and without being required to obtain the consent or joinder of, or provide notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, any Unit purchaser, or any other person who may have an interest in the Community or in any Unit, to reconfigure, delete or withdraw land from the property that has been made subject to the Declaration as permitted pursuant to Section V of the Declaration in order to create the Community Land. Leave in if any chance we need to reconfigure for any reason.

23. **Declarant's Reserved Right to Modify Community to Comply with Law.** Declarant shall have the reserved right, to effect such modifications to the Units and Common Elements in the Community and/or to execute, record and deliver any amendments to the Declaration, the Condominium Map as well as the Bylaws and rules and regulations promulgated thereunder, as may be necessary or required to effect compliance by the Community, the Association, or by Declarant with laws which apply to the Community, including,

without limitation, the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 et seq., including any and all rules and regulations promulgated thereunder, and the Americans With Disabilities Act, as amended, 42 U.S.C. §§ 12101 et seq., including any and all rules and regulations promulgated thereunder. Without limitation, Declarant may amend the Declaration (and, when appropriate, the Condominium Map) in any manner required to retrofit guest parking stalls, including without limitation any adaptable parking stall, so they are suited for use by persons with disabilities and to assign such stalls as appurtenant Limited Common Elements to any one or more of the Units intended for use by persons with disabilities upon substitution therefor of alternate guest parking stall(s). Such assignment may be made to Units, the Owners of which Declarant, in its sole judgment, determines require a parking stall accessible to persons with disabilities. Such reassignment is hereby specifically declared not to constitute a material amendment of the Declaration or, when appropriate, the Condominium Map. All costs of such reassignment shall be borne as determined by Declarant. Notwithstanding the foregoing, Declarant also reserves the right, but does not hereby undertake any obligation, to interchange guest parking stalls and the disabled guest parking stalls to accommodate Unit Owners in need of such parking. The rights of Declarant under this Section may be assigned to the Association, without the consent of joinder of, or notice to, the Board.

24. **Reserved Right to Control Association for Limited Period.** Declarant shall have the reserved right to control the Association in accordance with Section 514B-106(d) of the Act, during which time Declarant, or persons designated by Declarant, may appoint and remove the officers and members of the Board of Directors. Such period of control of the Association by Declarant (the "**Control Period**") shall terminate no later than the earlier of:

- (a) Sixty (60) days after conveyance of seventy-five percent (75%) of the common interest appurtenant to Units to Owners other than Declarant or an affiliate of Declarant;
- (b) Two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business;
- (c) Two (2) years after any right to add new Units was last exercised; or
- (d) The day Declarant, after giving written notice to Unit Owners, Records an instrument voluntarily surrendering all rights to control activities of the Association.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Control Period, but in such event Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Board, as described in a Recorded instrument executed by Declarant, be approved by Declarant before they become effective, provided, however, that during the Control Period (i) Declarant must provide a copy of all amendments to the Department of Veterans Administration (the "**VA**"), and (ii) the Association may not make any material amendments or take any extraordinary actions as described in VA Pamphlet 26-7 revised, as may be applicable, without the approval of VA.

Until such time as the Declarant has turned over administration of the Community to the Association, Declarant shall have the right to amend the Bylaws without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community.

25. **Amendment by Declarant.** Declarant reserves and shall have the right to amend the Declaration and Condominium Map to effect the rights reserved to Declarant specified above (set out in Section E of the Declaration) and those rights reserved to Declarant under Section R of the Declaration.

26. **No Limitation to Right to Construct Units.** Nothing in the Declaration shall be deemed to or otherwise limit or inhibit the Declarant's ability to construct some or all Units in the Community in accordance with the Declaration and the Condominium Map, as the same may be amended.

27. **Cable/Data System.** Without limiting any other right reserved or available to Declarant in the Declaration or at law, Declarant hereby reserves the exclusive right to install or have installed a Cable/Data System as defined below to include the cost for provision of such service in the Community operating budget (Initial Maintenance Fees) and to subject the Community to the cable contract defined below. The Cable/Data System, if and when installed, may be maintained by either a satellite/cable television provider or a telecommunication service provider or both as provided in the contract for the delivery of installation of such system or facilities. Declarant reserves the right to grant non-exclusive easements over the Community as necessary to provide cable television and telecommunication services to Owners, or some portion of them, including easements for access, ingress, and egress for installation, maintenance, and removal of any type of cable and telecommunication equipment, including, without limitation, antennae, head end equipment, cable amplifier, line splitting devices, coaxial cable, amplifier housing, and all facilities related thereto (collectively, "**Cable/Data System**"), as well as for the solicitation of sales, marketing, disconnection of service, and subscriber equipment retrieval. Each Unit and the Community shall be subject to an easement in favor of all other Units and in favor of the entity holding the right to provide cable television and telecommunication service to the Community, to provide for the passage through the Units and the Common Elements of television and telecommunication connections from any other Unit to the Cable/Data System, and shall be subject to further easement for the placement and maintenance of such connections. Declarant, on behalf of itself and its successors, assigns, and grantees, hereby acknowledges and agrees that its interest in the Community and any Owner's interest of the Association's interest in the Community shall be subject to the terms of any agreement between Declarant and a satellite/cable television provider or a telecommunication services provider (collectively, the "**Cable Contract**"), and the Association and all Owners shall be subject to all of the limitations, restrictions, reservations, rights, easements, conditions, and covenants set forth in such Cable Contract. Declarant may assign such cable contract to the Association pursuant to **Section E.9** of the Declaration without the consent or joinder of or notice to any Owner or the Association. Declarant shall be entitled to collect and retain all amounts payable under the Cable Contract or any assignment of Declarant's rights thereunder. Under no circumstances may the Association, any Owner or any other person engage in, exercise, perform or permit any of the activities or rights reserved to Declarant or install, construct or operate any of the antennae, satellite dishes, equipment, facilities, lines or wires described above at or from the common elements without the prior written consent of Declarant (which consent may be withheld in its sole and absolute discretion).

30. **Reserved Right to Amend and Restate Community Documents to Include Kukuna at Mehana in the Awakea Community and Rename the Community.** Any other provision in the Declaration to the contrary notwithstanding, Declarant shall have the reserved right any time prior to the date that a Unit has been sold and the conveyance thereof Recorded, at its sole discretion and without being required to obtain the consent or joinder of, or provide

notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, any Unit purchaser, or any other person who may have an interest in the Community or in any Unit, to incorporate the approximately seventy-three (73) detached units (the "Kukuna Units") in the Community into the Awakea at Mehana community ("Awakea"), which property is located within the vicinity of the Property. In such event, Declarant shall have the absolute right to amend and restate the Declaration, the Bylaws, the Condominium Map and/or any other Community Document as Declarant deems necessary and appropriate to include Kukuna at Mehana as part of the Awakea Community (as so modified, the "Modified Community"), including, without limitation, by amending the Declaration, the Bylaws, the Condominium Map and/or any other Community Document to: (i) create two or more classes of Units comprised of, at a minimum, (a) the one-hundred twenty-five (125) attached Units located within the Awakea Community, together with appurtenant class limited common elements included within the existing Community and (b) the Kukuna Units, together with appurtenant class limited common elements included within Kukuna; (ii) adjust the common interests and easements appurtenant to Units in the Modified Community, and assign class limited common interests to each Unit in the Modified Community equal to the common interest of such Units specified in the Declaration, and, to the extent applicable, multi-class limited common interests to each class in the Modified Community; (iii) to change the name of the Community so that the Modified Community contains both the *Kukuna* and *Awakea* appellations and (iv) include any other provisions to facilitate the operation and administration of the Modified Community, as deemed necessary and appropriate by Declarant in its absolute discretion. Without limitation of the foregoing, the common interest appurtenant to each Unit in the Modified Community shall be determined in a fair and equitable manner to reflect the discrete uses and benefits or lack thereof accruing to Units within an individual class and to the respective classes, allocating the estimated general benefit received by the Unit from the operation and maintenance of the Common Elements and Limited Common Elements and taking into account the mixed use character of the Modified Community, and rounding off so that the total of all common interests equals 1.0000 (100.00%). The class common interest appurtenant to a particular Unit within Kukuna shall be equal to the common interest assigned to such unit by the Declaration and the class common interest appurtenant to a particular Unit within Awakea shall be the common interest assigned to such unit by the declaration applicable to the Awakea community. The common interest appurtenant to a particular class with respect to the multi-class limited common elements has been determined by estimating the relative benefit received by the unit class from the multi-class limited common element or, if appropriate, by dividing the approximate total net interior floor area of the unit in a particular class by the approximate total net interior floor area of all units in all classes served by the multi-class limited common element, rounded off so that the total of all common interests equals 1.0000 (100%).

31. **Declarant's Exercise of Rights.** Each of the rights reserved to Declarant in the Declaration may be exercised by Declarant or its authorized representatives in their respective sole and absolute discretion and without being required to obtain the consent or joinder of, or provide notice to, any Person or group of Persons, including the Association, any Unit Owner or any mortgagee, lien holder, any Unit purchaser, or any other person who may have an interest in the Community or in any Unit.

32. **Amendment to Declaration and Condominium Map.** Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of or provide notice to any Unit Owner, lien holder, or other persons, to amend the Declaration and the Condominium Map as necessary or convenient to describe any new Improvements constructed on the Property in accordance with the Declaration and to make such amendments to the Declaration as are appropriate.

33. **Right to Alter the Community.** Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of or provide notice to any Unit Owner, lien holder, or other persons, to make other alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) which make minor changes in any Unit in the Community or in the Common Elements and/or Limited Common Elements that do not affect the physical location, design, or size of any Unit that has been sold and the conveyance thereof Recorded.

34. **Reservation to Reconfigure and Delete Land**

a. **Withdrawal and Deletions.** Any other provision in the Declaration to the contrary notwithstanding, Declarant or its authorized representatives shall have the right, at its sole discretion and without being required to obtain the consent or joinder of, or provide notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, any Unit purchaser, or any other person who may have an interest in the Community or in any Unit, to effect or participate (unilaterally or jointly with the owner or owners of adjacent parcels of land) in one or more subdivisions of the Community land or consolidations and resubdivisions of the Community land with adjacent parcels of land, the result of which may be to adjust the boundaries of the Community land and to include the Hammerhead area, and/or to delete or withdraw from the Community all or a portion of the land covered by the Declaration, excepting only the Community area of approximately 9.1 acres, and/or to delete or withdraw from such Community area the Road Reserve Easement area (sometimes, the land to be removed is hereafter described as the "Removable Land" and the land to be included is referred to as the "Inclusion Land"). Any such adjustment of boundaries will reconfigure the Community land such that it actually conforms to the configuration of the Community land as depicted on the Condominium Map, except as herein provided with respect to the Hammerhead area and the Road Reserve Easement area, which may be included or excluded from the Community land as appropriate, and, consequently, will not affect the layout, location, dimensions or structure of any of the buildings, Units or other Increments of the Community as shown on the Condominium Map, and will not change or reapportion the common interests appurtenant to the Units, all as set forth and described in the Declaration. Upon such inclusion, removal, withdrawal and/or deletion: (i) the included land will be part of the Community, and (ii) with no further action required, the Removable Land shall cease to be a part of the Community or subject to the Declaration or the Act, and no Unit Owner, mortgagee, lien holder, Unit purchaser or any other person (other than Declarant and the holder of any blanket mortgage affecting the Removable Land prior to the Declaration) who may have an interest in the Community or any Unit shall have any legal or equitable interest in the Removable Land (or in any other land adjacent to the Community land which may have been consolidated with the Community land pursuant to this Section) and shall be deemed to have quitclaimed and/or released to Declarant any and all interest each person may have had in the Removable Land or in any other land which may have been consolidated with the Community land pursuant to this Section. If deemed necessary to effect the intent of this Section, each Unit Owner, mortgagee, lien holder and any other person who may have an interest in the Community or any Unit shall, if requested by Declarant, unconditionally quitclaim and/or release its interest, if any, in the Removable Land (and in any other land adjacent to the Community Land which may have been consolidated with the Community land pursuant to this Section) to Declarant or to Declarant's designee. Declarant shall also have the right, at its sole discretion and without being required to obtain the consent or joinder of, or provide notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, any Unit purchaser, or any other person who may have an interest in the Community or in any Unit, to consolidate and

resubdivide or subdivide the Property, relocate and subsequently grant the roadways, driveways and easements.

In the exercise of the foregoing rights, Declarant may at any time and multiple times (a) file and process to final approval an application with the County for a legal subdivision of the Removable Land from the land covered by the Declaration (or for a consolidation and resubdivision resulting in the legal subdivision of the Removable Land from the land covered by the Declaration), (b) file and process a petition for an order of subdivision or consolidation and resubdivision, designation, granting, conveyance, transfer, cancellation, relocation and reservation of easements and/or rights of way with the Land Court of the State of Hawaii, and/or any other procedure required to fully and legally effect such subdivision or consolidation and resubdivision, designation, granting, conveyance, transfer, cancellation, relocation and reservation of easements and/or rights of way, (c) Record one or more amendments to the Declaration which shall contain an amended description of the land covered by the Declaration deleting therefrom the Removable Land, (d) if deemed necessary by Declarant, Record one or more amendments to the Condominium Map showing any changes to the Community, and (e) if deemed necessary by Declarant, apply for and obtain from the Real Estate Commission of the State of Hawaii an amended Developer's Public Report describing the changes made to the Community pursuant to this Section. The Removable Land shall be deemed deleted or withdrawn from the Community for all purposes upon the Recordation of the amendment(s) to the Declaration referenced herein.

Declarant shall have the absolute right, notwithstanding the lease, sale or conveyance of any Unit and without being required to obtain the consent or joinder of, or provide notice to, any Unit Owner, lien holder or other persons, to effect the inclusion of the Inclusion Land, and the removal, withdrawal and/or deletion of the Removable Land in accordance with this Section, and to execute, Record and/or file the herein described applications, petitions, amendments, quitclaims, releases and any and all other instruments necessary or appropriate for the purpose of effecting the removal, withdrawal and/or deletion of the Removable Land as contemplated in this Section. Any such action shall be deemed taken by Declarant as the true and lawful attorney-in-fact of the respective Unit Owners and lien holders. Each and every party acquiring an interest in any Unit, the Community or the land covered by the Declaration, by such acquisition, consents to such removal, withdrawal and/or deletion and to the filing or Recordation of such documents as may be necessary or convenient to effect the same, agrees to execute such documents and do such other things on its 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.

**b. Annexation.** Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of, or provide notice to, any Unit Owner, lien holder, or other persons, but not the obligation, from time to time and at any time, to annex by Supplemental Declaration additional real property, whether in fee simple or leasehold to the Declaration in Increments of any size whatsoever, or to annex more than one such Increment at any given time and in any given order. Any such property not specifically annexed by Supplemental Declaration properly Recorded shall not become subject to the Declaration. Supplemental Declarations may contain such complementary or supplementary additions and modifications of the provisions of the Declaration as may be necessary to reflect the different character, if any, of the property being annexed and may add, delete, or modify provisions of the Declaration as it applies to the property being annexed. The Recordation of such Supplemental Declaration shall constitute and effectuate the annexation of the property described therein, unless a later effective date is

specified in the Supplemental Declaration, making such real property subject to the Declaration and subject to the functions, powers, and jurisdiction of the Association, and thereafter said real property shall be part of the Community and Property for all intents and purposes of the Declaration, and all of the owners of units in the annexed property shall automatically be Owners hereunder. Each Owner hereby acknowledges and agrees that their voting power as a member may be altered (diminished or increased) attributable to such an annexation.

The rights reserved to Declarant under this Section shall extend to Declarant and its successors and assigns.

The rights reserved to Declarant in this Section are subject to the following conditions:

(a) The removal, withdrawal and/or deletion of the Removable Land shall not adversely affect the layout, location, dimensions or structure of any of the buildings, Units to the Community as shown on the Condominium Map.

(b) The removal, withdrawal and/or deletion of the Removable Land shall not change or reapportion the common interest appurtenant to the Units.

(c) The subdivision or consolidation and resubdivision pursuant to this Section shall be ordered and effected on or before December 31, 2030.

**35. Declarant's Rights Under the Unilateral Agreement.** Declarant hereby reserves on behalf of itself and its respective officers, agents, employees, successors, and assigns, without the consent or joinder of or notice to any Unit Owner or their respective mortgagees, all and privileges necessary to perform those actions reserved under that certain Unilateral Agreement, including but not limited to the right to establish, create and improve parks and pedestrian and bike paths as shown on the Updated Preliminary Land Use Plan dated August 19, 2004 (**Exhibit B-1** to the Unilateral Agreement), including the connection of the parks and the elementary school fields and playgrounds by footpaths, to establish and create and improve the "Village Walk", anywhere within the Mehana Community as shown in **Exhibit B-2** to the Unilateral Agreement, Village Walk Concept Plan A, dated August 19, 2004, attached to the Unilateral Agreement and to provide public pedestrian and vehicular connections to the regional drainage corridor as shown in the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1 to the Unilateral Agreement, which is described as the regional drainage channel in the Master Declaration ("**Regional Drainage Channel**")). Declarant reserves the right to designate the Village Walk as a Common Element of the Community and also has the power and right under the Master Declaration to reserve to that Association the right to maintain, repair and care for the Village Walk.

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THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL OF THE RIGHTS RESERVED BY THE DEVELOPER UNDER THE CONDOMINIUM DOCUMENTS CONTAINED IN THE DECLARATION, BY LAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER CAN USE THIS SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER SHOULD REFER TO THE CONDOMINIUM DECLARATION TO DETERMINE THE ACTUAL RIGHTS RESERVED BY THE DEVELOPER. IF ANY CONFLICT

OR DIFFERENCES EXISTS BETWEEN THIS SUMMARY AND THE CONDOMINIUM DECLARATION, THE CONDOMINIUM DECLARATION WILL CONTROL.

## EXHIBIT P

### Section 4.2 -- Estimate of the Initial Maintenance Fees

The Estimated Maintenance Fee Disbursements for Kukuna at Mehana have been compiled by Hawaiiana Management Company, a licensed property manager, assuming that all units in the Community as reflected on the Condominium Map are constructed. Although the property manager makes every effort to estimate the actual cost of operation, certain budget items, especially energy costs, labor costs, and insurance, may change. The Buyer is aware that such amounts are only estimates and may change for reasons beyond the control of Developer, and the Buyer hereby specifically accepts and approves any such changes. The Buyer is also aware that such estimates do not include the Buyer's obligation for payment of real property taxes. The Buyer understands that such estimates are not intended to be and do not constitute any representation or warranty by the Developer, including but not limited to any representation or warranty as to the accuracy of such estimates. Buyer understands that Developer has not independently confirmed the accuracy or content of the estimates prepared by the licensed independent managing agent. Further, the Developer advises that costs and expenses of maintenance and operation of a condominium community are very difficult to estimate initially and even if such maintenance charges have been accurately estimated, such charges will tend to increase in an inflationary economy and as the improvements age. Maintenance charges can vary depending on services desired by unit owners and may increase significantly depending on the level of services eventually selected by the Association's Board of Directors. The Buyer should examine the maintenance charges schedule to see what services are included in the schedule and address these issues with its Board upon its formation. Buyers should also be aware that the estimates provided are as of the date reflected in the Managing Agent's certification and do not reflect the actual charges that may be incurred upon the formation of the Association and the actual contracting for such services such as insurance and maintenance, etc.

The Developer intends to pay all of the actual common expenses for the units and the unit owner shall not be obligated for the payment of the owner's share of the common expenses until such time as the Developer causes a 30 day advance written notice to be sent to the Owners 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 shall mail the written notice to the owners, the association, and the managing agent, if any, at least thirty days before the specified date.

The estimate of the initial annual maintenance fees and monthly estimated Maintenance fees is attached hereto.

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THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE ESTIMATE OF THE INITIAL MAINTENANCE FEES CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER CAN USE THIS SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER SHOULD REFER TO THE CONDOMINIUM DECLARATION TO DETERMINE THE ACTUAL RIGHTS RESERVED BY THE DEVELOPER. IF ANY CONFLICT OR DIFFERENCES EXISTS BETWEEN THIS SUMMARY AND THE CONDOMINIUM DECLARATION, THE CONDOMINIUM DECLARATION WILL CONTROL.

**ATTACH Estimated Annual Maintenance Fees and Monthly Estimated Maintenance Fees**

**CERTIFICATE**

I, the undersigned, duly sworn on oath, depose and affirm as follows:

1. I am the President for Hawaiiana Management Company, Ltd., a Hawaii corporation, designated by the Developer of the Kukuna at Mehana condominium project (the "Project") to act as the Managing Agent for the management and administration of the Project.

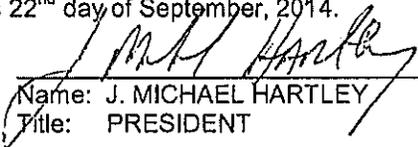
2. Attached hereto is a true and correct copy of the projected budget for the Project. The estimates contained therein, including the maintenance fee assessments and disbursements, are based upon and in reliance on the assumptions, expense and income data provided by the Developer along with information gathered by the Managing Agent from projects of comparable size and character. The estimated figures do not account for inflation, market adjustments, future utility rate changes, future insurance premium rate changes or other unanticipated events, including but not limited to, acts of government, acts of God, terrorism or war. In addition, the projected budget is based upon and in reliance on discussions with the Developer.

3. I hereby certify that the breakdown of the annual maintenance charges and the monthly estimated cost for each unit in the Project, as attached hereto and hereby incorporated herein by reference, were determined in accordance with Section 514B-148 of the Hawaii Revised Statutes and Chapter 107 of the Hawaii Administrative Rules, and that the Managing Agent made a good faith effort to calculate such estimates for the one-year period commencing September 2014, based on generally accepted accounting principles.

4. As permitted pursuant to Section 514B-148(b), new associations need not collect estimated 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.

5. The Budget has been prepared on a cash basis.

DATED: Honolulu, Hawaii, this 22<sup>nd</sup> day of September, 2014.

  
Name: J. MICHAEL HARTLEY  
Title: PRESIDENT

Subscribed and sworn to before me  
this 22<sup>nd</sup> day of September, 2014.

State of Hawaii  
City & County of Honolulu

Date: September 22, 2014 # of Pages: 5

Doc. Description: Certificate of Managing Agent & Estimated

Annual Disbursements for: Kukuna at Mehana

 9/22/2014  
Notary Signature  
Name: Stephanie M. Angle

No. & Expiration: 10-134  
6/13/2018

First Circuit, State of Hawaii



**NOTARY CERTIFICATION**

## Estimated Fee Disbursement

Kukuna at Mehana  
(73 homes)

Utilities and Services	Monthly	Annually
Water (*) (For irrigation only)	\$500.00	\$6,000.00
Electricity	\$550.00	\$6,600.00
Sewer (*)	\$0.00	\$0.00
<b>Maint, Repairs, Supplies</b>		
Common Area Cleaning & Mtnc	\$200.00	\$2,400.00
Grounds	\$4,500.00	\$54,000.00
Grounds Extras	\$200.00	\$2,400.00
Tree Trimming	\$100.00	\$1,200.00
Equipment	\$100.00	\$1,200.00
Pest Control	\$200.00	\$2,400.00
Plumbing	\$375.00	\$4,500.00
Road Maintenance	\$300.00	\$3,600.00
<b>Professional Services</b>		
Management	\$1,300.00	\$15,600.00
Audit/Tax fees	\$100.00	\$1,200.00
Legal Fees	\$900.00	\$10,800.00
Design Review/Cov Enforcement	\$500.00	\$6,000.00
<b>Administrative</b>		
Admin. Services/Supplies	\$600.00	\$7,200.00
Meeting Expenses	\$100.00	\$1,200.00
Newsletter/Website	\$100.00	\$1,200.00
GET/Other	\$100.00	\$1,200.00
Condo Registration	\$30.00	\$360.00
<b>Insurance</b>		
Property	\$20.00	\$240.00
Comp. General Liability	\$100.00	\$1,200.00
Umbrella	\$109.00	\$1,308.00
Directors and Officers	\$92.00	\$1,104.00
Bond	\$75.00	\$900.00
<b>SUBTOTAL</b>	<b>\$11,151.00</b>	<b>\$133,812.00</b>
<b>Reserves</b>	<b>\$1,253.00</b>	<b>\$15,036.00</b>
<b>TOTAL</b>	<b>\$12,404.00</b>	<b>\$148,848.00</b>
(*) Assumes that unit water and sewer usage will be sub-metered and billed as a separate line item on each unit owner's monthly maintenance fee bill. In addition to the water and sewer usage charges, a fee of \$10 per unit per month will be added to each unit owner's monthly bill to off-set the cost of meter reading and billing services for water and sewer.		

**ESTIMATE OF INITIAL MAINTENANCE FEES**

Unit type	Unit Number	Common Interest	Monthly Fee	Yearly Total
1/1R	3	1.21572628%	\$150.80	\$1,809.58
1/1R	5	1.21572628%	\$150.80	\$1,809.58
1/1R	8	1.21572628%	\$150.80	\$1,809.58
1/1R	10	1.21572628%	\$150.80	\$1,809.58
1/1R	22	1.21572628%	\$150.80	\$1,809.58
1/1R	24	1.21572628%	\$150.80	\$1,809.58
1/1R	26	1.21572628%	\$150.80	\$1,809.58
1/1R	33	1.21572628%	\$150.80	\$1,809.58
1/1R	37	1.21572628%	\$150.80	\$1,809.58
1/1R	38	1.21572628%	\$150.80	\$1,809.58
1/1R	42	1.21572628%	\$150.80	\$1,809.58
1/1R	46	1.21572628%	\$150.80	\$1,809.58
1/1R	48	1.21572628%	\$150.80	\$1,809.58
1/1R	50	1.21572628%	\$150.80	\$1,809.58
1/1R	53	1.21572628%	\$150.80	\$1,809.58
1/1R	55	1.21572628%	\$150.80	\$1,809.58
1/1R	57	1.21572628%	\$150.80	\$1,809.58
1/1R	63	1.21572628%	\$150.80	\$1,809.58
1/1R	66	1.21572628%	\$150.80	\$1,809.58
1/1R	70	1.21572628%	\$150.80	\$1,809.58
2/2R	2	1.37395100%	\$170.42	\$2,045.10
2/2R	6	1.37395100%	\$170.42	\$2,045.10
2/2R	11	1.37395100%	\$170.42	\$2,045.10
2/2R	13	1.37395100%	\$170.42	\$2,045.10
2/2R	15	1.37395100%	\$170.42	\$2,045.10
2/2R	16	1.37395100%	\$170.42	\$2,045.10
2/2R	18	1.37395100%	\$170.42	\$2,045.10
2/2R	20	1.37395100%	\$170.42	\$2,045.10
2/2R	25	1.37395100%	\$170.42	\$2,045.10
2/2R	27	1.37395100%	\$170.42	\$2,045.10
2/2R	29	1.37395100%	\$170.42	\$2,045.10
2/2R	31	1.37395100%	\$170.42	\$2,045.10
2/2R	32	1.37395100%	\$170.42	\$2,045.10
2/2R	36	1.37395100%	\$170.42	\$2,045.10
2/2R	40	1.37395100%	\$170.42	\$2,045.10
2/2R	45	1.37395100%	\$170.42	\$2,045.10
2/2R	49	1.37395100%	\$170.42	\$2,045.10
2/2R	51	1.37395100%	\$170.42	\$2,045.10
2/2R	54	1.37395100%	\$170.42	\$2,045.10
2/2R	58	1.37395100%	\$170.42	\$2,045.10
2/2R	60	1.37395100%	\$170.42	\$2,045.10
2/2R	62	1.37395100%	\$170.42	\$2,045.10

### ESTIMATE OF INITIAL MAINTENANCE FEES

Unit type	Unit Number	Common Interest	Monthly Fee	Yearly Total
2/2R	64	1.37395100%	\$170.42	\$2,045.10
2/2R	68	1.37395100%	\$170.42	\$2,045.10
2/2R	71	1.37395100%	\$170.42	\$2,045.10
2/2R	72	1.37395100%	\$170.42	\$2,045.10
3/3R	4	1.41500930%	\$175.52	\$2,106.21
3/3R	9	1.41500930%	\$175.52	\$2,106.21
3/3R	14	1.41500930%	\$175.52	\$2,106.21
3/3R	17	1.41500930%	\$175.52	\$2,106.21
3/3R	19	1.41500930%	\$175.52	\$2,106.21
3/3R	21	1.41500930%	\$175.52	\$2,106.21
3/3R	28	1.41500930%	\$175.52	\$2,106.21
3/3R	30	1.41500930%	\$175.52	\$2,106.21
3/3R	43	1.41500930%	\$175.52	\$2,106.21
3/3R	44	1.41500930%	\$175.52	\$2,106.21
3/3R	52	1.41500930%	\$175.52	\$2,106.21
3/3R	59	1.41500930%	\$175.52	\$2,106.21
3/3R	61	1.41500930%	\$175.52	\$2,106.21
3/3R	67	1.41500930%	\$175.52	\$2,106.21
3 W/ OPTION 1	1	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	7	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	12	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	23	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	34	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	35	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	39	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	41	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	47	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	56	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	65	1.55020140%	\$192.29	\$2,307.44
3 W/ OPTION 1	69	1.55020140%	\$192.29	\$2,307.44

## ESTIMATE OF INITIAL MAINTENANCE FEES

Unit type	Unit Number	Common Interest	Monthly Fee	Yearly Total
3 W/ OPTION 1	73	1.55020140%	\$192.29	\$2,307.44
<b>TOTAL</b>		100.00000000%	<b>\$12,404.00</b>	<b>\$148,848.00</b>

The estimated initial monthly maintenance fee assessments do not include mandatory dues payable to the Mehana at Kapolei Community Association. The current anticipated fee is \$25.00 per unit per month, and the fee is expected to increase to at least \$45.00 per unit per month when certain Mehana common facilities are available to residents. Depending on the scope of the Mehana Association's responsibility for the maintenance of the Kapolei Regional Drainage Facilities, this cost may increase. Pending delivery of such facilities, Master Association fees may be increased at any time to \$30.00 per month or such other amount that the Master Association determines in accordance with the Master Association. The Association will collect this fee in addition to the Unit Owner's monthly maintenance fee and pay the same to the Master Association.

Additionally, the estimated initial monthly maintenance fee assessments do not include unit water and sewer usage. Unit water and sewer usage will be submetered and billed as a limited common element expense to each Unit Owner. The limited common element expense for water and sewer usage will appear as a separate line item on each Unit Owner's monthly maintenance fee bill. In addition to the water and sewer usage charges, a fee of \$10 per unit per month will be added to each Unit Owner's monthly bill to off-set the cost of meter reading and billings services for water and sewer. The Association will collect these fees in addition to the Unit Owner's monthly maintenance fee and pay the same to the Board of Water Supply.

## EXHIBIT Q

### Section 5.1 -- Summary of Pertinent Provisions of Sales Contract

The Fee Simple Home Sales Agreement (the "**Sales Contract**" or "**Purchase Agreement**") contains the price and other terms and conditions under which a purchaser will agree to buy a Unit in the Community. Among other things, the Sales Contract states:

- (a) The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of a Unit.
- (b) That the purchaser acknowledges having received and read the public report for the Community prior to signing the Sales Contract.
- (c) That the Developer makes no representations concerning rental of a Unit, income or profit from a Unit, or any other economic benefit to be derived from the purchase of a Unit.
- (d) That the Sales Contract may be subordinate to the lien of a construction lender.
- (e) The Sales Contract provides that it shall not be construed as a present transfer of any rights or of any interest in the Unit, but rather states that it is an agreement to transfer in the future. By execution of the Sales Contract, the Purchaser agrees to waive, relinquish and subordinate the priority or superiority of any lien or other legal or equitable interest arising under the Sales Contract in favor of the lien or charge on the Community of the security interests of the Lender, including but not limited to any lien, mortgage or charge securing a loan made to finance the acquisition of the land and the costs of construction (if applicable) and any and all advances therefore until the filing of the Deed.
- (f) That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.
- (g) Requirements relating to the purchaser's financing of the purchase of a Unit.
- (h) The Sales Contract provides that Purchaser may purchase upgrades, including modifications or additions to, or upgrades of, the standard fixtures, appliances and/or layout of the Unit to be made by Seller, pursuant to an option addendum attached to the Sales Contract upon Purchaser's execution of the Sales Contract. Purchaser must make deposits for the upgrades as required by Seller.
- (i) That the Unit and the Community will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.
- (j) That, except to the extent of a limited warranty in form attached to this Public Report, the Developer makes no warranties regarding the Unit, the Community or anything installed or contained in the Unit or the Community.
- (k) That the Community will be subject to ongoing construction and sales activities which may result in certain annoyances to the purchaser.

- (l) That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
- (m) That the Developer has reserved certain rights and powers relating to the Community and the purchaser acknowledges and consents to the exercise of such rights and powers.
- (n) That except under certain circumstances, as set forth in the Sales Contract, all interest on deposits toward the purchase price shall be the property of the Developer.
- (o) If the purchaser defaults, Developer may retain purchaser's deposits and bring an action against purchaser. If the Developer defaults, purchasers may bring an action against Developer. All actions are subject to the rules of the Dispute Prevention Resolution, Inc., as provided in the Sales Contract.
- (p) Buyer may not at any time assign its rights or obligations under the Purchase Agreement.
- (q) Any assignment of the Sales Contract is void and of no legal effect.
- (r) The Sales Contract provides that any dispute by or between Seller and Purchaser arising out of or incident to the Sales Contract, or the development or management of the Community, the sale of the Unit or the use or occupancy thereof, or any other aspect of the relationship between Seller and Purchaser regarding the Community which is raised or otherwise asserted before or after Closing shall be submitted to mediation and, if necessary, to arbitration in accordance with the terms, conditions and procedures set forth in the Sales Contract.

The Sales Contracts contains various other important provisions relating to the purchase of a Unit in the Community. Purchasers and prospective purchasers should carefully read the specimen Sales Contracts on file with the Real Estate Commission. Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings given them under the Purchase Agreement.

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

## EXHIBIT R

### Section 5.1 -- Summary of Pertinent Provisions of Escrow Agreement

The Escrow Agreement sets up an arrangement under which the deposits a purchaser makes pursuant to a Sales Contract will be held by a neutral party ("**Escrow**"). Under the Escrow Agreement, these things will or may happen:

- (a) Escrow will let the purchaser know when payments are due.
- (b) Escrow will arrange for the purchaser to sign all necessary documents.
- (c) Except under certain circumstances as set forth in the Sales Contract, all deposits toward the purchase price shall be the property of the Developer. Provided that the purchaser is not in default under the Sales Contract and the Sales Contract contains a financing provision, purchaser's deposits, less escrow cancellation fees and third party lender fees, is refundable to purchaser if purchaser fails to qualify for a mortgage loan. Otherwise, all deposits toward the purchase price shall be the property of the Developer. The purchaser will be entitled to a refund of his or her funds only under certain circumstances.
- (d) The purchaser will be entitled to a refund of his or her funds only under certain circumstances as set forth in the Sales Contract.

The Escrow Agreement also establishes the procedures for the retention and disbursement of a purchaser's funds and says what will happen to the funds upon a default under the Sales Contract. The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. Purchasers and prospective purchasers should carefully read the signed Escrow Agreement on file with the Real Estate Commission. A copy is available at the Developer's sales office. The Escrow Agreement contains the following provisions (which may be modified or otherwise limited by provisions not set forth below):

1. As and when Seller enters into a Sales Contract, Seller will give Escrow a signed copy of the Sales Contract and Buyer's deposit towards the purchase price of a Unit. The Sales Contract will require Buyer to pay to Escrow all other payments of the purchase price required under the Sales Contract. If Buyer gets a mortgage loan, the money from the loan will be paid to Escrow, along with the lender's mortgage for recording, and Escrow shall follow the lender's instructions. The Sales Contract will show the correct name and address of each Buyer. If a Sales Contract is signed and the sale occurs in a state other than Hawaii, the Sales Contract will show the place where the sale occurs.

2. Escrow will put all of the money it gets from Buyer in one or more special accounts (the "**trust fund**"). The trust fund will be deposited only at a depository designated by Seller or in banks or savings and loan institutions in Hawaii that are insured by the federal government as directed by Seller. The place, or places, where the trust fund is set up will be chosen by Escrow, unless otherwise selected or directed by Seller. Unless any of the Sales Contracts show different instructions, Seller will get all of the interest earned on the trust fund. Escrow will deposit the payments it gets from Buyer into the trust fund one or more times each week, so that the funds may earn the maximum interest.

3. Notwithstanding anything in this Agreement to the contrary, if Seller has submitted to the Real Estate Commission a material house bond securing the construction of improvements in the Community, the following provisions shall apply:

(i) Buyer's money shall not be disbursed to pay for construction costs or other expenses of the Community until the Unit to be conveyed has been completed and the Deed to Buyer has been recorded; and

(ii) If closing is to occur prior to the expiration of the applicable mechanic's lien period, Seller shall provide Buyer with a mechanic's lien endorsement to Buyer's owner's title insurance policy that protects Buyer against all future mechanic's and materialmen's liens. Further, Seller shall confirm to Escrow that Seller has provided the Real Estate Commission with a release by the general contractor of the contractor's lien rights.

4. The Sales Contract states when refunds of deposits may be made to Buyer. In the case where the Sales Contract is not yet binding and Buyer requests a refund, Escrow shall notify Seller of such request. Escrow may refund the deposit to Buyer, less any cancellation or other fees to which Escrow is entitled, only after receiving written approval from Seller. In all other cases, Escrow shall not make any refund to a Buyer who asks for it unless Escrow receives written approval from Seller or from a court of competent jurisdiction. The words "cancellation fees" mean Escrow's cancellation fees which are described in the Sales Contract and are described later in this Agreement. Fees for cancellation may also be charged by the lender who has agreed to lend Buyer money to buy the Unit. The Sales Contract states the instances when Escrow is to subtract cancellation fees from the amount to be refunded unless Seller tells Escrow not to charge the cancellation fees. Escrow shall give each Buyer who is to get a refund written notice of the refund. Escrow will send this notice by registered or certified mail to Buyer at the address shown on Buyer's Sales Contract or to the last address which Buyer may have given to Escrow.

5. Escrow will notify Seller and Buyer promptly if Buyer fails to make a payment or is otherwise in default under the Sales Contract (to the knowledge of Escrow). Seller will notify Escrow in writing if a Buyer has defaulted or not done something that Buyer promised to do in the Sales Contract. Seller will tell Escrow in the same letter that, because Buyer has defaulted, Seller is cancelling the Sales Contract and will give Escrow a copy of the letter that Seller delivered in person or sent by registered or certified mail to Buyer, telling Buyer of the default and cancellation. Seller will also give Escrow a copy of a receipt signed by Buyer or the registered or certified mail return receipt. Escrow will then send a letter to Buyer by registered or certified mail, informing Buyer that Seller has cancelled the Sales Contract because of the default. Escrow will wait for fifteen (15) days after the date which shows on the return receipt as the date when Buyer got Escrow's letter or the date which shows the last time that the post office tried to deliver the letter. If Escrow does not hear from Buyer during that time, Escrow may deduct its cancellation fee from Buyer's funds and treat Buyer's funds which are left as belonging to Seller. If Buyer tells Escrow that Buyer has not defaulted or tells Escrow not to do anything with Buyer's funds, then Escrow may proceed in accordance with Section 5.2 of the Escrow Agreement (to interplead funds) or deliver the funds to Seller.

6. Escrow will set the time (in accordance with Sales Contract and Seller's interest to pre-close) for taking in all money from each Buyer and for the signing of all of the documents that each Buyer must sign to complete the purchase, except for the mortgage documents, which may be signed at the lender's place of business. The conveyance tax certificates, preliminary closing statements, escrow instructions and final closing statements will be prepared by Escrow,

and Escrow will do all of the escrow acts required under this Agreement or any other written agreements between Seller, Buyer and Escrow. Escrow will give Buyer and Seller copies of HARPTA and FIRPTA forms, or provide the online link to obtain copies of those forms, with a recommendation that the parties seek appropriate counsel to complete the forms. Escrow will coordinate with Buyer's lender, the title companies and all others who are a part of the purchase so that closing will occur at a suitable time. Escrow agrees to close all of the sales at the same time or individually from time to time, as directed by Seller. "Closing" is complete when all necessary conveyance and financing documents to complete a purchase are recorded in the appropriate Hawaii recording office. After all documents have been signed, Escrow will close on the closing date as agreed to in the Sales Contract only if:

- (i) The required money has been paid to Escrow;
- (ii) All necessary documents can be recorded, as appropriate;
- (iii) All mortgages having to do with the purchase can be recorded, following the lender's instructions; and
- (iv) All necessary releases can be recorded so that the Unit is conveyed free and clear of all blanket liens in accordance with the Condominium Law.

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

**EXHIBIT S**  
Section -- 5.2 Sales to Owner Occupants

**KUKUNA AT MEHANA  
AFFIDAVIT OF INTENT TO PURCHASE AND RESIDE IN AN OWNER-OCCUPANT  
DESIGNATED TOWNHOME CONDOMINIUM UNIT**

**[ ] Chronological System    [ ] Lottery System**

We, the undersigned "owner-occupants", on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, do hereby declare that it is our intention to purchase and reside in a designated townhouse condominium unit designated for an "owner-occupant" in Kukuna at Mehana condominium community ("Community") proposed by D.R. Horton – Schuler Homes, LLC, a Delaware limited liability company, dba D.R. Horton-Schuler Division ("Developer").

We understand, affirm, represent and agree by signing this Affidavit that:

1. It is our intent to reserve and purchase an owner-occupant designated residential unit ("designated residential unit") pursuant to Section 514B-96 of the Owner-Occupant Law, and upon closing escrow, to reside in the designated residential unit as our principal unit for 365 consecutive days.

2. The term "owner-occupant" as used herein is defined in section 514B-95 of the Owner-Occupant Law as:

"...any individual in whose name sole or joint legal title is held in a residential unit that, simultaneous to such ownership, serves as the individual's principal residence, as defined by the department of taxation, for a period of not less than three hundred and sixty-five consecutive days; provided that the individual shall retain complete possessory control of the premises of the residential unit during this period. An individual shall not be deemed to have complete possessory control of the premises if the individual rents, leases, or assigns the premises for any period of time to any other person in whose name legal title is not held; except that an individual shall be deemed to have complete possessory control even when the individual conveys or transfers the unit into a trust for estate planning purposes and continues in the use of the premises as the individual's principal residence during this period." (Emphasis added).

3. We understand that if two or more prospective owner-occupants intend to reside jointly in the same designated residential unit, only one owner-occupant's name shall be placed on the reservation list for either the chronological system or the lottery system.

4. Should we require financing from a financial institution to purchase the designated residential unit, the financing shall be an owner-occupant mortgage loan. The financial institution is required to take all reasonable steps necessary to determine whether the borrower intends to become an owner-occupant.

5. At any time after obtaining adequate financing or a commitment for adequate financing up until the expiration of this Affidavit (365 days after recordation of the instrument conveying the designated residential unit to us), we shall notify the Real Estate Commission immediately upon any decision to cease being an owner-occupant of the designated residential unit.

6. At closing of escrow, we shall file a claim for and secure an owner-occupant property tax exemption with the appropriate county office for the designated residential unit.

7. We have personally executed this Affidavit and we are all of the prospective owner-occupants for the designated residential unit. This Affidavit shall not be executed by an attorney-in-fact.

8. We shall not sell or offer to sell, lease or offer to lease, rent or offer to rent, assign or offer to assign, convey or otherwise transfer any interest in the designated residential unit until at least 365 consecutive days have elapsed since the recordation of the instrument conveying title to the designated residential unit to us. Furthermore, we understand that we have the burden of proving our compliance with the law. We affirm that we will notify the Real Estate Commission immediately upon any decision to cease being an owner occupant.

9. We understand that it is the affirmative duty of any developer, employee or agent of a developer, and real estate licensee, to report immediately to the Real Estate Commission any person who violates or attempts to violate the Owner-Occupant Law. No developer, employee or agent of a developer, or real estate licensee shall violate or aid any person in violating the Owner-Occupant Law.

10. The Real Estate Commission may require verification of our owner-occupant status and if we fail to submit such verification, we may be subject to a fine in an amount equal to the profit made from the sale, assignment or transfer of the designated residential unit.

11. Any false statement in this Affidavit or violation of the Owner-Occupant Law shall subject us to a misdemeanor charge with a fine not to exceed \$2,000, or by imprisonment of up to a year or both. We further understand that if we violate or fail to comply with the Owner-Occupant Law, we shall be subject to a civil penalty of up to \$10,000, or fifty per cent of the net proceeds received or to be received from the sale, lease, rental, assignment or other transfer of the designated residential unit, whichever is greater.

12. When required by context, each pronoun reference shall include all numbers (singular or plural) and each gender shall include all genders.

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STATE OF HAWAII )  
 ) SS.  
 CITY AND COUNTY OF HONOLULU )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

\_\_\_\_\_  
 Type or print name: \_\_\_\_\_  
 Notary Public, State of Hawaii.  
 My commission expires: \_\_\_\_\_

Date of Doc: _____	# Pages: _____
Name of Notary: _____	Notes: _____
Doc. Description: _____	
	(stamp or seal)
Notary Signature _____	Date _____
First Circuit, State of Hawaii	
<b>NOTARY CERTIFICATION</b>	

**EXHIBIT T**  
Section 5.4 -- Construction Warranties



## RESIDENTIAL WARRANTY COMPANY, LLC

PRESENTS

# THE LIMITED WARRANTY

10 YEAR WRITTEN WARRANTY FOR NEW HOMES

Within 90 days after receiving this Warranty book, you should receive a validation sticker from RWC. If you do not, contact your **Builder** to verify that the forms were properly processed and sent to RWC. You do **not** have a warranty without the validation sticker.

Place validation sticker here.  
Warranty is invalid without sticker.

The RWC Limited Warranty displayed on this page is a **SAMPLE** only. The RWC Limited Warranty applicable to your home may differ from the one displayed here. You must consult your validated RWC Limited Warranty book for the terms of coverage that apply to your home.

*This Limited Warranty does not cover consequential or incidental damages. The Warrantor's total aggregate liability of this Limited Warranty is limited to the Final Sales Price listed on the Application For Warranty form.*

*The Builder makes no housing merchant implied warranty or any other warranties, express or implied, in connection with the attached sales contract or the warranted Home, and all such warranties are excluded, except as expressly provided in this Limited Warranty. There are no warranties which extend beyond the face of this Limited Warranty.*

*Some states do not allow the exclusion or limitation of incidental or consequential damages by the Builder so all of the limitations or exclusions of this Limited Warranty may not apply to you.*

For your Limited Warranty to be in effect, you should receive the following documentation:

- Limited Warranty #319 • Application For Warranty form #316 (Refer to I.B.3. for applicability)•
- Validation Sticker #385 •

Insurer: Western Pacific Mutual Insurance Company, A Risk Retention Group



# RESIDENTIAL WARRANTY COMPANY, LLC

5300 Derry Street, Harrisburg, PA 17111-3598 (717) 561-4480

Dear Home Buyer,

Congratulations on the purchase of your new Home. This is probably one of the largest, most important investments you've ever made and we wish you many years of enjoyment. You've chosen a Home built by a leading Builder which includes the RWC Limited Warranty, assurance that your investment is well protected. This book explains the Limited Warranty in its entirety, and we encourage you to take time to READ IT CAREFULLY.

This Limited Warranty provides you with protection in accordance with this warranty book for ten full years of Home ownership. During the first two years, your Builder is responsible for specified warranty obligations. In the unlikely event your Builder is unable or unwilling to perform, the Warranty is provided subject to the conditions, terms and exclusions listed. For the remaining eight years, your Warranty applies to Major Structural Defects as defined in this book.

This is not a warranty service contract, but a written ten year limited warranty which your Builder has elected to provide with your Home.

Take time now to read this book. Familiarize yourself with the Warranty and its limitations. Contact your Builder regarding specific construction standards and how they apply to your Home.

Again, congratulations and enjoy your new Home!

Very truly yours,  
RESIDENTIAL  
WARRANTY  
COMPANY, LLC

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**Section**  
**I.**  
**Definitions**

The RWC Limited Warranty displayed on this page is a SAMPLE only. The RWC Limited Warranty applicable to your home may differ from the one displayed here. You must consult your valid dated RWC Limited Warranty book for the terms of coverage that apply to your home.

**A. Introduction**

To help you better understand your Limited Warranty, refer to the following list of definitions which apply in this book.

**B. Definitions\***

**1. Administrator**

Residential Warranty Company, LLC (RWC) is the Administrator of this Limited Warranty. RWC is neither Warrantor nor Insurer.

**2. Appliances and Items of Equipment, including Attachments and Appurtenances**

Water heaters, pumps, stoves, refrigerators, compactors, garbage disposals, ranges, dishwashers, washers and dryers, bathtubs, sinks, commodes, faucets, light fixtures, switches, outlets, thermostats, furnaces and oil tanks, humidifiers, oil purifiers, air conditioning materials, in-house sprinkler systems and similar items.

**3. Application For Warranty**

The form signed at closing by you, the Purchaser, and your Builder which identifies the location, the Effective Date Of Warranty and the Final Sales Price of the enrolled Home. If the Builder is participating in the RWC electronic enrollment process, the Application for Warranty form is eliminated.

**4. Arbitrator**

The person appointed by the independent arbitration service to resolve an Unresolved Warranty Issue.

**5. Builder**

The person, corporation, partnership or other entity which participates in the RWC Limited Warranty Program and has obtained this Limited Warranty for you.

**6. Consequential Damages**

All consequential damages including, but not limited to, damage to the Home that is caused by a warranted Defect but is not itself a warranted Defect and costs of shelter, transportation, food, moving, storage or other incidental expenses related to relocation during repairs.

**7. Cooling, Ventilating and Heating Systems**

All ductwork, refrigerant lines, steam and water pipes, registers, convectors and dampers.

**8. Defect**

A condition of any item warranted by this Limited Warranty which exceeds the allowable tolerance specified in this Limited Warranty. Failure to complete construction of the Home or any portion of the Home, in whole or in part, is not considered a Defect.

**9. Effective Date Of Warranty**

The date coverage begins as specified on the Application for Warranty form. If the Builder is participating in the electronic enrollment process, the effective date is date of closing or occupancy, whichever occurs first.\*

**10. Electrical Systems**

All wiring, electrical boxes and connections up to the house side of the meter base.

**11. Home**

The single family dwelling, identified on the Application For Warranty form, which may be a townhome, condominium or duplex.

**12. Insurer**

Western Pacific Mutual Insurance Company, a Risk Retention Group (WPMIC). Located at 9265 Madras Ct, Littleton, CO 80130 Phone: 303-263-0311. (Refer to Section IV. for instructions on requesting warranty performance.)

**13. Limited Warranty**

The terms and conditions contained in this book including any applicable addenda.

**14. Major Structural Defects (MSD)**

All of the following conditions must be met to constitute a Major Structural Defect:\*

- a. actual physical damage to one or more of the following specified load-bearing components of the Home;
- b. causing the failure of the specific major structural components; and
- c. which affects its load-bearing function to the degree that it materially affects the physical safety of the occupants of the Home.

Load-bearing components of the Home deemed to have MSD potential:

- (1) roof framing members (rafters and trusses);
- (2) floor framing members (joists and trusses);
- (3) bearing walls;
- (4) columns;
- (5) lintels (other than lintels supporting veneers);
- (6) girders;
- (7) load-bearing beams; and
- (8) foundation systems and footings.

Examples of non-load-bearing elements deemed not to have Major Structural Defect potential:

- (1) non-load-bearing partitions and walls;
- (2) wall tile or paper, etc.;
- (3) plaster, laths or drywall;

\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

**Section  
I.  
Definitions  
(continued)**

- (4) flooring and subflooring material;
  - (5) brick, stucco, stone, veneer, or exterior wall sheathing;
  - (6) any type of exterior siding;
  - (7) roof shingles, sheathing\* and tar paper;
  - (8) Heating, Cooling, Ventilating, Plumbing, Electrical and mechanical systems;
  - (9) Appliances, fixtures or Items of Equipment; and
  - (10) doors, windows, trim, cabinets, hardware, insulation, paint and stains.
- 15. Owner**  
See Purchaser.
- 16. Plumbing Systems**  
All pipes located within the Home and their fittings, including gas supply lines and vent pipes.
- 17. Purchaser**  
You. The Purchaser includes the first buyer of the warranted Home and any and all subsequent Owners who take title within the warranty period.
- 18. Residence**  
See Home.
- 19. Sewage Disposal System (Private or Public)**  
This system includes, but is not limited to, all waste, drainage, sewer pipes and lines, cleanouts, tanks, pumps, drainfields and seepage pits, outside and beyond the exterior wall of the Home.
- 20. Structurally Attached**  
An integral part of the Home being structurally supported by footings, block walls or reinforced concrete and connected to the foundation of the Home.
- 21. Unresolved Warranty Issue**  
All requests for warranty performance, demands, disputes, controversies and differences that may arise between the parties to this Limited Warranty that cannot be resolved among the parties. An Unresolved Warranty Issue may be a disagreement regarding:
- a. the coverages in this Limited Warranty;
  - b. an action performed or to be performed by any party pursuant to this Limited Warranty;
  - c. the cost to repair or replace any item covered by this Limited Warranty.
- 22. Warrantor**  
Your Builder in Years 1 and 2; the Insurer in Years 3 through 10 and in Years 1 and 2 if your Builder defaults.
- 23. Water Supply System (Private or Public)**  
This system includes, but is not limited to, all supply and distribution pipes, fittings, valves, pumps and wells, outside the exterior wall of the Home, which supply water to the Home.

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## Section

### II. The Limited Warranty

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page 320.3

WPIC #320 Rev. 9/09  
©1996 Harrisburg, PA

## A. Introduction to the Limited Warranty

1. This book provides specific details, conditions and limitations of the Limited Warranty including procedures for requesting warranty performance and for binding arbitration, in accordance with the procedures of the Federal Arbitration Act. Additional information may be received by calling RWC at (717) 561-4480. Read this document in its entirety to understand the protection it affords, the exclusions applicable to it, the Warranty Standards which determine its interpretations and operation and your responsibilities.
2. This is NOT an insurance policy, a maintenance agreement or a service contract. It is an explanation of what you, the Purchaser, can expect from this Limited Warranty.
3. Appliances and Equipment included in the Home are not warranted under this Limited Warranty, but may be covered by separate warranties provided by the manufacturer or supplier. These warranties are passed on to you by your Builder at closing and are separate from this Limited Warranty.
4. You are responsible for maintenance of your new Home. General and preventative maintenance are required to prolong the life of your new Home.
5. This Limited Warranty is **automatically transferred** to subsequent Owners during the ten-year term of this Limited Warranty.
6. This Limited Warranty is subject to changes required by various regulating bodies. FHA and VA, as well as some local agencies have mandated the additions noted in the Addenda Section of this Limited Warranty book. Notations throughout indicate where the Addenda apply.

## B. The Limited Warranty

1. **Actions taken to cure Defects will NOT extend the periods of specified coverages in this Limited Warranty.**
2. Only warranted elements which are specifically designated in the Warranty Standards are covered by this Limited Warranty.
3. The Warrantor has the choice to repair, replace or pay the reasonable cost to repair or replace warranted items which do not meet Warranty Standards and are not excluded in the Limited Warranty.
4. If a warranted MSD occurs during the appropriate coverage period, and is reported as required in **Section IV.**, the Warrantor will repair, replace or pay you the reasonable cost to repair or replace the warranted MSD, limited to actions necessary to restore the MSD to its load-bearing capacity.

## C. Warranty Coverage\*

1. **ONE YEAR COVERAGE:** Your Builder warrants that for a period of one (1) year after the Effective Date Of Warranty, warranted items will function and operate as presented in the Warranty Standards of Year 1, **Section III.A.** Coverage is **ONLY** available where

specific Standards and Actions are represented in this Limited Warranty.\*

2. **TWO YEAR COVERAGE:** Your Builder warrants that for a period of two (2) years from the Effective Date Of Warranty, specified portions of the Heating, Cooling, Ventilating, Electrical and Plumbing Systems, as defined in this Limited Warranty, will function and operate as presented in the Warranty Standards of Years 1 and 2 only, **Section III.B.**†
3. **TEN YEAR COVERAGE:** Major Structural Defects (MSD) are warranted for ten (10) years from the Effective Date Of Warranty.

Your Builder is the Warrantor during Years 1 and 2 of this Limited Warranty and the Insurer is the Warrantor in Years 3 through 10.

4. **CONDOMINIUM COVERAGE:** This Limited Warranty shall only apply to warranted common elements. Warranted common elements are those portions of the defined Electrical, Heating, Ventilating, Cooling, Plumbing and structural Systems which serve two (2) or more residential units, and are contained wholly within a residential structure. Warranty coverage for common elements shall be for the same periods and to the same extent as similar or comparable items in individual residential units. Examples of common elements which are covered by this Limited Warranty are hallways, meeting rooms and other spaces wholly within the residential structure designated for the use of two (2) or more units. Examples of common elements which are not covered under this Limited Warranty are club houses, recreational buildings and facilities, exterior structures, exterior walkways, decks, balconies, arches or any other non-residential structure which is part of the condominium.\*

## D. Conditions\*

1. This Limited Warranty provides coverage only in excess of coverage provided by other warranties or

\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

†Homeowners in Indiana, refer to State of Indiana Addendum, Section V.C.

## Section

### II. The Limited Warranty (continued)

The RWC Limited Warranty displayed on this page is a SAMPLE only. The RWC Limited Warranty applicable to your home may differ from the one displayed here. You must consult your validated RWC Limited Warranty book for the terms of coverage that apply to your home.

insurance, whether collectible or not.

2. This Limited Warranty is binding on the Builder and you and your heirs, executors, administrators, successors and assigns.
3. This Limited Warranty shall be interpreted and enforced in accordance with the laws of the state in which the Home is located.
4. This Limited Warranty is separate and apart from your contract and/or other sales agreements with your Builder. It cannot be affected, altered or amended in any way by any other agreement which you may have.
5. This Limited Warranty cannot be modified, altered or amended in any way except by a formal written instrument signed by you, your Builder and the Administrator.
6. If any provision of this Limited Warranty is determined by a court of competent jurisdiction to be unenforceable, that determination will not affect the validity of the remaining provisions.
7. All notices required under this Limited Warranty must be in writing and sent by certified mail, return receipt requested, postage prepaid, to the recipient's address shown on the Application For Warranty form, or to whatever address the recipient may designate in writing.
8. If actions by the Warrantor on any obligations under this Limited Warranty are delayed by an event beyond its control, such performance will be excused until the delaying effects of the event are remedied. Such events include, but are not limited to, acts of God, acts of the common enemy, war, riot, civil commotion or sovereign conduct, or acts or omissions by you or any other person not a party of this Limited Warranty.
9. If your Builder fails to complete any part of the Home that is reasonably foreseeable to cause damage to the Home, then it is your responsibility to complete such parts of the Home to avoid the damage. If you fail to complete the work, then any resulting damage is not covered under this Limited Warranty. The warranty period for any item completed after the Effective Date of Warranty shall be deemed to have commenced on the Effective Date of Warranty.\*
10. Costs incurred for unauthorized repairs to warranted items are not reimbursable. Written authorization prior to incurring expenses must be obtained from the Administrator.\*
11. Whenever appropriate, the use of one gender includes all genders and the use of the singular includes the plural.
12. Under this Limited Warranty, the Warrantor is not responsible for exact color, texture or finish matches in situations where materials are replaced or repaired, or for areas repainted or when original materials are discontinued.
13. Your Builder must assign to you all manufacturers' warranties on products included in the Final Sales

Price of your Home. Neither the Insurer nor the Administrator shall be liable for your Builder's failure to do so.

14. You are responsible for establishing a written, final walk-through inspection list of items in need of service prior to occupancy or closing, whichever is first. This list must be signed and dated by you and your Builder. Keep a copy for your records.

#### E. Exclusions

The following are NOT covered under this Limited Warranty:

1. Loss or damage:
  - a. to land.
  - b. to the Home, persons or property directly or indirectly caused by insects, birds, vermin, rodents, or wild or domestic animals.
  - c. which arises while the Home is used primarily for non-residential purposes.
  - d. which is covered by any other insurance or for which compensation is granted by legislation.\*
  - e. resulting directly or indirectly from flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these (whether or not driven by wind), water which backs up from sewers or drains, changes in the water table which were not reasonably foreseeable, water below the surface of the ground (including water which exerts pressure on or seeps or leaks through a building, sidewalk, driveway, foundation, swimming pool, or other structure), wetlands, springs or aquifers.\*
  - f. from normal deterioration or wear and tear.
  - g. caused by material or work supplied by anyone other than your Builder or its employees, agents or subcontractors.
  - h. from your or the condominium association's failure to perform routine maintenance on the Home, common areas, common elements or your or the condominium association's grounds.
  - i. after Year 1, to, resulting from, or made worse by all components of structurally attached decks, balconies, patios, porches, stoops, porch roofs and porticos.

\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

**Section  
II.  
The  
Limited  
Warranty  
(continued)**

The RWC Limited Warranty displayed on this page is a SAMPLE only. The RWC Limited Warranty applicable to your home may differ from the one displayed here. You must consult your validated RWC Limited Warranty book for the terms of coverage that apply to your home.

- j. after Year 1, to, resulting from, or made worse by elements of the Home which are constructed separate from foundation walls or other structural elements of the Home such as, but not limited to, chimneys and concrete floors of basements and attached garages.
  - k. to wiring, to and between communication devices from the source of power, whether or not connected to the interior wiring system of the Home. Such devices shall include, but not be limited to, telephone systems, television cable systems, intercom systems, computer systems and security systems. Sources of power shall include, but not be limited to, service entrance conductors, switches, outlets, receptacles and junction boxes.
  - l. to, or caused by, recreational facilities; driveways; walkways; patios, porches and stoops not structurally attached; decks and balconies which are not bolted to or cantilevered from the main structure of the Home; boundary and/or retaining walls; bulkheads; fences; landscaping, sodding, seeding, shrubs, trees and plantings; subsurface drainage systems (other than footer drains); lawn sprinkler systems; off-site improvements, including streets, sidewalks, adjacent property and the like; or any other improvements not part of the Home itself.
  - m. caused by any item listed as an additional exclusion on the Application for Warranty form.
2. Loss or damage resulting from, or made worse by:
- a. changes in the grading of the property surrounding the Home by anyone except your Builder or its employees, agents or subcontractors.
  - b. changes in grading caused by erosion.
  - c. modifications or additions to the Home, or property under or around the Home, made after the Effective Date Of Warranty (other than changes made in order to meet the obligations of this Limited Warranty).
  - d. intrusion of water into crawl spaces.\*
  - e. the weight and/or performance of any type of waterbed or any other furnishing which exceeds the load-bearing design of the Home.
  - f. the presence or consequence of unacceptable levels of radon, formaldehyde, carcinogenic substances or other pollutants and contaminants; or the presence of hazardous or toxic materials resulting in uninhabitability or health risk within the Home.
- g. acts or omissions by you, your agents, employees, licensees, invitees; accidents, riots, civil commotion, nuclear hazards, acts of God or nature, fire, explosion, blasting, smoke, water escape, windstorms, tropical storms, hurricanes, hail, lightning, ice, snow, falling trees, aircraft, vehicles, flood, mud slides, sinkholes, mine subsidence, faults, crevices, earthquake, land shock, waves or tremors occurring before, during or after a volcanic eruption, or manmade events such as war, terrorism or vandalism.
  - h. your failure to perform routine maintenance.
  - i. your failure to minimize or prevent such loss or damage in a timely manner.
  - j. defects in, but not limited to: recreational facilities; driveways; walkways; patios, porches and stoops not structurally attached; decks and balconies which are not bolted to or cantilevered from the main structure of the Home; boundary and/or retaining walls; bulkheads; fences; landscaping, sodding, seeding, shrubs, trees and plantings; subsurface drainage systems (other than footer drains); lawn sprinkler systems; off-site improvements, including streets, sidewalks, adjacent property and the like; or any other improvements not part of the Home itself.
  - k. defects in detached garages or outbuildings (except those which contain Plumbing, Electrical, Heating, Cooling or Ventilating Systems serving the Home, and then only to the extent where Defects would affect these systems). A detached garage is one which is constructed on its own foundation, separate and apart from the foundation of the Home. A breezeway, fence, utility line or similar union shall not cause a garage or outbuilding to be considered attached.
  - l. negligent maintenance or operation of the Home and its systems by anyone other than your Builder or its agents, employees or subcontractors.
  - m. any portion of a Water Supply System, private or public, including volume and pressure of water flow.\*
  - n. quality and potability of water.
  - o. any portion of a Sewage Disposal System, private or public, including design.\*
  - p. dampness, condensation or heat build-up caused by your failure to maintain proper ventilation.\*
3. Failure of your Builder to complete construction of the Home or any part of the Home on or before the Effective Date Of Warranty or damages arising from such failure. An incomplete item is not considered a Defect, although your Builder may be obligated to complete such items under separate agreements be-

\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

**Section  
II.  
The  
Limited  
Warranty  
(continued)**

- tween you and your Builder.
4. Any deficiency which does not result in actual physical damage or loss to the Home.
  5. Any Consequential Damages.\*
  6. Personal property damage or bodily injury.
  7. Violation of applicable Building Codes or ordinances unless such violation results in a Defect which is otherwise covered under this Limited Warranty. Under such circumstances, the obligation of the Warrantor under this Limited Warranty shall only be to repair the defective warranted portion of the Home, but not to restore or bring the Home to conform to code.
  8. Any request for warranty performance submitted to the Administrator after an unreasonable delay or later than 30 days after the expiration of the applicable warranty period.
  9. Warranted Defects that you repair without prior written authorization of the Administrator.\*
  10. Any damages to, or resulting from a swimming pool whether located within or outside the Home, as a result of its construction, placement, use, equipment, maintenance, etc.
  11. The removal and/or replacement of items specifically excluded from coverage under this Limited Warranty, such as landscaping or personal property, items not originally installed by your Builder, such as wallpaper, where removal and replacement are required to execute a repair.
  12. Any Defect consisting of, caused by, contributed to, or aggravated by moisture, wet or dry rot, mold, mildew, fungus or rust.
  13. Sound transmission and sound proofing between rooms or floor levels.
  14. Appliances and Equipment included in the Home are not warranted under this Limited Warranty, but may be covered by separate warranties provided by the manufacturer or supplier. These warranties are passed on to you by your Builder at closing and are separate from this Limited Warranty. Damage caused by improper maintenance or operation, negligence, or improper service of these items by you or your agent will not be covered under this Limited Warranty. †

**F. Limitation of Liability**

1. The Warrantor's liability and obligations are limited to the repair, replacement or the payment of the reasonable cost of repair or replacement of warranted items not to exceed an aggregate equal to the Final Sales Price of the Home as listed on the Application for Warranty form or in the absence of an Application for Warranty form, as otherwise provided to the Administrator by the Builder. The choice to repair, replace or make payment is the Warrantor's.
2. All other warranties, express or implied, including, but not limited to, all implied warranties of fitness, merchantability or habitability, are disclaimed and excluded to the extent allowed by law.

The RWC Limited Warranty displayed on this page is a SAMPLE only. The RWC Limited Warranty applicable to your home may differ from the one displayed here. You must consult your validated RWC Limited Warranty book for the terms of coverage that apply to your home.

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.†

**SECTION III.  
WARRANTY STANDARDS  
A. YEAR 1  
COVERAGE ONLY**

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>1. FOUNDATIONS</b>			
<b>BASEMENT</b>	1.1 Cracks appear in control joints.	No action required.	The expansion/contraction joint is placed to control cracking. This is not a deficiency.
	1.2 Pit, depression or areas of unevenness in areas designed for living purposes.	Builder will correct those areas in which Defect exceeds 1/4 in. within a 32 in. measurement.	In rooms not initially designed as finished living areas or where a floor or a portion of a floor surface has been designed for specific drainage purposes, a slope which exceeds 1/4 in. within a 32 in. measurement is not a deficiency.
	1.3 Cracks in poured concrete foundation walls.	Builder will correct any crack which exceeds 1/8 in. in width.	Shrinkage cracks are common and should be expected. Surface patching and epoxy injections are examples of acceptable repair methods.
	1.4 Cracks in block or veneer wall.	Builder will correct cracks which exceed 1/4 in. in width.	Some cracks are common through masonry and mortar joints. Cracks 1/4 in. or less are considered routine Owner maintenance.
	1.5 Leaks resulting in actual flow or trickling of water through wall or floor, causing an accumulation.	Builder will correct.	A one-time occurrence may not indicate a Defect. Owner must maintain proper grading around the Home and maintain any surface water control systems installed by Builder. Dampness and condensation are normal conditions and are not covered by this Limited Warranty.
	1.6 Disintegration of the concrete floor surface.	Builder will correct disintegrated surfaces caused by improper placement of concrete.	Disintegration caused by erosion due to salt, chemicals, implements used and other factors beyond Builder's control is not a warranted deficiency.
	1.7 Cracks in concrete floor which rupture or significantly impair performance of floor covering.	Builder will correct so Defect is not readily noticeable when floor covering is in place.	Minor impressions in floor covering are not considered significant imperfections.
	1.8 Cracks in concrete floor of unfinished area (no floor covering) or in areas not designed for living.	Builder will correct cracks which exceed 1/4 in. in width or vertical displacement.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
	1.9 Condensation on walls, joists, support columns and other components of basement area.	No action required.	Maintaining adequate ventilation and moisture control is considered Owner maintenance.
<b>CRAWL SPACE</b>	1.10 Cracks in poured concrete foundation walls.	Builder will correct any crack which exceeds 1/8 in. in width.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks of 1/8 in. or less are common and should be expected.
	1.11 Cracks in block or veneer wall.	Builder will correct cracks greater than 1/4 in. in width.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks of 1/4 in. or less are common and should be expected.
	1.12 Inadequate ventilation.	Builder will install properly sized louvers or vents.	Maintaining adequate ventilation and moisture control, including seasonal adjustment of vent openings, is considered Owner maintenance.

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† Homeowners in the State of New York, refer to State of New York Addendum, Section V.B.

**SECTION III.  
WARRANTY STANDARDS  
A. YEAR 1  
COVERAGE ONLY**

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

**1. FOUNDATIONS (CONTINUED)**

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>CRAWL SPACE (CONTINUED)</b>	1.13 Condensation on walls, joists, support columns and other components of the crawl space area.	No action required.	Maintaining adequate ventilation and moisture control, including seasonal adjustment of vent openings, is considered Owner maintenance.
<b>SLAB ON GRADE</b>	1.14 Cracks appear at control joints.	No action required.	Expansion/contraction joint is placed to control cracking. This is not a deficiency.
	1.15 Pits, depressions or areas of unevenness in areas designed for living purposes.	Builder will correct areas in which Defect exceeds 1/4 in. within a 32 in. measurement.	In rooms not initially designed as finished living areas or where a floor or a portion of a floor surface has been designed for specific drainage purposes, a slope which exceeds 1/4 in. within a 32 in. measurement is acceptable.
	1.16 Disintegration of concrete floor surface.	Builder will correct disintegrated surfaces caused by improper placement of concrete.	Disintegration caused by erosion due to salt, chemicals, implements used and other factors beyond Builder's control is not a warranted deficiency.
	1.17 Crack in concrete floor which ruptures or significantly impairs performance of floor covering.	Builder will correct so Defect is not readily noticeable when floor covering is in place.	Minor impressions in floor covering are not considered significant imperfections.
	1.18 Cracks in attached garage slab.	Builder will correct cracks which exceed 1/4 in. in width or vertical displacement.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
	1.19 Cracks in concrete floor of unfinished area (no floor covering) or in areas not designed for living.	Builder will correct cracks which exceed 1/4 in. in width or vertical displacement.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
	1.20 Cracks in visible face of foundation.	Builder will correct cracks in excess of 1/8 in. in width.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.

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**2. FRAMING**

<b>CEILING</b>	2.1 Uneven ceiling.	Builder will correct if unevenness exceeds 1/4 in. within a 32 in. measurement.	Some minor framing imperfections should be expected.
<b>FLOOR</b>	2.2 High and low areas.	Builder will correct if high or low areas exceed 1/4 in. within a 32 in. measurement.	Some minor framing imperfections should be expected.
	2.3 Floor squeaks.	Builder will correct if caused by a defective joist or improperly installed subfloor.	A squeak-proof floor cannot be guaranteed. Lumber shrinkage as well as temperature and humidity changes may cause squeaks.
<b>ROOF</b>	2.4 Split or warped rafters or trusses.	No action required.	Some splitting and warping is normal and is caused by high temperature effects on lumber.
<b>WALL</b>	2.5 Bow or bulge.	Builder will correct if bow or bulge exceeds 1/4 in. within 32 in. horizontal or vertical measurement.	Minor framing imperfections should be expected.
	2.6 Out-of-plumb.	Builder will correct where out-of-plumb condition exceeds 3/4 in. within 8 ft. vertical measurement.	Minor framing imperfections should be expected.
	2.7 Wall is out-of-square.	No action required.	A wall out-of-square is not a Defect.

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**SECTION III.  
WARRANTY STANDARDS  
A. YEAR 1  
COVERAGE ONLY**

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>3. EXTERIOR</b>			
<b>STRUCTURALLY ATTACHED WOOD OR COMPOSITE DECKS</b>	3.1 Wood twisting, warping or splitting.	Builder will correct only if due to improper installation.	Twisting, warping or splitting of wood deck material is normal due to exposure to the elements. Owner maintenance is required.
	3.2 Settlement.	Builder will correct slope of deck which exceeds a ratio of 2 in. in a 10 ft. measurement.	Some slope is often provided to allow for water drainage.
	3.3 Loose railing or post.	Builder will correct if due to improper installation.	Owner maintenance is required.
<b>DOORS</b>	3.4 Binds, sticks or does not latch.	Builder will correct if caused by faulty workmanship or materials.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
	3.5 Wood door panel shrinks.	No action required.	Panels will shrink and expand and may expose unfinished surfaces.
	3.6 Warping.	Builder will correct warping which exceeds 1/4 in., measured vertically, horizontally or diagonally.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
	3.7 Split in panel.	Builder will correct if split allows the entrance of elements.	Splits which do not allow the entrance of elements are considered normal. Owner maintenance is required.
	3.8 Separation between door and weather-stripping.	Builder will correct if daylight is visible or if entrance of elements occurs under normal conditions.	Even with properly installed weather stripping, some movement of the door, when closed, may be expected. Owner maintenance is required for minor alterations to adjustable thresholds and other parts of the door.
	3.9 Screen mesh is torn or damaged.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	3.10 Overhead garage door fails to operate or allows rain or snow to leak through.	Builder will correct garage doors which do not fit or operate properly.	Some entrance of elements can be expected and is not considered a deficiency. If Owner installs a garage door opener, Builder is not responsible for operation of door.
<b>ROOFING</b>	3.11 Roof and roof flashing leaks.	Builder will correct if leak occurs under normal conditions.	No action is required if leak is due to snow or ice buildup, high winds or driving rains. Prevention of snow or ice buildup is the Owner's responsibility.
	3.12 Lifted, torn or curled shingles.	Builder will correct if due to poor installation.	Owner maintenance is required. No Warrantor action required if due to high winds.
	3.13 Inadequate ventilation.	Builder will provide adequate ventilation.	Moisture accumulation in attics which are not adequately vented is a deficiency. Owner is responsible to keep vents clear of obstructions to promote air flow.
	3.14 Water stays in gutters.	Builder will correct to limit standing water depth at 1 in.	Owner is responsible for keeping gutters and downspouts clean.
	3.15 Gutter or downspout leaks.	Builder will correct leaks at connections.	Owner is responsible for keeping gutters and downspouts clean. Gutters may overflow during heavy rains.

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**SECTION III.  
WARRANTY STANDARDS  
A. YEAR 1  
COVERAGE ONLY**

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CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>3. EXTERIOR (CONTINUED)</b>			
<b>SITE WORK</b>	3.16 Standing water within 10 ft. of the foundation.	Builder will correct water which stands for more than 24 hours, or more than 48 hours in swales.	Standing water beyond the 10 ft. perimeter of the foundation is not covered by this Limited Warranty. Owner is responsible for establishing and maintaining adequate ground cover.
	3.17 Settling of ground around foundation walls, utility trenches or other filled areas on property where there has been excavation and backfill which affected foundation drainage.	If final grading was performed by Builder, he will replace fill in excessively settled areas only once.*	If settlement does not exceed 6 in., it is Owner's responsibility to fill affected areas. The party responsible for establishing the final grade shall provide for positive drainage away from foundation. Owner is responsible for establishing and maintaining adequate ground cover.
<b>STRUCTURALLY ATTACHED STOOP, PORCH &amp; PATIO</b>	3.18 Settlement, heaving or movement.	Builder will correct if movement exceeds 1 in. from the Home for stoops, porches and patios which are structurally attached.	Stoops, porches and patios which are poured separately and simply abut the house are not covered by this Limited Warranty.
	3.19 Concrete splatters on adjacent surfaces.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
<b>WALL COVERING</b>	3.20 Entrance of elements through separations of siding or trim joints, or separation between trim and surfaces of masonry or siding.	Builder will correct entrance of elements or separations exceeding 3/8 in. by caulking or other methods.	Any separations 3/8 in. or less are considered routine Owner maintenance.
	3.21 Cracks in stucco, cement and plaster surfaces.	Builder will correct cracks which exceed 1/8 in. in width.	Hairline cracks are common.
	3.22 Siding materials deteriorate, delaminate or come loose.	Builder will correct affected area if due to improper workmanship or materials.	Separated, loose or delaminated siding can also be due to improper maintenance. Wavy siding may be due to temperature changes and can be expected.
	3.23 Siding is wavy or has holes.	Builder is responsible only if installed improperly.	Siding can become wavy or fade. Check your manufacturer's warranty on this product for coverage regarding dents, holes, wind specifications, etc.
	3.24 Paint or stain peels or deteriorates.	Builder will correct. If 75% of a particular wall is affected, entire wall will be corrected.	Some fading is normal due to weathering. Mildew and fungus on exterior surfaces are caused by climatic conditions and is considered routine maintenance. Varnish or lacquer deteriorates quickly and is not covered by this Limited Warranty.
	3.25 Paint splatters and smears on other surfaces.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	3.26 Faulty application of paint on wall and trim surfaces.	Builder will correct affected area. If greater than 75% of wall or trim piece is affected, entire surface will be corrected.	Some minor imperfections such as overspray, brushmarks, etc., are common and should be expected.
	3.27 Knot holes bleed through paint or stain.	Builder will correct affected areas where excessive bleeding of knots appear.	Knot holes will be apparent depending on the quality of material used.

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**SECTION III.  
WARRANTY STANDARDS  
A. YEAR 1  
COVERAGE ONLY**

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>3. EXTERIOR (CONTINUED)</b>			
<b>WALL COVERING (CONTINUED)</b>	<b>3.28</b> Vent or louver leaks.	Builder will correct if caused by improper installation.	Properly installed louvers or vents may at times allow rain or snow to enter under strong wind conditions and is not a deficiency.
	<b>3.29</b> Cracks in masonry, veneer, stone, etc.	Builder will correct cracks which exceed 1/4 in. in width.	Some cracks are common through masonry and mortar joints. Cracks 1/4 in. or less are considered routine Owner maintenance.
<b>WINDOWS</b>	<b>3.30</b> Condensation or frost on interior window surface.	No action required.	Condensation is relative to the quality and type of windows. Temperature differences in high levels of humidity along with individual living habits will cause condensation.
	<b>3.31</b> Clouding or condensation between panes of glass.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	<b>3.32</b> Glass breakage.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	<b>3.33</b> Excessive drafts and leaks.	Builder will correct poorly fitted windows.	Relative to the quality and type of windows, drafts are sometimes noticeable around windows, especially during high winds. It may be necessary for the Owner to have storm windows installed to provide a satisfactory solution in high wind areas. All caulking materials expand and contract due to temperature variation and dissimilar materials. Maintenance of weather stripping is Owner's responsibility.
	<b>3.34</b> Difficult to open, close or lock.	Builder will correct.	Windows should open, close and lock with reasonable pressure.
<b>4. INTERIOR</b>			
<b>DOORS</b>	<b>4.1</b> Latch is loose or rattles.	No action required.	Some minor movement should be expected.
	<b>4.2</b> Binds, sticks or does not latch.	Builder will correct if due to faulty workmanship and materials.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
	<b>4.3</b> Warping.	Builder will correct warping which exceeds 1/4 in., measured vertically, horizontally or diagonally.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
	<b>4.4</b> Excessive opening at bottom.	Builder will correct gaps in excess of 1-1/2 in. between bottom of passage door and finished floor or 2 in. between bottom of closet door and finished floor.	Gaps under doors are intended for air flow.
	<b>4.5</b> Rubs on carpet.	Builder will correct.	Builder is not responsible if Owner installs carpet.

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**SECTION III.  
WARRANTY STANDARDS  
A. YEAR 1  
COVERAGE ONLY**

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CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>4. INTERIOR (CONTINUED)</b>			
WALLS, CEILINGS, SURFACES, FINISHES & TRIM	4.6 Cracks and separations in drywall, lath or plaster; nail pops.	Builder will correct cracks in excess of 1/8 in. in width. Builder will correct nail pops which have broken finished surface. Repair cracks and touch up paint to match as close as possible, one time only. Such conditions should be reported near the end of Year 1 of the warranty period to allow for normal movement of the Home.	Minor seam separations and cracks, and other slight imperfections, are common and should be expected. Minor depressions and slight mounds at nail heads are not Defects.
	4.7 Peeling of wallpaper.	Builder will correct if not due to Owner neglect or abuses.	Builder is not responsible for wallpaper installed by Purchaser. Owner is responsible for maintaining adequate ventilation in areas of high humidity, such as kitchens and bathrooms.
	4.8 Separated seams in wallpaper.	Builder will correct if wall surface is readily visible.	Minor imperfections can be expected.
	4.9 Lumps, ridges and nail pops in wallboard which appear after Owner has wall covering installed by himself or others.	No action required.	Owner should insure that surface to be covered is suitable for installation of wall covering.
	4.10 Surface deficiencies in finished woodwork.	Builder will correct readily apparent splits, cracks, hammer marks and exposed nail heads, only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	4.11 Gaps between trim and adjacent surfaces, and gaps at trim joints.	Builder will correct gaps in excess of 1/8 in. at trim joints and 1/4 in. between trim and adjacent surfaces.	Some separation due to lumber shrinkage is normal and should be expected.
	4.12 Cracks in ceramic grout joints.	Builder will correct cracks in excess of 1/8 in. one time only.	Cracking of grout joints is common and is considered routine Owner maintenance unless excessive.
	4.13 Ceramic tile cracks or becomes loose.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	4.14 Cracking or deterioration of caulking.	No action required.	All interior caulking shrinks and deteriorates. Owner maintenance is required.
	4.15 Wall or trim surfaces visible through paint.	Builder will correct affected area. If greater than 75% of wall, trim piece, or ceiling is affected, entire surface will be corrected.	Some minor imperfections such as overspray, brushmarks, etc., are common and should be expected.

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**SECTION III.  
WARRANTY STANDARDS  
A. YEAR 1  
COVERAGE ONLY**

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>4. INTERIOR (CONTINUED)</b>			
<b>FLOOR COVERING*</b>	<b>4.16</b> Resilient flooring comes loose at edge.	Builder will correct.	Owner maintenance is required.
	<b>4.17</b> Fades, stains or discolors.	Builder will correct stains or spots only if documented prior to occupancy.	Fading is not a deficiency. Owner is responsible for establishing a pre-closing walk-through inspection list.
	<b>4.18</b> Premature wearing of carpet.	No action required.	Excessive wear in high-traffic areas such as entryways and hallways is normal. Wearability is directly related to quality of carpet.
	<b>4.19</b> Visible gaps at carpet seams.	Builder will correct gaps.	Seams will be apparent. Owner maintenance is required.
	<b>4.20</b> Carpet becomes loose or buckles.	Builder will correct.	Some stretching is normal. Owner should exercise care in moving furniture.
	<b>4.21</b> Gaps at seams of resilient flooring.	Builder will correct gaps of similar materials in excess of 1/8 in., and 3/16 in. where dissimilar materials abut.	Minor gaps should be expected.
	<b>4.22</b> Fastener pops through resilient flooring.	Builder will correct affected area where fastener has broken through floor covering.	Sharp objects such as high heels, table and chair legs, can cause similar problems, and are not covered by this Limited Warranty.
	<b>4.23</b> Depressions or ridges in resilient flooring at seams of sub-flooring.	Builder will correct depressions or ridges which exceed 1/8 in. in height or depth.	This is determined by placing a 6 in. straight edge over ridge or depression, with 3 in. on either side, and measuring height or depth at sub-flooring seam.
	<b>4.24</b> Cuts and gouges in any floor covering.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	<b>4.25</b> Hollow sounding marble or tile.	No action required.	Hollow sounding marble or tile is not a deficiency of construction and is not covered under this warranty.
<b>SUB-FLOORING</b>	<b>4.26</b> Loose sub-flooring.	Builder will correct if due to a defective joist or improper fastening.	Lumber shrinkage as well as temperature and humidity changes may cause loose sub-flooring.

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\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

**SECTION III.  
WARRANTY STANDARDS  
A. YEAR 1  
COVERAGE ONLY**

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CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>5. MECHANICAL</b>			
<b>ELECTRICAL</b>	5.1 Circuit breakers trip excessively.	Builder will correct if tripping occurs under normal usage.	Ground Fault Circuit Interrupters (GFCI) are intended to trip as a safety factor. Tripping that occurs under normal use is not covered by this Limited Warranty.
	5.2 Outlets, switches or fixtures malfunction.	Builder will correct if caused by defective workmanship or materials.	Owner should exercise routine care and maintenance. Replacement of light bulbs is Owner's responsibility.
<b>HEATING &amp; COOLING</b>	5.3 Condensation lines clog under normal use.	No action required.	Condensation lines will clog under normal conditions. Continued operation of drain line requires Owner maintenance.
	5.4 Noisy duct work.	Builder will correct oil canning noise if caused by improper installation.	When metal heats and cools, ticking and cracking may occur and are not covered by this Limited Warranty.
	5.5 Insufficient heating.	Builder will correct if Heating System cannot maintain a 70 degree Fahrenheit temperature, under normal operating and weather conditions. Temperature shall be measured at a point 5 ft. above center of floor in affected area. On extremely cold days, a 6 degree difference between actual inside temperature and thermostat setting is acceptable. All rooms may vary in temperature by as much as 4 degrees.	Orientation of the Home, location of rooms and location of vents will also provide a temperature differential. There may be periods when outdoor temperature falls below design temperature thereby lowering temperature in the Home. Certain aspects of the Home including, but not limited to, expansive stairways, open foyers, sunrooms or cathedral ceilings may cause abnormal variation from these Standards and are not covered by this Limited Warranty.
	5.6 Insufficient cooling.	Builder will correct if Cooling System cannot maintain a 78 degree Fahrenheit temperature, under normal operating and weather conditions. Temperature shall be measured at a point 5 ft. above center of the floor in the affected room. On excessively hot days, where outside temperature exceeds 95 degrees Fahrenheit, a difference of 17 degrees from outside temperature will be difficult to maintain. All rooms may vary in temperature by as much as 4 degrees.	Orientation of the Home, location of rooms and location of vents will also provide a temperature differential. There may be periods when outdoor temperature rises above design temperature thereby raising temperature in the Home. Certain aspects of the Home including, but not limited to, expansive stairways, open foyers, sunrooms or cathedral ceilings may cause abnormal variation from these Standards and are not covered by this Limited Warranty.
	5.7 Refrigerant line leaks.	Builder will correct.	Owner maintenance is required on the system.
<b>PLUMBING</b>	5.8 Pipe freezes and bursts.	Builder will correct if due to faulty workmanship or materials.	Proper winterization of pipes is considered routine maintenance and Owner should maintain suitable temperatures inside the Home.
	5.9 Noisy water pipe.	Builder will correct hammering noise if caused by improper installation.	Some noise can be expected due to flow of water and pipe expansion. This is not a Defect.
	5.10 Plumbing fixtures and trim fittings leak or malfunction.	Builder will correct if due to faulty workmanship and materials.	Owner maintenance is required. Scratches, tarnishing or marring must be noted on a pre-closing walk-through inspection list.

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**SECTION III.  
WARRANTY STANDARDS  
A. YEAR 1  
COVERAGE ONLY**

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>6. SPECIALTIES</b>			
<b>BATHROOM &amp; KITCHEN</b>	6.1 Cabinet separates from wall or ceiling.	Builder will correct separation in excess of 1/4 in.	Some separation is normal. Caulking is an acceptable method of repair.
	6.2 Crack in door panel.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	6.3 Warping of cabinet door or drawer front.	Builder will correct if warp exceeds 3/8 in. as measured from cabinet frame.	Seasonal changes may cause warping and may be a temporary condition.
	6.4 Doors or drawers do not operate.	Builder will correct.	Owner maintenance is required.
	6.5 Chips, cracks, scratches on countertop, cabinet, fixture or fitting.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	6.6 Delamination of countertop or cabinet.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	6.7 Cracks or chips in fixture.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
	6.8 Defective fixture or fitting.	Builder will correct.	Owner maintenance is required.
<b>CHIMNEY &amp; FIREPLACE</b>	6.9 Exterior and interior masonry veneer cracks.	Builder will correct cracks in excess of 1/4 in. in width.	Some cracks are common in masonry and mortar joints. Cracks 1/4 in. in width or less are considered Owner maintenance.
	6.10 Firebox color is changed; accumulation of residue in chimney or flue.	No action required.	Owner maintenance is required.
	6.11 Chimney separates from the Home.	Builder will correct separation in excess of 1/2 in. within 10 ft.	Newly built chimneys will often incur slight amounts of separation.
	6.12 Smoke in living area.	Builder will correct if caused by improper construction or inadequate clearance.	Temporary negative draft situations can be caused by high winds; obstructions such as tree branches too close to the chimney; the geographic location of the fireplace; or its relationship to adjoining walls and roof. In some cases, it may be necessary to open a window to create an effective draft. Since negative draft conditions could be temporary, it is necessary that Owner substantiate problem to Builder by constructing a fire so the condition can be observed.
	6.13 Water infiltration into firebox from flue.	No action required.	A certain amount of rainwater can be expected under certain conditions.
	6.14 Firebrick or mortar joint cracks.	No action required.	Intense heat may cause cracking.
<b>INSULATION</b>	6.15 Air infiltration around electrical receptacles.	No action required.	Air flow around electrical boxes is normal and is not a deficiency.

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**SECTION III.  
WARRANTY STANDARDS  
B. YEARS 1 AND 2  
COVERAGE ONLY**

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>B. SYSTEMS — YEARS 1 AND 2</b>			
ELECTRICAL	B.1 Wiring fails to carry specified load.	Builder will correct if failure is due to improper installation or materials.	Switches, outlets and fixtures are applicable to Year 1 Coverage Only.
HEATING & COOLING	B.2 Duct work separates.	Builder will correct.	Owner maintenance is required.
PLUMBING*	B.3 Pipe leaks.	Builder will correct.	Condensation on pipes does not constitute leakage. Faulty faucets, valves, joints and fittings are applicable to Year 1 Coverage Only.
	B.4 Water supply stops.	Builder will correct if due to faulty workmanship or materials inside the Home.	Drought or causes other than faulty workmanship and materials will not be covered under this Limited Warranty.
	B.5 Clogged drain or sewer.	Builder will correct clog within structure caused by faulty workmanship or materials.	Clogs and stoppages beyond the exterior wall are not covered by this Limited Warranty. Routine Owner maintenance and proper use is required.

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**SECTION III.  
WARRANTY STANDARDS  
C. TEN YEAR MSD  
COVERAGE ONLY**

CATEGORY	OBSERVATION	ACTION REQUIRED	COMMENTS
<b>C. TEN YEAR MSD COVERAGE</b>			
MAJOR STRUCTURAL DEFECTS	C.1 Major Structural Defects.	The criteria for establishing the existence of a Major Structural Defect is set forth in Section I.B.14 of this Limited Warranty Agreement.	The Warrantor will correct Major Structural Defects, limited to such actions as are necessary to restore the load-bearing capability of the component(s) affected by a Major Structural Defect.

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**Section  
IV.  
Requesting  
Warranty  
Performance**

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**A. Notice to Warrantor in Years 1 & 2**

1. If a Defect occurs in Years 1 and 2, you must notify your Builder in writing. Your request for warranty performance should clearly describe the Defect(s) in reasonable detail.
2. Request for warranty performance to your Builder does not constitute notice to the Administrator, and it will not extend applicable coverage periods.
3. If a request for warranty performance to your Builder does not result in satisfactory action within a reasonable time, written notice must be given to RWC, Administrator, 5300 Derry Street, Harrisburg, Pennsylvania 17111-3598, Attn: Warranty Resolution Department. This notice should describe each item in reasonable detail and should be forwarded by certified mail, return receipt requested.
4. *Please note that a written request for warranty performance must be mailed to RWC and postmarked no later than thirty (30) days after the expiration of the applicable warranty period. For example, if the item is one which is warranted by your Builder during your second year of coverage, a request for warranty performance must be mailed to RWC and postmarked no later than thirty (30) days after the end of the second year to be valid.*
5. You must provide the Warrantor with reasonable weekday access during normal business hours in order to perform its obligations. Failure by your to provide such access to the Warrantor may relieve the Warrantor of its obligations under this Limited Warranty.
6. If your Builder does not fulfill its obligations under this Limited Warranty, the Administrator will process the request for warranty performance as described in the Limited Warranty and subject to the provisions of IV.F.

**B. Notice to Warrantor in Years 3-10**

If a Defect related to a warranted MSD occurs in Years 3 through 10 of this Limited Warranty, you must notify the Administrator to review the item. All such notices must be presented in writing to RWC, Administrator, 5300 Derry Street, Harrisburg, Pennsylvania 17111-3598, Attn: Warranty Resolution Department, by certified mail, return receipt requested, within a reasonable time after the situation arises. Any such notice should describe the condition of the MSD in reasonable detail. Requests for warranty performance post-marked more than thirty (30) days after the expiration of the term of this Limited Warranty will not be honored.

**C. Purchaser's Obligations**

1. **Your notice to the Administrator must contain the following information:**
  - a. Validation # and Effective Date Of Warranty;
  - b. Your Builder's name and address;
  - c. Your name, address and phone number (including home and work numbers);
  - d. Reasonably specific description of the warranty item(s) to be reviewed;
  - e. A copy of any written notice to your Builder;
  - f. Photograph(s) may be required; and
  - g. A copy of each and every report you have ob-

tained from any inspector or engineer.

2. You have an obligation to cooperate with the Administrator's mediation, inspection and investigation of your warranty request. From time to time, the Administrator may request information from you regarding an alleged Defect. Failure by you or your appointed representative to respond with the requested information within thirty (30) days of the date of the Administrator's request can result in the closing of your warranty file.

**D. Mediation and Inspection**

Within thirty (30) days following the Administrator's receipt of proper notice of request for warranty performance, the Administrator may review and mediate your request by communicating with you, your Builder and any other individuals or entities who the Administrator believes possess relevant information. If, after thirty (30) days, the Administrator has not been able to successfully mediate your request, or at any earlier time when the Administrator believes that your Builder and you are at an impasse, then the Administrator will notify you that your request has become an Unresolved Warranty Issue. At any time following the receipt of proper notice of your request for warranty performance, the Administrator may schedule an inspection of the item. You must provide the Administrator reasonable access for any such inspection as discussed in Section IV.A.5. The Administrator, at its discretion, may schedule a subsequent inspection to determine Builder compliance.

When a request for warranty performance is filed and the deficiency cannot be observed under normal conditions, it is your responsibility to substantiate that the need for warranty performance exists including any cost involved. If properly substantiated, you will be reimbursed by the Warrantor.

**E. Arbitration\***

You begin the arbitration process by giving the Administrator written notice of your request for arbitration of an Unresolved Warranty Issue. The written notice of your request for arbitration must be received by the Administrator no later than thirty (30) days following the expiration of the ten year warranty period. However, if you receive notification of an Unresolved Warranty Issue from the Administrator following the expiration of the ten year warranty period, then this period is extended and written notice of your request for arbitration must be received by the Administrator no later than thirty (30) days from the date of your receipt of notification of the Unresolved Warranty Issue. Within twenty (20) days after the Administrator's receipt of your notice of request for arbitration, any Unresolved Warranty Issue that you have with the Warrantor shall be submitted to an independent arbitration service experienced in arbitrating residential construction matters upon which you and the Administrator agree. This binding arbitration is governed by the procedures of the Federal Arbitration Act, 9 U.S.C. §§ 1 *et. seq.* If you submit a request for arbitration, you must pay the arbitration fees before the matter is submitted to the arbitration service. After arbitration, the Arbitrator shall have the power to award the cost of this fee to any party or to split it among the parties to the arbitration. The arbitration shall be conducted in accordance with this Limited Warranty and the arbitration rules and regulations to the extent that they are not in conflict with the Federal Arbitration Act.

\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

**Section  
IV.  
Requesting  
Warranty  
Performance  
(continued)**

The RWC Limited Warranty displayed on this page is a SAMPLE only. The RWC Limited Warranty applicable to your home may differ from the one displayed here. You must consult your validated RWC Limited Warranty book for the terms of coverage that apply to your home.

Within one (1) year after an arbitration award, either party may apply to the U.S. District Court where the Home is situated to confirm the award. The Administrator's receipt of a written request for arbitration in appropriate form shall stop the running of any statute of limitations applicable to the matter to be arbitrated until the Arbitrator renders a decision. The decision of the Arbitrator shall be final and binding upon all parties.<sup>1</sup>

Since this Limited Warranty provides for mandatory binding arbitration of Unresolved Warranty Issues, if any party commences litigation in violation of this Limited Warranty, such party shall reimburse the other parties to the litigation for their costs and expenses, including attorney fees, incurred in seeking dismissal of such litigation.\*

In Years 1 & 2, the Builder shall have sixty (60) days from the date the Administrator sends the Arbitrator's award to the Builder to comply with the Arbitrator's decision. In Years 3-10, the Warrantor shall have sixty (60) days from the date the Administrator receives the Arbitrator's award to comply with the Arbitrator's decision. Warranty compliance will begin as soon as possible and will be completed within the sixty-day compliance period with the exception of any repair that would reasonably take more than sixty (60) days to complete, including, but not limited to, repair delayed or prolonged by inclement weather. The Warrantor will complete such repair or replacement as soon as possible without incurring overtime or weekend expenses.

You may request a compliance arbitration within twenty (20) days after the sixty-day compliance period has expired by giving the Administrator written notice of your request. You must pay the fees for the compliance arbitration prior to the matter being submitted to the arbitration service.

**F. Conditions of Warranty Performance**

1. When your request for warranty performance is determined to be a warranted issue, the Warrantor reserves the right to repair or replace the warranted item, or to pay you the reasonable cost of repair or replacement.
2. In Years 1 and 2, if your Builder defaults in its warranty obligations, the Administrator will process the request for warranty performance provided you pay a warranty service fee of \$250 for each request prior to repair or replacement.\*\*♦
3. In Years 3 through 10 you must pay the Administrator a warranty service fee of \$500 for each request.\*\*♦
4. If the Administrator elects to award you cash rather than repair or replace a warranted item, the warranty service fee will be subtracted from the cash payment.
5. If the Warrantor pays the reasonable cost of repairing a warranted item, the payment shall be made to you and to any mortgagee or mortgagee's successor as each of your interests may appear; provided that the mortgagee has notified the Administrator in writing of its security interest in the Home prior to such payment. Warrantor shall not have any obligation to make payment jointly to the Purchaser and mortgagee where the mortgagee has not notified your Builder or the Administrator in writing of its security interest in the Home prior to such payment. Any mortgagee shall be completely bound by any mediation or arbitration relating to a request for warranty

performance between you and the Warrantor.\*

6. Prior to payment for the reasonable cost of repair or replacement of warranted items, you must sign and deliver to the Builder or the Administrator, as applicable, a full and unconditional release, in recordable form, of all legal obligations with respect to the warranted Defects and any conditions arising from the warranted items.
7. Upon completion of repair or replacement of a warranted Defect, you must sign and deliver to the Builder or the Administrator, as applicable, a full and unconditional release, in recordable form, of all legal obligations with respect to the Defect and any conditions arising from the situation. The repaired or replaced warranted item will continue to be warranted by this Limited Warranty for the remainder of the applicable period of coverage.
8. If the Warrantor repairs, replaces or pays you the reasonable cost to repair or replace a warranted item, the Warrantor shall be subrogated to all your rights of recovery against any person or entity. You must execute and deliver any and all instruments and papers and take any and all other actions necessary to secure such rights, including, but not limited to, assignment of proceeds of any insurance or other warranties to the Warrantor. You shall do nothing to prejudice these rights of subrogation.
9. Any Warrantor obligation is conditioned upon your proper maintenance of the Home, common elements and grounds to prevent damage due to neglect, abnormal use or improper maintenance.
10. Condominium Procedures:
  - a. In the case of common elements of a condominium, at all times, owner(s) of each unit affected by the common elements in need of warranty performance shall each be responsible to pay the warranty service fee (\$250 in Years 1 and 2, \$500 in Years 3 through 10) for each request for warranty performance.\*\*
  - b. If a request for warranty performance under this Limited Warranty involves a common element in a condominium, the request may be made only by an authorized representative of the condominium association. If the Builder retains a voting interest in the association of more than 50%, the request may be made by unit owners representing 10% of the voting interests in the association.
  - c. If a request for warranty performance under this Limited Warranty involves a common element affecting multiple units, and all affected units are not warranted by the RWC Warranty Program, the Insurer's liability shall be limited to only those units warranted by the RWC Warranty. The limit of liability shall be prorated based upon the number of units warranted by this Limited Warranty.

\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

♦Homeowners in Maryland, refer to Maryland Addendum, Section V.E.

\*Homeowners in Newark, Delaware, refer to Newark, Delaware, Addendum, Section V.A.

† Homeowners in the State of New York, refer to State of New York Addendum, Section V.B.

**Section  
V.  
Addenda**

The RWC Limited Warranty displayed on this page is a SAMPLE only. The RWC Limited Warranty applicable to your home may differ from the one displayed here. You must consult your val-  
dated RWC Limited Warranty book for the terms of coverage that apply to your home.

**A. Newark, Delaware, Addendum**

The warranty service fee as described in Sections IV.F.2., IV.F.3. and IV.F.10.a. will be waived for homes built in the city of Newark, Delaware.

**B. State of New York Addendum**

Except as expressly provided in this Addendum, the warranties and rights listed herein are in addition to, and are not exclusive of, any warranties or rights listed in this Limited Warranty.

1. **Appliances and Items of Equipment** — Subject to other terms and conditions listed in this Limited Warranty, the exclusion concerning deficiencies in Appliances and Items of Equipment described in Section II.E.14. of this Limited Warranty shall not apply during the first two (2) years of the warranty term wherever (i) such Appliances and Items of Equipment are components of the Cooling, Ventilating, Heating, Electrical or Plumbing Systems; and (ii) the deficiencies in such fixtures, Appliances or Items of Equipment are the result of defective installation by your Builder.
2. **Standards** — Section III. — If the statutes of the State of New York provide greater coverage than the provisions of this Limited Warranty, those provisions shall modify the warranty to allow for the greater coverage.
3. **Alternative Dispute Resolution** — When making a request for warranty performance pursuant to Section IV.E. of this Limited Warranty, you have no obligation to submit to binding arbitration, nor do you have to pay any fee or charge for participation in non-binding arbitration or any mediation process concerning your request. However, any Unresolved Warranty Issues must be submitted to arbitration before a legal proceeding may be commenced. Further, if an Owner resorts to litigation, the rights and obligations imposed by Section IV.E. shall apply to such litigation.

**C. State of Indiana Addendum**

The warranties and rights listed above are in addition to, and are not exclusive of, any warranties listed in this book.

Notwithstanding anything contained in the attached printed form of the RWC Limited Warranty, this Limited Warranty shall include the following protection per Section II.C., and is amended to read as follows:

1. **TWO YEAR COVERAGE** — Commencing on the Effective Date of this Limited Warranty as specified on the Application For Warranty form, and subject to the terms and conditions listed herein, your Builder warrants that for a period of two (2) years your Home will be free from Defects due to non-conformity with the Warranty Standards set forth in Section III. of this Limited Warranty. With respect to fixtures, Appliances and Items of Equipment, the Warranty is for one (1) year or the manufacturer's

written warranty, whichever is less.

2. **YEARS 3 AND 4 COVERAGE ONLY** — During the third and fourth year following the Effective Date Of Warranty as specified on the Application For Warranty form, and subject to the terms and conditions listed in this Limited Warranty, your Home will be free from Defects caused by poor workmanship and materials in its roof and roof systems.

**D. HUD Addendum (Applicable to VA/FHA Financed Homes only)**

1. **Section I.B.** — The following definition is added: Emergency Condition is an event or situation that presents an imminent threat of damage to the Home or common elements and results in an unsafe living condition due to Defects or Major Structural Defect failures that manifest themselves outside of the Warrantor's normal business hours and precludes you from obtaining prior written approval to initiate repairs to stabilize the condition and prevent further damage.
2. **Section I.B.9. Effective Date Of Warranty** — The following language is substituted: The Effective Date Of Warranty will be the date on which closing or settlement occurs in connection with the initial sale of the Home. In no event will the Effective Date Of Warranty be later than the date of FHA endorsement of your Mortgage on the Home.
3. **Section I.B.14. Major Structural Defects** — The following language is substituted for a-c.: A Major Structural Defect is actual physical damage to the designated load-bearing portions of a Home caused by failure of such load-bearing functions to the extent that the Home becomes unsafe, unsanitary, or otherwise unlivable. The following language is added: Delamination or rupture of roof sheathing shall be deemed a Major Structural Defect in need of warranty performance.
4. **Section II.C.1. One Year Coverage** — The following language is added: Notwithstanding anything to the contrary contained in this Limited Warranty, during the first year of coverage, your Builder will repair or restore the reliable function of Appliances and Equipment damaged during installation or improperly installed by your Builder. In addition, your Builder will correct Construction Deficiencies in workmanship and materials resulting from the failure of the Home to comply with standards of quality as measured by acceptable trade practices. Construction Deficiencies are Defects (not of a structural nature) in the Home that are attributable to poor workmanship or to the use of inferior materials which result in the impaired functioning of the Home or some part of the Home. Defects resulting from your abuse or from normal wear and tear are not considered Construction Deficiencies.
5. **Section II.C.4. Condominium Coverage**—The following language is substituted: The Limited Warranty shall only apply to warranted common elements

**Section  
V.  
Addenda  
(continued)**

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which are those portions of the defined Electrical, Heating, Ventilating, Cooling, Plumbing and structural Systems which serve two (2) or more residential units; and are contained wholly within a residential structure that, if defective, would constitute a health or safety condition for the occupants. Examples of common elements which are covered by this Limited Warranty are hallways, meeting rooms, stairwells and other spaces wholly within the residential structure serving two (2) or more units; and structurally attached balconies, arches and decks. Examples of common elements which are not covered under this Limited Warranty are club houses, recreational buildings and facilities, walkways, exterior structures, or any other non-residential structure which is part of the condominium.

6. **Section II.C.** — The following coverage is added for the **State of Colorado ONLY**: The Builder's warranty for basement slabs in the State of Colorado is extended from the first through the fourth year.
7. **Section II.D.** — The following statement is added: This agreement is non-cancelable by the Warrantor.
8. **Section II.D.9.** is deleted.
9. **Section II.D.10.** — The following language is added: Repairs to the Home may be made without the prior written authorization of the Warrantor only in the event an Emergency Condition arises that necessitates repairs be made for the sole purpose of protecting the Home from further damage. You must notify the Warrantor as soon as possible, but in no event, later than five (5) days after the repairs have been made in order to qualify for reimbursement. An accurate, written record of the repair cost must accompany your notification.
10. **Section II.E.1.d.** — The following language is substituted: Loss or damage which is covered by any other insurance or for which compensation is granted by state legislation.
11. **Section II.E.1.e.** — The following language is substituted: resulting directly or indirectly from flood, waves, tidal water, overflow of a body of water, or spray from any of these (whether or not driven by wind), water which backs up from sewers or drains, changes in the water table which were not reasonably foreseeable, wetlands, springs or aquifers. Surface water and underground water which cause an unforeseeable hydrostatic condition with resultant damage to the structure are covered.
12. **Section II.E.2.d.** is deleted.
13. **Section II.E.2.m.** — The following language is substituted: any portion of a public Water Supply System, including volume and pressure of water flow.
14. **Section II.E.2.o.** — The following language is substituted: any portion of a public Sewage Disposal System, including design.
15. **Section II.E.2.p.** — exclusion is deleted.
16. **Section II.E.5.** — The following language is substituted: Consequential Damages to personal property

are excluded. Consequential Damages to real property as a result of a Defect or repair of a Defect are covered.

17. **Section II.E.9.** — The following language is added: Warranted Defects repaired as a result of emergency property protection measures as described and defined in this addendum are covered.
18. **Section III.A.**
  - a. **SITE WORK** — The following language is substituted:
    - (1) **3.17 (Action Required)** If final grading was performed by the Builder, he will replace fill in excessively settled areas.
  - b. **FLOOR COVERING** — The following language is added:
    - (1) **4.27 (Observation)** Gaps or cracks between finished floor boards. **(Action Required)** Builder will correct gaps or cracks which exceed 1/8 in. in width. **(Comments)** Finished wood floors expand and contract due to humidity changes in your Home. Cracks and gaps which shrink and disappear in non-heating seasons are considered normal.
    - (2) **4.28 (Observation)** Cupping, crowning or loose finished floor boards. **(Action Required)** Builder will correct only if caused by a Defect in installation. **(Comments)** Finished wood flooring cups from gaining or losing moisture on one side faster than the other. Some cupping and crowning should be considered normal due to growth rings in the tree and the part of the tree used. The Builder is not responsible for natural properties of the product, or for climatic conditions and personal living habits which can affect moisture content of floor boards. Cupping or crowning action may have loosened nails or adhesive. Owner is responsible if condition is caused by conditions beyond Builder's control.
    - (3) **4.29 (Observation)** Ceramic tile cracks or loosens. **(Action Required)** Builder will correct only if documented prior to occupancy. **(Comments)** Owner is responsible for establishing a pre-closing walk-through inspection list.
19. **Section III.B.6.** — The following language is added: **(Observation)** Septic system fails. **(Action Required)** Builder will correct if damage is due to poor workmanship or materials, which are not in conformance with Sewage Enforcement Officer's instructions as per design and installation only. **(Comments)** Builder is required to abide by state or local requirements for the installation of on-site sewage disposal system. Any deficiency or failure which occurs or is caused by a condition other than faulty workmanship or materials, such as design, is not covered by this Limited Warranty. Owner is responsible for routine maintenance of system, which may include, but not be limited to: pumping the septic tank; adding chlorine to a chlorinator; and refraining from driving of parking vehicles or equip-

**Section  
V.  
Addenda  
(continued)**

- ment on the system. Damages caused by freezing, soil saturation, underground springs, water run-off, excessive use and an increase in level of water table are among causes not covered by this Limited Warranty.
20. **Section IV.E. Arbitration** — The following language is added: The judicial resolution of disputes is not precluded by this warranty and may be pursued by the homeowner at any time during the dispute resolution process.
21. **Section IV.E. Arbitration** — Because HUD does not require mandatory arbitration, the following is deleted: Since this Limited Warranty provides for mandatory binding arbitration of disputes, if any party commences litigation in violation of this Limited Warranty, such party shall reimburse the other parties to the litigation for their costs and expenses, including attorney fees, incurred in seeking dismissal of such litigation.
22. **Section IV.F.2., F.3. and F.10.a.** — The following language is substituted: In the first two (2) years, if your Builder does not fulfill its obligations under this Limited Warranty, the Insurer will be responsible for your Builder's obligations, subject to a one-time warranty service fee of \$250. The Insurer's liability in Years 3 through 10 under this Limited Warranty is subject to a warranty service fee of \$250 per request for warranty performance. In each instance, you must pay the fee prior to the Insurer's repair or replacement. In the event of payment, the fee will be subtracted from the cash payment. In the case of the common elements of a condominium, the warranty service fee shall be \$250 per Home affected by each common element in need of service, limited to a maximum of \$5,000 per free standing structure.
23. **Section IV.F.5.** — The following language is added: Where a warranted Defect is determined to exist and where the Warrantor elects to pay the reasonable cost of repair or replacement in lieu of performing such repair or replacement, the cash offer must be in writing. You will be given two (2) weeks to respond. Cash offers over \$5,000 are subject to an on-site review by a HUD approved fee inspector (inspection costs will be paid by the Warrantor) unless:
- the cash offer is made pursuant to a binding bid by an independent third party contractor, which will accept an award of a contract from you pursuant to such bid;
  - payment is being made in settlement of legal action;
  - you are represented by legal counsel.

**E. Maryland Addendum**

You should contact the Administrator personally to verify the existence of your Warranty. Further, you should report any Warranty problems, which are not promptly resolved by your Builder, to the Administrator.

1. **Section IV.F.2. and IV.F.3.** are not applicable for the state of Maryland.

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## EXHIBIT U

### Section 6 -- Miscellaneous Information Not Covered Elsewhere in this Report

1. All prospective purchasers should also be aware that the Private Yard Areas, if any are available to Units in the Community, are not subdivided lots, but are exclusive use areas appurtenant to the Unit(s).
2. Developer may revise the specimen deed and sales contract for the Community to conform with any future amendments that may be made to the Declaration and the Community.
3. Each prospective purchaser should review the Condominium Map Site Plan so that they may identify easement areas benefiting the Community.
4. Exterior elevations, door and window locations and types may be modified from that reflected on the Condominium Map.
5. HRS 672E contains important requirements you must follow before you file a lawsuit or other action for defective construction against the contractor who designed, repaired, or constructed your unit or facility. Ninety days before you file your lawsuit or other action, you must serve on the contractor a written notice of any construction conditions you allege are defective. Under the law, a contractor has the opportunity to make an offer to repair and/or pay for the defects. You are not obligated to accept any offer made by a contractor. There are strict deadlines and procedures under the law and failure to follow them may negatively affect your ability to file a lawsuit or other action.
6. Certain portions of the Community may be used as a sales office. The buyer is aware that noise and traffic from these areas may cause a disturbance. The buyer is responsible for investigating noise levels in and around the Community to determine if the buyer is satisfied with the acoustics and noise levels within the unit and within the Community as a whole. Developer makes no guaranty as to these matters now or in the future.
7. The buyer should be aware that the Community may be periodically affected by certain environmental conditions due to historical, existing and prospective surrounding conditions and uses. Those uses include, without limitation, industrial, commercial, recreational, and other non-residential uses, animal husbandry and pasture uses, and a railroad easement. Overhead and underground radio transmission wires and high voltage electric lines and facilities may be located within and around the Community. Such facilities purportedly may emit electric and magnetic emissions. Aircraft may fly in the proximity of or over or close to the Community. Buyers should also be aware that ongoing construction, commercial and industrial uses, plantation harvesting and farming may temporarily generate heavy dust and/or other nuisances. Pesticides and fertilizers were or may be used in the plantation harvesting and farming and may have long term effects on the land, water and environment.
8. Buyers are encouraged to find out which parking stalls are available for their use and the location of the parking stalls.
9. The buyer should be aware that the Community and/or the Unit may be affected by traffic, aircraft noise, and other adverse effects.
10. Developer has the reserved right to control the Association in accordance with Section 514B-106(d) of the Act, during which time Developer, or persons designated by Developer, may

appoint and remove the officers and members of the Board of Directors. Such period of control of the Association by Developer (the "**Control Period**") shall terminate no later than the earlier of:

- (a) Sixty (60) days after conveyance of seventy-five percent (75%) of the common interest appurtenant to Units to Owners other than Developer or an affiliate of Developer;
- (b) Two (2) years after Developer has ceased to offer Units for sale in the ordinary course of business;
- (c) Two (2) years after any right to add new Units was last exercised; or
- (d) The day Developer, after giving written notice to Unit Owners, Records an instrument voluntarily surrendering all rights to control activities of the Association.

Developer may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Control Period, but in such event Developer may require, for the duration of the period of Developer control, that specified actions of the Association or Board, as described in a Recorded instrument executed by Developer, be approved by Developer before they become effective, provided, however, that during the Control Period (i) Developer must provide a copy of all amendments to the Department of Veterans Administration (the "**VA**"), and (ii) the Association may not make any material amendments or take any extraordinary actions as described in VA Pamphlet 26-7 revised, as may be applicable, without the approval of VA.

Until such time as the Declarant has turned over administration of the Community to the Association, Declarant shall have the right to amend the Bylaws without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community.

11. Developer, D.R. Horton-Schuler Homes, LLC, is the Community real estate broker. The developer's manager, Vertical Construction Corporation, is the general contractor for the Community.

12. Palailai Mall, a pedestrian pathway mall, connecting portions of the Mehana and Kapolei areas with the adjacent Regional Drainage Channel, described in the Mehana Master Declaration, which bisects the Kukuna Community, is available for use by the public and an easement thereover may be granted to the Master Association. Passage over the Mall may not be impeded and use of the Mall area and various pedestrian pathways within the Community, in locations reflected on the Condominium Map, may impair an Owner's use and enjoyment of the Owner's unit.

13. The Road Reserve Easement area reflected on the Condominium Map shall be available as a greenscape area on only a temporary basis and shall in the future be improved as a roadway extension or component of Wakea Road (shown as Road W on the Condominium Map). It may be withdrawn from the Community at any time, in the sole and absolute discretion of the Declarant. Without limitation of the foregoing, Owners understand and acknowledge that in addition to and without limitation of surrounding described in Article 19 of the Master Declaration and this Section S, the "Road Reserve" Easement area and the lands designated as Wakea Street adjacent to the Community (Lots 3 and 5 as shown on the County subdivision

map (2010/SUB-235)) may be improved by the County to extend Wakea Street to Kalaeloa. The HHCTCP plans contemplate the extension of Wakea Street, among other highway improvements. As a result, the Community may be affected by noise from future construction, operation, traffic, maintenance, dust, noxious odors and other adverse impacts of the Wakea Street extension and the HHCTCP.

14. The roadway "hammerhead" area adjacent to Units 13, 14, and 15 shown on the Condominium Map (the "**Hammerhead**") may be abandoned, upon which event, the area may be included in the Community as a portion of its common element or a portion of the limited common element appurtenant to one or more of Units 13, 14 and /or 15.

15. All fences installed within the Community shall comply with the Fence Master Plan approved by DPP in connection with the Cluster Housing Permit. Owner installed fencing must be approved in advance by the Board or the DRC. Only one fence is permitted to be constructed on the common boundary line between the Private Yard Areas for adjacent Units, and any fence so installed shall be deemed a party wall. Party walls may not be demolished or relocated by an Owner except (1) in accordance with the terms of the Declaration and (2) with the written consent of the Owner of the adjacent Unit. Owners of Units that share a party wall on the common boundary have a mutual fence maintenance obligation to maintain and repair the common party wall, and the cost of such maintenance and repair, and reconstruction, as required, shall be shared equally by such Unit Owners. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the party wall or fence may restore it. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section and its subparts, such dispute shall be submitted for arbitration as provided in the Declaration.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT CONTAINED IN THE DECLARATION, BY LAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

**EXHIBIT V**  
(Unilateral Agreement and Declaration for Conditional Zoning  
recorded as Document No. 3195643)

25  
SA  
BACE



L-731 STATE OF HAWAII  
OFFICE OF ASSISTANT REGISTRAR  
RECORDED  
NOV 19, 2004 10:00 AM  
Doc No(s) 3195643  
on Cert(s) 493,720



28 1/1 Z5

/s/ CARL T. WATANABE  
ASSISTANT REGISTRAR

Kim

LAND COURT

REGULAR SYSTEM

After recordation, return by mail  pick up ( ) to:

D.R. Horton - Schuler Division  
828 Fort Street Mall, 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813

Title of Document:

Unilateral Agreement And Declaration For Conditional Zoning

Party To Document:

C.R. CHURCHILL, D.A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER, the duly appointed, qualified and acting TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities- Declarant

Property Description:

THOSE certain portions of parcels of land situate at Honouliuli, Ewa, City and County of Honolulu, State of Hawaii, containing 149.5 acres more or less, being a portion of Lot 13880 of Land Court Application 1069 (Map 1055); a portion of Lot 15685 of Land Court Application 1069 (Map 1208);

and all of Lot 13883 of Land Court Application No. 1069 (Map 1055), further described as Tax Map Key: 9-1-16: 1 (por.), 122 (por.), 123 (por.) and 124 , as more particularly shown on Exhibit "A-1" attached hereto and made a part hereof.

### UNILATERAL AGREEMENT & DECLARATION FOR CONDITIONAL ZONING

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 17th day of November, 2004, by C.R. CHURCHILL, D.A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER, the duly appointed, qualified and acting TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities, whose business address is 1001 Kamokila Boulevard, Kapolei, Hawaii 96707 (hereinafter referred to as "Declarant").

#### WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain portions of parcels of land situate at Honouliuli, Ewa, City and County of Honolulu, State of Hawaii, containing 149.5 acres more or less, being a portion of Lot 13880 of Land Court Application 1069 (Map 1055); a portion of Lot 15685 of Land Court Application 1069 (Map 1208); and Lot 13883 of Land Court Application No. 1069 (Map 1055), further described as Tax Map Key: 9-1-16: 1 (por.), 122 (por.), 123 (por.) and 124 , as more particularly shown on Exhibit "A-1" attached hereto and made a part hereof, more particularly described by metes and bounds in Exhibit "A-2" attached hereto and made a part hereof, and also described by Land Court lot in Exhibit "A-3" attached hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, Declarant plans to develop a commercial-residential mixed use project known as Mehana at Kapolei on the Land (the "Project"); and

WHEREAS, the City Council (the "Council") of the City & County of Honolulu (the "City"), pursuant to the provisions of the Land Use Ordinance ("LUO"), Revised Ordinances of Honolulu 1990 ("ROH") Section

21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from AG-1 Restricted Agricultural District to BMX-3 Community Business Mixed Use District with a 45-foot height limit, AMX-2 Medium Density Apartment Mixed Use District with a 45-foot height limit, AMX-2 Medium Density Apartment Mixed Use District with a 60-foot height limit, A-1 Low Density Apartment District with a 30-foot height limit, R-5 Residential District, and P-2 General Preservation District ("the zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 73 (2004), was held by the Council on November 10, 2004; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 483 that the said zone change be approved, subject to the following conditions contained in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "Rezoning Ordinance").

NOW, THEREFORE, Declarant, for itself and its successors and assigns, hereby covenants and declares as follows:

1. Declarant shall develop the Land in substantial compliance with the City of Kapolei Urban Design Plan, except where modified below, and plans shown in Exhibits B-1, B-2, B-3, and B-4 attached hereto and made a part hereof:
  - a. Residential
    - i. The building heights within the AMX-2 District will vary and building massing will be "tiered" up to the maximum heights indicated on the zoning map, incorporating sloped roofs and covered lanais.
    - ii. Single-family dwellings are permitted provided multi-family dwellings, defined as those with 3 or more dwellings within a single structure, shall be no less than 51 percent of the total number of dwellings in the Project.

Single-family and two-family dwelling units shall not be permitted within the AMX-2 and BMX-3 Districts.

- iii. Minimum setback requirements shall be in accordance with the Land Use Ordinance. The required front yard will vary according to a "front yard averaging", thereby creating an articulated building front.
- iv. An approximate two-acre site for BMX-3 zoning is permitted on the Land.
- v. Front-loaded single-family housing products are permitted. Rear-loaded homes will be the predominate single-family home featured along the two main collector roads as shown on Exhibit B-1, the Updated Preliminary Land Use Plan dated August 19, 2004.
- vi. With regards to block sizing, the Declarant is required to ~~substantially conform to the roadway grid as reflected in~~ the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1).

b. Parks and Open Space

- i. Kapolei Green shall be dedicated to the City and shall include the amenities and features as contemplated pursuant to D.R. Horton's letter dated August 26, 2004, attached hereto (Exhibit C-1) and made a part hereof, to the Department of Parks and Recreation (DPR) and DPR's written reply to D.R. Horton dated September 13, 2004, attached hereto (Exhibit C-2) and made a part hereof, in which D.R. Horton agreed to provide a clean, graded, grassed and irrigated central park with a total area of approximately 4.5 acres. DPR agreed to recommend the proposed park as planned for dedication to the City once constructed. Additional improvements, if provided by the Declarant at the request and/or agreement of the City, would qualify as excess Park Dedication Credits for the Declarant. Final

terms of such an arrangement shall be subject to a formal agreement, between the Declarant and the City when such improvements are sought.

- ii. The Declarant shall establish parks and pedestrian and bike paths as shown on the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1), including the connection of the parks and the elementary school fields and playground (which also could serve as an active open space) by a landscaped linear path.
- iii. The "Village Walk", as originally planned to be within the approximate center of the Mehana at Kapolei site, is now being relocated along the Project's mauka boundary. The Declarant shall construct Village Walk improvements such as an 8-foot walkway, landscaping and street furniture, up to their property line, as shown in Exhibit B-2, Village Walk Concept Plan A dated August 19, 2004, attached hereto and made a part hereof. These improvements shall supplement the adjoining improvements to be provided by The Estate of James Campbell or its successor entities, as shown on the Village Walk Concept Plan A dated August 19, 2004 (Exhibit B-2).
- iv. A reserve area for a possible roadway in proximity to the makai edge of the school site shall be provided by the Declarant for connection within the area to Ft. Barrette Road. This future connection point and eventual road alignment could be different from that represented on the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1), as negotiations between Declarant and various governmental agencies are finalized. The reserve area shall remain in effect unless the State Department of Transportation or other governmental agencies, as appropriate, determine that a roadway connection to Ft. Barrette Road is not permitted. In that event, the reserve shall terminate and the area shall be available for residential development.

c. Roadways

- i. Employing Subdivision Street Standards as adopted by the Department of Planning and Permitting of the City and County of Honolulu (DPP) is permitted.
- ii. Eliminate from the Kapolei Urban Design Plan any references to the collector road that borders the mauka edge of the property, subject to the relocation of the Village Walk as discussed above, and Renton Road Extension, which is an unconnected remnant along the makai boundary of Mehana.

d. Regional Drainage

- i. The regional drainage corridor abutting the mauka side of the OR&L right-of-way, shall be developed as a grass-lined drainage system with trees along a bicycle path, ~~open for public use, within or abutting the drainage system,~~ as shown in concept in the Drainage Corridor Concept Plan dated August 27, 2004, attached hereto as Exhibit "B-3" and made a part hereof. The final plans for the drainage system shall be subject to the approval of the Director of DPP. The Declarant shall improve the drainage system as described and dedicate the drainage system subject to a schedule approved by the Director of DPP. Hardscaping within the drainage facility will be permitted for easements for electrical transmission, fuel and sewerage, bike and pedestrian paths and vehicular crossings.
  - ii. The Declarant shall provide public pedestrian and vehicular connections to the regional drainage corridor as shown in the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1).
2. Prior to the approval of the first building permit by DPP, the Declarant shall submit "Mehana Design Guidelines" for the Project (except for the school site) illustrating site planning guidelines and

building design features, including a variety of elevations, fencing, roofing elements, landscaping, lanais, etc. for approval by the City of Kapolei Design Advisory Board ("DAB") and DPP. The Mehana Design Guidelines shall be consistent with the City of Kapolei Urban Design Plan ("Kapolei UDP") in effect. Thereafter, individual site plans and front elevations for all project phases shall be submitted to DPP for approval and shall evidence general conformance with the design concepts of the Mehana Design Guidelines. Modifications to the Mehana Design Guidelines shall be subject to approval by the Director of DPP. Said site plans for all project phases shall be deemed approved by the Director of DPP if no comments are received by Declarant within 45 days of submittal to DPP.

The Mehana Design Guidelines are intended to serve as interim guidelines until amendments to the Kapolei UDP are approved by the Council. As such, conformance with the Mehana Design Guidelines shall no longer be required upon approval by the Council of appropriate amendments to the Kapolei UDP incorporating these or other design guidelines that the Council deems appropriate.

Any development that is inconsistent with the Mehana Design Guidelines and the then-effective Kapolei UDP shall not be permitted until appropriate amendments to the Kapolei UDP are approved by the Council.

3. Prior to approval of subdivision applications (except those for bulk lot purposes), the Declarant shall submit, in coordination with the State Department of Transportation (DOT) and the City Department of Transportation Services (DTS), a roadway master plan for roadways within and adjacent to the Project consistent with the roadway layout provided in the Updated Preliminary Land Use Plan, dated August 19, 2004 (Exhibit B-1), to DPP for review and approval. The roadway master plan shall include road cross-sections and associated land uses. An analysis of auxiliary left and right turn lane lengths shall also be provided as may be required by DPP. The plan shall also take into account the need to provide enhanced pedestrian and bicycle facilities, as presented in the Declarant's zone change application, as well as future transit stop locations. An identification of which intersections may warrant future traffic signal

installation shall also be included. The development of the Land shall conform to the approved roadway master plan, provided that the plan may be amended from time to time with the prior written approval of the Director of DPP.

4. Transportation. The Declarant shall carry out the following requirements related to traffic and transportation improvements:
  - a. Prior to applying for building permits for any additional dwelling unit beyond 400 dwelling units, the Declarant shall consult with the State DOT, DTS and DPP, and submit for approval to the Director of DPP a supplemental update to the Traffic Impact Assessment Report (Declarant's Traffic Impact Study dated May 5, 2004, hereinafter called the "TIAR"), or provide supplemental information to the Traffic Impact Assessment Report updates required by the conditions relating to traffic and transportation improvements attached to the enactment of Bill 72 (2004), as amended. The Declarant's submittal, hereinafter called the "~~Supplemental Traffic Impact Assessment Report (TIAR)~~", shall include a Traffic Management Plan (TMP) identifying Traffic Demand Management (TDM) strategies to reduce area wide traffic congestion. The Supplemental TIAR area shall generally be that area described in Exhibit D, attached hereto and made a part hereof. Prior to applying for building permits for any additional dwelling unit beyond 800 dwelling units, the Declarant shall submit an update to the Supplemental TIAR, identifying roadway infrastructure improvements that are or will be needed to support the Project during its various stages including an analysis of traffic signal warrants.
  - b. Fund and/or construct its share of roadway improvements, described in the TIAR and supplemental updates, as may be required by State and City transportation agencies, within the Project area or directly attributable to the Project.
  - c. On an annual basis, Declarant shall participate in a meeting to be organized by DPP and to include State DOT and DTS to discuss the coordination and implementation of traffic improvements in and around the City of Kapolei and the need

for additional studies. This condition for participation in an annual meeting shall be deemed satisfied and shall be fully released upon the approval of the last building permit of the last phase of the Project. In its annual report to the City required by Condition 14, the Declarant shall report on the status and scheduling of its implementation of traffic improvements related to the Project.

5. The Declarant shall develop the necessary potable and non-potable water system improvements to serve the Project, including the school site and the drainage corridor discussed in Condition 1.d. herein, as may be required by the Board of Water Supply, prior to any subdivision or building permit approval, whichever comes first.
6. Prior to subdivision, residential cluster or residential building permit approval, the Declarant shall execute an agreement to participate in an affordable housing plan acceptable to DPP in accordance with adopted rules. The agreement shall provide for no less than 30% of the total residential units of the Project to be delivered to households with incomes up to and including 120 percent of median income or less, including no less than 10 percent of the total units to be delivered to households with incomes up to and including 80 percent of median income or less. "Median income" means the median income for Honolulu, adjusted for family size, as determined by the United States Secretary of Housing and Urban Development.
7. The Declarant shall contribute to the development, funding, and/or construction of school facilities, on a fair-share basis, as determined by and to the satisfaction of the State Department of Education (also referred to as "DOE"). Terms of the contribution agreement shall be agreed upon in writing by the Declarant and the DOE, prior to obtaining building permits.
8. Prior to building permit approval, the Declarant shall submit to the Department of Health (DOH) and DPP, a solid waste management plan as may be required by the DOH. The Declarant shall comply with the approved solid waste management plan.

9. Prior to grading permit approval, the Declarant shall prepare and submit a dust control plan to DPP and DOH, as may be required by DOH. The Declarant shall comply with the approved dust control plan.
10. The Declarant shall inform all prospective purchasers or lessees of single- and multi-family dwellings in the Project of all of the following:
  - a. The potential impacts, including but not limited to traffic, aircraft noise, and adverse effects from the Kalaeloa Community Development District and that an expansion of military uses and associated adverse impacts may occur within Kalaeloa;
  - b. The development is located within the contours of the Honolulu International Airport 1987 Noise Contour Map; and
  - c. The development is located near the OR&L Historic Railway and the operation of trains on the railway may result in noise and other impacts associated with the operation of the trains.

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The disclosure shall be made through a Disclosure Document acceptable in form and content to the DPP and the Corporation Counsel. The Disclosure Document shall be signed by the purchaser or lessee as an affirmative acknowledgment of the potential impacts. All disclosures shall be included in any deed or lease of residential property and any applicable Declaration of Covenants, Conditions and Restrictions, and shall be recorded so as to run with the land of the affected property. The form, content, and manner of recordation of the disclosures shall be approved by the DPP and the Corporation Counsel prior to any subdivision approval (except those for bulk lot purposes) or building permit approval, whichever occurs first.

11. The Declarant shall submit a revised drainage master plan and implementing schedule for the drainage improvements required for the development of the Project. The master plan shall be approved by the Director of DPP prior to any subdivision approval (except those for bulk lot purposes). The Declarant shall comply with the revised drainage master plan and implementing schedule.

12. If, during construction, any previously unidentified archaeological site or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walls) are encountered, the Declarant shall stop work and contact the State Historic Preservation Division (SHPD) immediately. Work in the immediate area shall be stopped until the SHPD is able to assess the impact and make further recommendations for mitigative activity.
13. The Declarant acknowledges that approval of this zone change does not constitute compliance with other Land Use Ordinance or governmental agencies' requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that the final plans for the Project comply with all applicable Land Use Ordinance and other governmental agencies' provisions and requirements.
14. On an annual basis, the Declarant shall submit a written status report to DPP documenting its satisfaction of and/or describing its progress ~~toward complying with each condition of approval for this zone change.~~ The status report shall be submitted to DPP by December 31 of each year until such time as DPP has determined that all conditions of approval have been satisfied. If a status report is not submitted within the time specified, the DPP may defer the processing of permits until a status report is submitted.
15. In the event of noncompliance with any of the conditions set forth herein, the Director of Planning and Permitting shall inform the Council and may initiate action to rezone the Land, seek civil enforcement, or take appropriate action to terminate or stop the Project until applicable conditions are met.
16. Failure to fulfill any conditions to the zone change may be grounds for revocation of the permits issued under this zoning and grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

17. Declarant expressly acknowledges and agrees that its obligations hereunder shall survive the termination of the Estate of James Campbell and shall be binding upon its successors and assigns.

NOW, THEREFORE, Declarant hereby makes the following additional Declarations:

For purposes of this document, any references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

The development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the Department of Planning and Permitting may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the Department of Planning and Permitting for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

DECLARANT: TRUSTEES UNDER THE WILL AND OF  
THE ESTATE OF JAMES CAMPBELL,  
DECEASED, acting in their fiduciary  
and not in their individual  
capacities



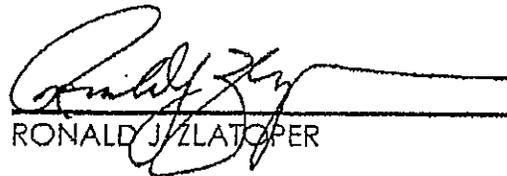
C.R. CHURCHILL



D.A. HEENAN



RICHARD W. GUSHMAN, II



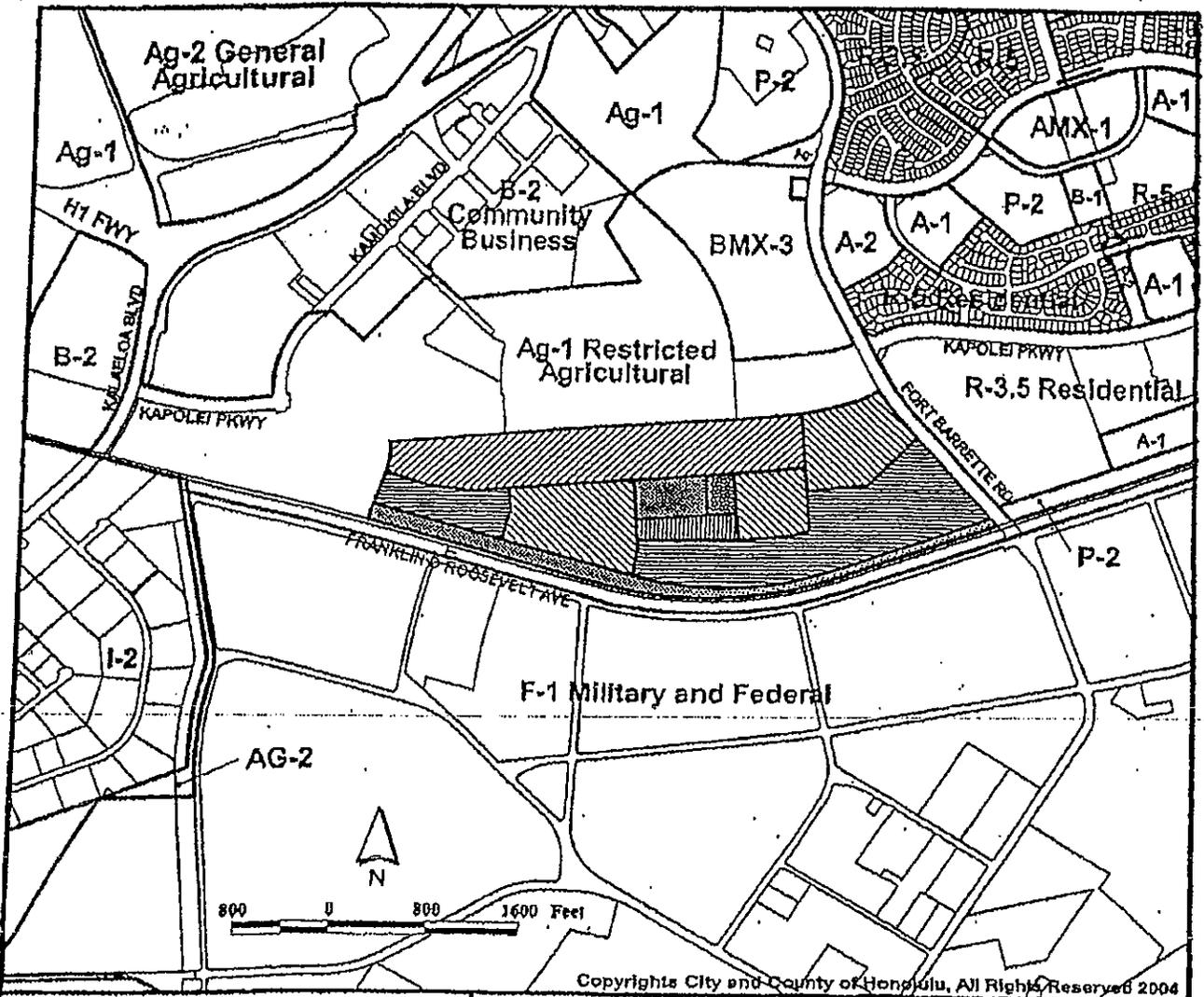
RONALD J. ZLATOPER

STATE OF HAWAII  
CITY AND COUNTY OF HONOLULU } SS.

On this 17th day of November, 2004, before me personally appeared C. R. Churchill, D. A. Heenan, Richard W. Gushman, II, and Ronald J. Zlatoper, Trustees Under the Will and of The Estate of James Campbell, Deceased, to me known to be the persons described in and who severally executed the foregoing instrument, and severally acknowledged that they executed the same as their free act and deed as such Trustees.

LS

Lydia L. Hannemann  
Printed Name: Lydia L. Hannemann  
Notary Public, State of Hawaii  
My commission expires: Feb. 11, 2008



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### Zone Change Legend

-  From AG-1 to AMX-2 with 60-ft. height limit
-  From AG-1 to BMX-3 with 45-ft. height limit
-  From AG-1 to AMX-2 with 45-ft. height limit
-  From AG-1 to A-1 with 30-ft. height limit
-  From AG-1 to R-5
-  From AG-1 to P-2



### PORITION OF ZONING MAP NO. 12 (EWA BEACH-IROQUOIS POINT)

**APPLICANT:** D. R. Horton, Schuler Division  
**TAX MAP KEY(S):** 9-1-16: Portion 1, Portion 122, Portion 123, and 124  
**FOLDER NO.:** 2004/Z-5  
**LAND AREA:** Approximately 149.6 Acres  
**PREPARED BY:** Department of Planning and Permitting, City and County of Honolulu  
**PUBLIC HEARING:** Planning Commission City Council

ORD. NO.  
EFF. DATE

EXHIBIT A-1

BILL

2004/Z-5

EXHIBIT A-2

Being all of Lot 13883 and portions of Lots 13880 and 13881 as shown on Map 1055 and a portion of Lot 13884 as shown on Map 1056 of Land Court Application 1069.

Situate at Honouliuli, Ewa, Oahu, Hawaii.

Beginning at the Southeast corner of this parcel of land, on the West side of Barbers Point NAS Access Road (Project No. D-AD-1(2)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPUAI NEW" being 18,663.16 feet South and 1,377.40 feet East and running by azimuths measured clockwise from true South:

1. 70° 00' 1,390.31 feet along Exclusion 2 of Land Court Application 1069;
2. Thence along same, on a curve to the right with a radius of 3,418.00 feet, the chord azimuth and distance being:  
87° 41' 30" 2,077.42 feet;
3. 105° 23' 2,049.83 feet along same;
4. 195° 23' 530.00 feet along the remainder of Lot 13880 (Map 1055) of Land Court Application 1069;
5. Thence along same, on a curve to the left with a radius of 430.00 feet, the chord azimuth and distance being:  
185° 26' 30" 148.48 feet;
6. 175° 30' 84.32 feet along same;
7. 265° 30' 3,562.61 feet along the remainders of Lots 13880 and 13831 (Map 1055) and Lot 13884 (Map 1056) of Land Court Application 1069;
8. Thence along the remainder of Lot 13884 (Map 1056) of Land Court Application 1069, on a curve to the left with a radius of 1,409.00 feet, the chord azimuth and distance being:  
251° 50' 24" 665.50 feet;

9. Thence along the West side of Barbers Point NAS Access Road (Project No. D-AD-1(2)), on a curve to the left with a radius of 2,077.19 feet, the chord azimuth and distance being: 323° 50' 02" 386.19 feet;

10. 318° 30' 1,205.19 feet along same to the point of beginning and containing an area of 151.009 acres.



November 12, 2004  
Honolulu, Hawaii

Wilfred Y.K. Chin  
Wilfred Y.K. Chin  
Licensed Professional Land Surveyor  
Certificate Number 3499  
License Expires 4/06

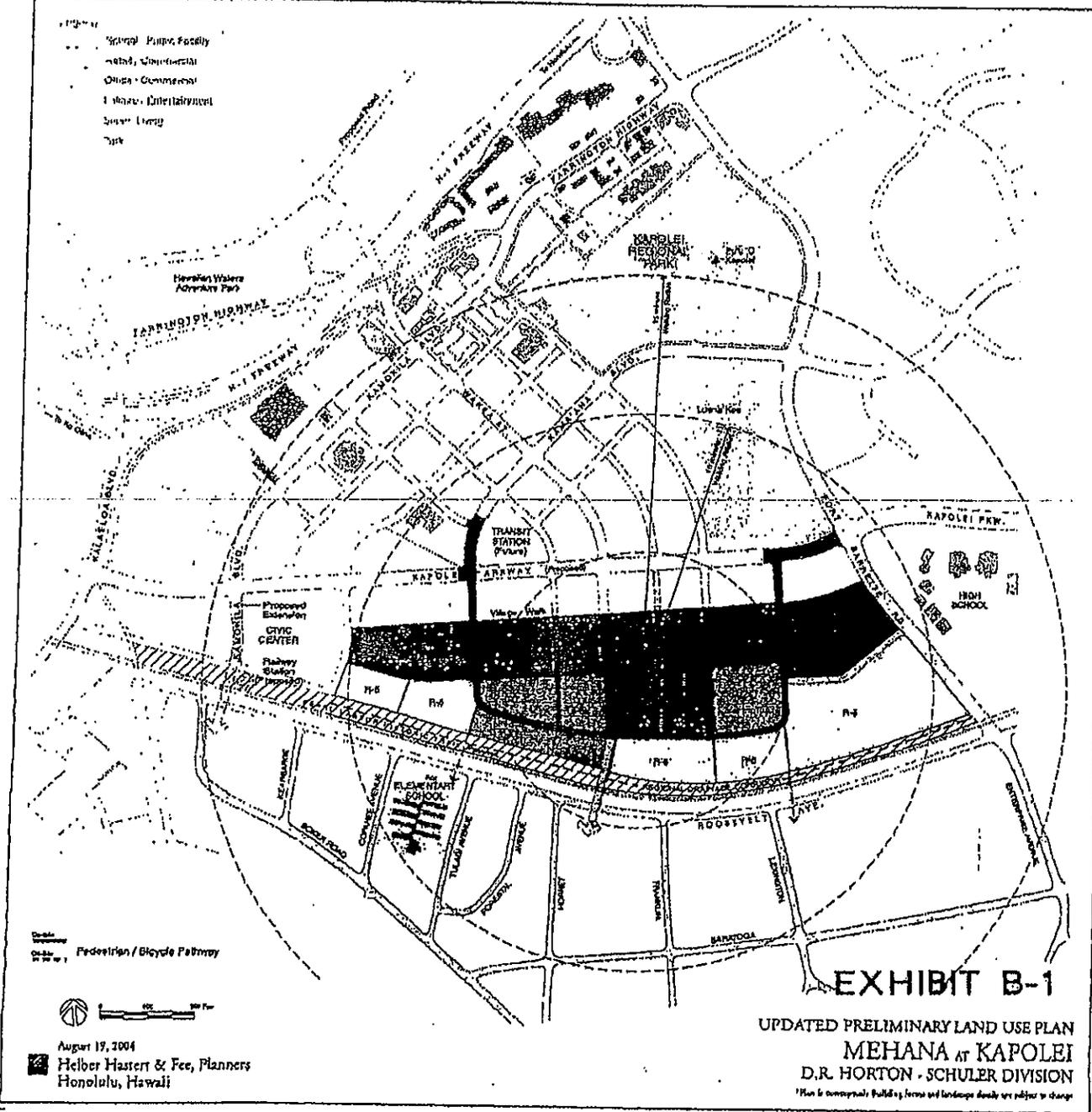


EXHIBIT A-3

All of those certain parcels of land situate at Honouliuli, City and County of Honolulu, Island of Oahu, State of Hawaii, more particularly described as follows:

Lot	Map	Certificate of Title	Owner
Lot 13880 (portion)	Map 1055	493,720	Trustees under the Will and of the Estate of James Campbell, Deceased
Lot 13883	Map 1055	493,720	Trustees under the Will and of the Estate of James Campbell, Deceased
Lot 15885 (portion)	Map 1208	493,720	Trustees under the Will and of the Estate of James Campbell, Deceased

End of Exhibit A-3



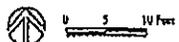
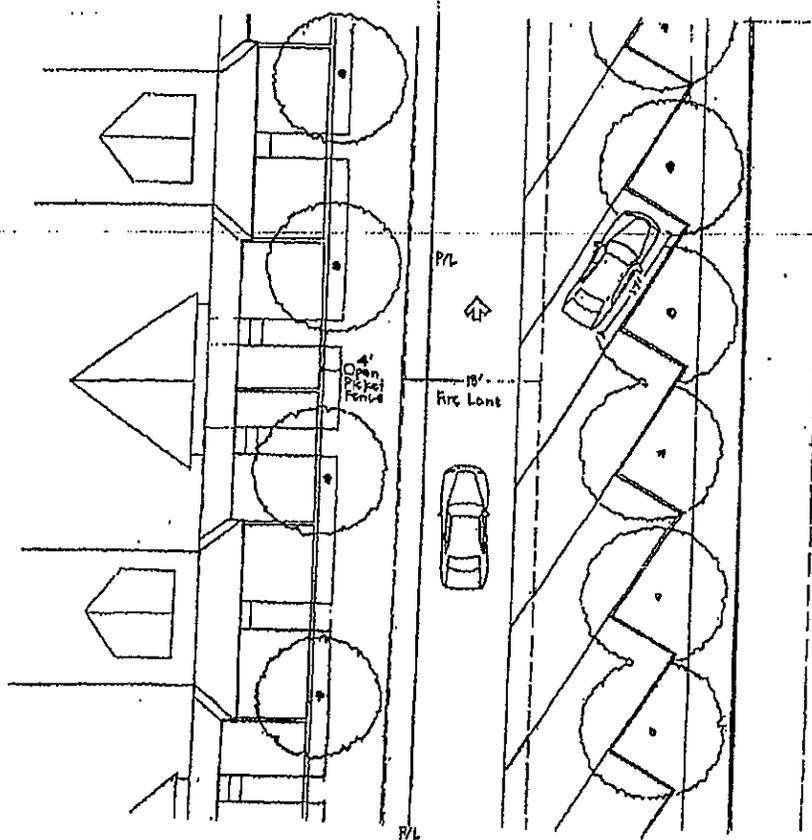
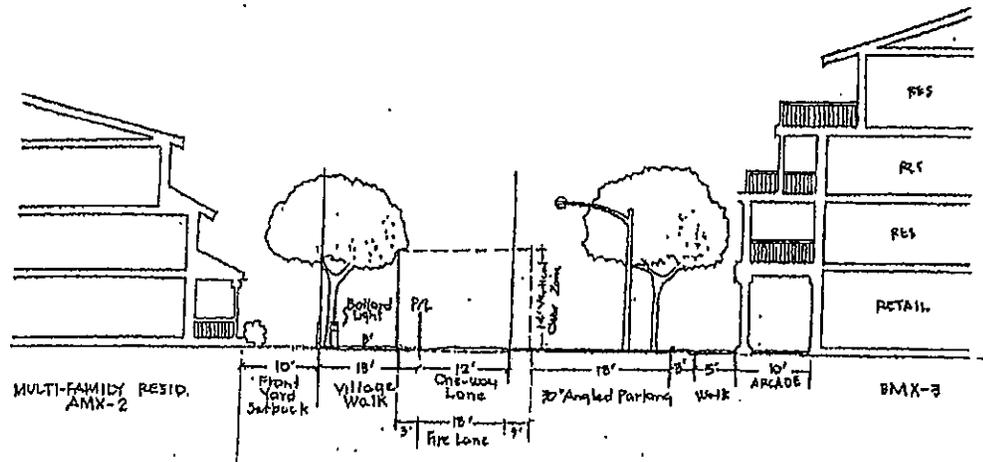
- General Purpose Facility
- Retail/Commercial
- △ Office/Commercial
- ◇ Leisure/Entertainment
- ★ Special Utility
- Park

**EXHIBIT B-1**

UPDATED PRELIMINARY LAND USE PLAN  
 MEHANA AT KAPOLEI  
 D.R. HORTON - SCHULER DIVISION

\*Plan to conceptualize building forms and landscape details are subject to change

Scale  
 0 100 200 Feet  
 Pedestrian / Bicycle Pathway  
 August 17, 2004  
 Helber Hastert & Fee, Planners  
 Honolulu, Hawaii

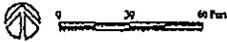
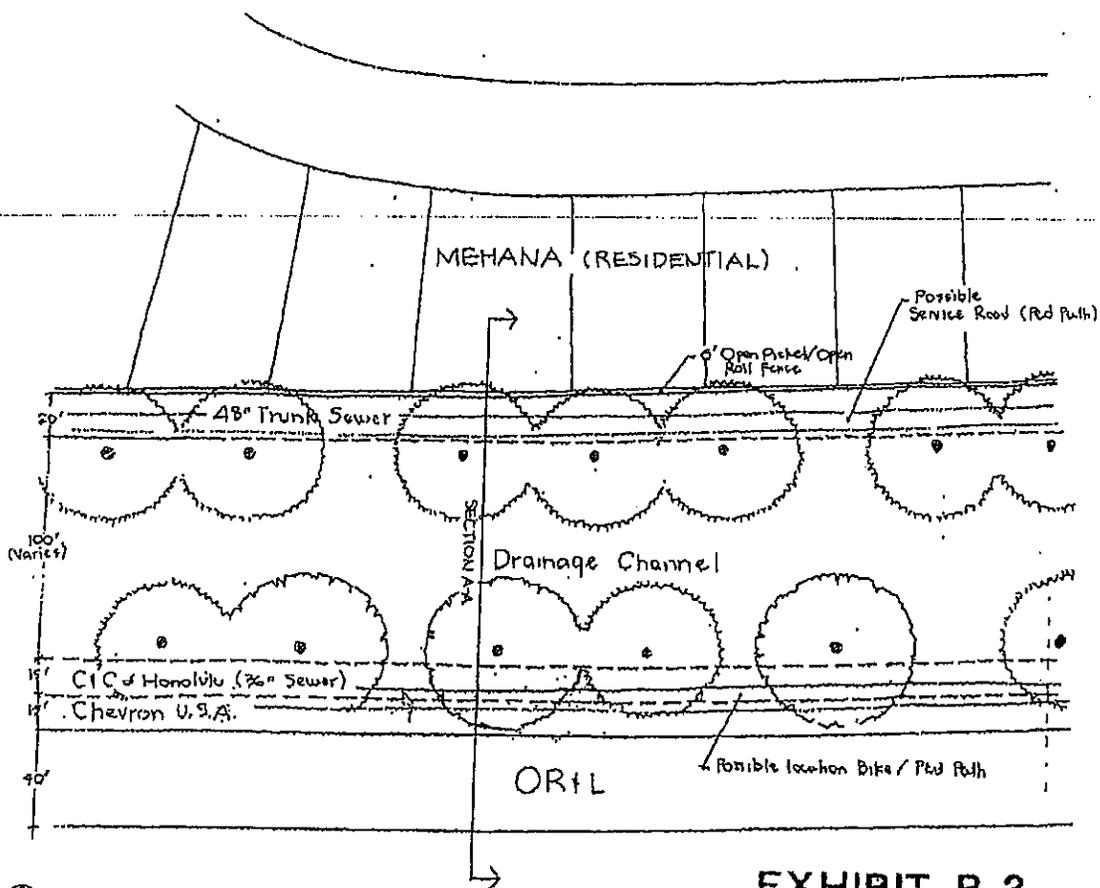
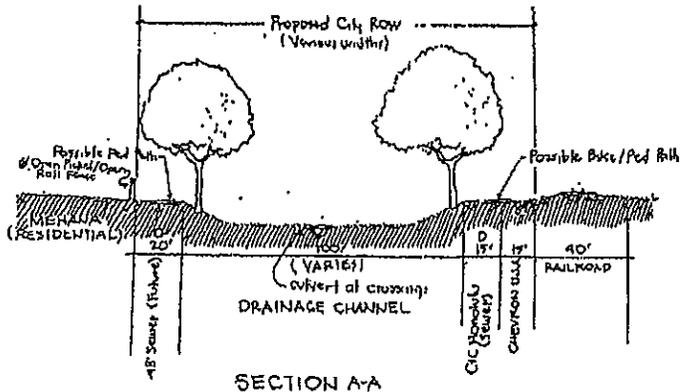


August 19, 2004  
 Helber Hastert & Fee, Planners  
 Honolulu, Hawaii

### EXHIBIT B-2

VILLAGE WALK CONCEPT PLAN A  
 MEHANA AT KAPOLEI  
 D.R. HORTON - SCHULER DIVISION

\*Plan is conceptual; Building forms and landscape details are subject to change

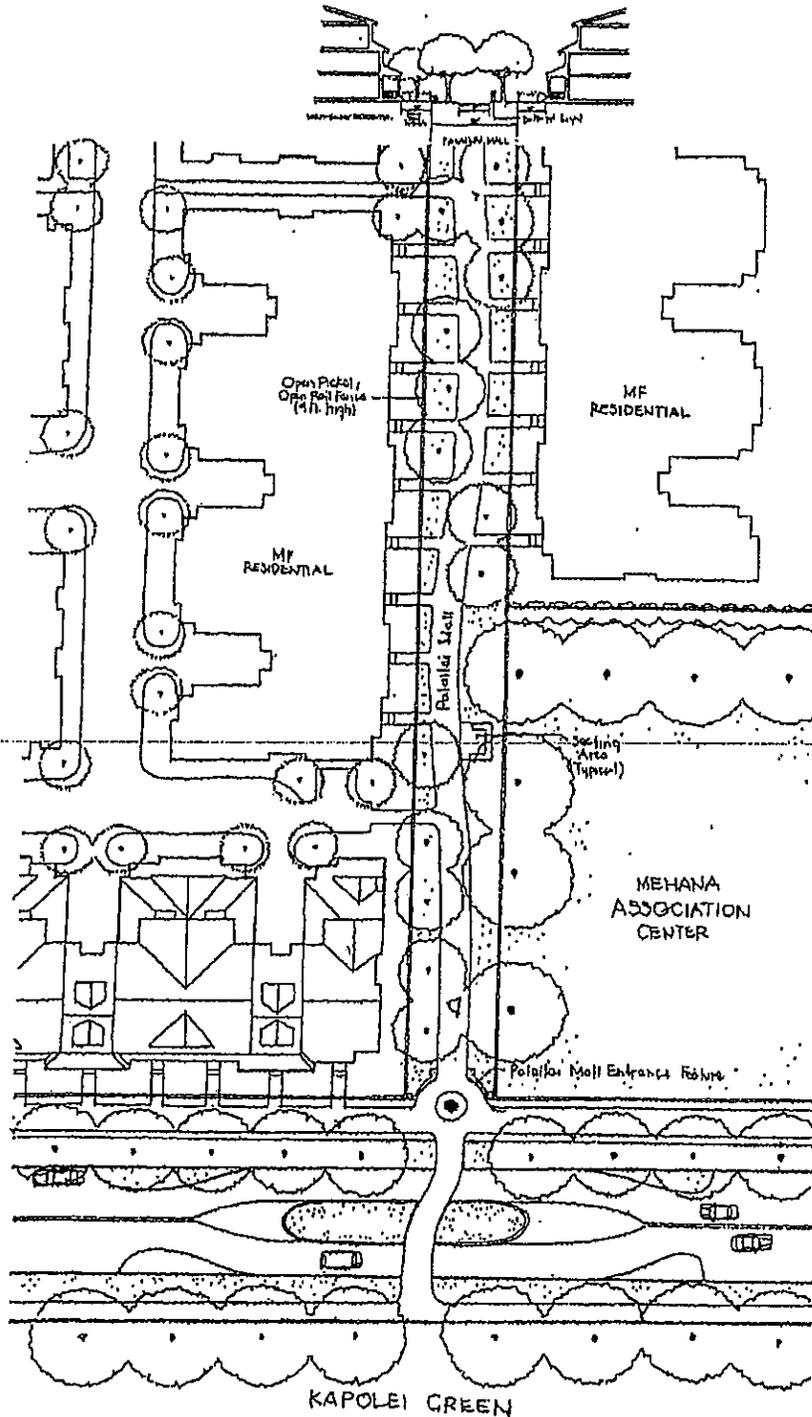


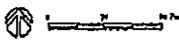
Revised August 27, 2004  
 August 19, 2004  
 Helber Hastert & Fee, Planners  
 Honolulu, Hawaii

### EXHIBIT B-3

DRAINAGE CORRIDOR CONCEPT PLAN  
 MEHANA AT KAPOLEI  
 D.R. HORTON - SCHULER DIVISION

\*Plan is conceptual. Building forms and landscape details are subject to change.



  
 August 19, 2004  
 Helber Haster & Fee, Planners  
 Honolulu, Hawaii

### EXHIBIT B-4

PALAILAI MALL CONCEPT PLAN  
 MEHANA AT KAPOLEI  
 D.R. HORTON - SCHULER DIVISION  
\*This is conceptual. Building forms and landscape details are subject to change.

**D·R·HORTON** PHI  
NYSE  
*America's Builder*  
**SCHULER DIVISION**

NICHOL T. JONES  
PRESIDENT

August 26, 2004

Mr. Bill Balfour, Director  
Department of Parks and Recreation  
City and County of Honolulu  
Kapolei Hale  
1000 Uluohia Street #309  
Kapolei, Hawaii 96707

Mehana at Kapolei  
Neighborhood Park Dedication Recommendation

Dear Mr. Balfour,

Thank you very much for your time and advice at our August 12, 2004 meeting, to discuss Mehana's proposed neighborhood park. It will play a vital role in establishing Mehana as a desirable place to live and we look forward to working with the City and County to create a first class park for the community.

I have enclosed a copy of the conceptual park plan we reviewed with you and your staff, for your records. Based on our representations at the meeting, you indicated that your department would recommend that the approximately 4.5-acre park area be accepted by the City and County for park dedication purposes. We request your acknowledgment of this recommendation be forwarded to the Department of Planning and Permitting relative to the pending Mehana Zone Change application (DPP File No. 2004/Z-5).

It is our intention to grade, grass and irrigate the 4.5 acre park site and dedicate the park to the City. The other improvements, such as the parking lot, restrooms, children's play structure and basketball/volleyball courts will be constructed by the City & County.

As discussed at the meeting, we are considering the possibility of constructing some or all of the park improvements--according to a mutually acceptable plan. It is our understanding that these improvements could be credited towards any outstanding or future on- or off-site park dedication requirements.

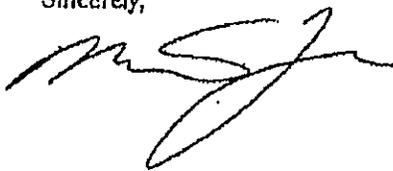
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[www.drhortonhawaii.com](http://www.drhortonhawaii.com)

Mr. Bill Balfour  
August 26, 2004  
Page 2

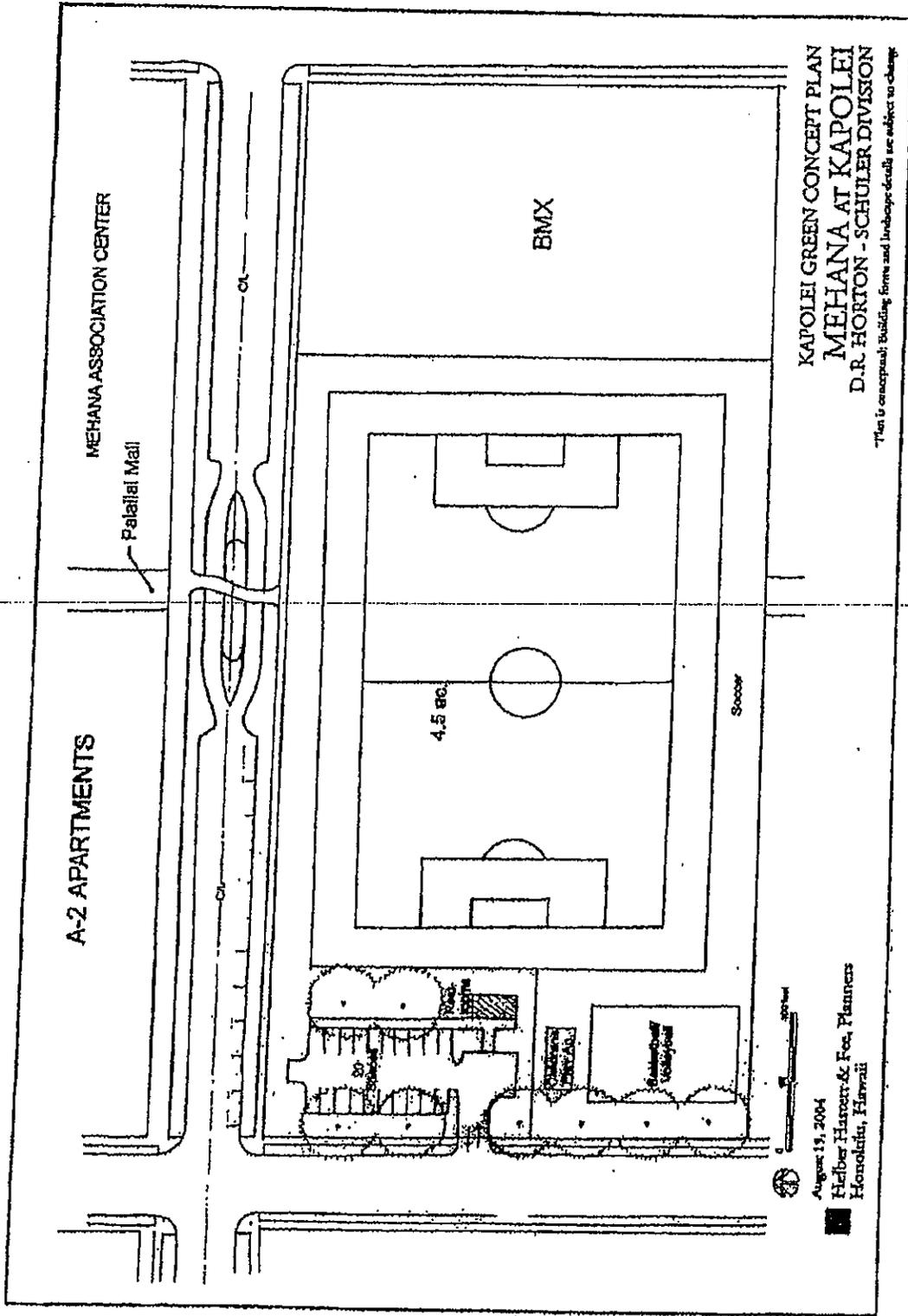
Please call me or Harvey Goth with any questions or concerns.

Sincerely,



Enclosure: Neighborhood Park Conceptual Plan (August 19, 2004)

cc: Tom Fee  
Keith Kurahashi  
Bob Bruhl  
Eric Crispin/Director of DPP



KAPOLEI GREEN CONCEPT PLAN  
 MEHANA AT KAPOLEI  
 D.R. HORTON - SCHULER DIVISION  
 \*Plan is conceptual; Building forms and landscape details are subject to change

August 15, 2004  
 Fleiter Harter & Fee, Planners  
 Honolulu, Hawaii

EXHIBIT C-2

DEPARTMENT OF PARKS AND RECREATION  
CITY AND COUNTY OF HONOLULU

KAPOLI HALL, 1000 ULUOHA STREET, 9TH FLOOR • KAPOLI, HAWAII 96707  
PHONE: (808) 802-2891 • FAX: 802-2131 • INTERNET: WWW.CO.HONOLULU.HI

HERCHY HARRIS  
MAYOR



WILLIAM D. BALFOUR, JR.  
DIRECTOR

EDWARD T. "BOBBY" DIAZ  
DEPUTY DIRECTOR

September 13, 2004

Mr. Michael T. Jones, President  
DR Horton  
828 Fort Street Mall, 4th Floor  
Honolulu, Hawaii 96813

Dear Mr. Jones:

Thank you for your letter of August 26, 2004, confirming what was discussed at our August 12, 2004, meeting on the proposed Mehana Neighborhood Park.

By copy of this letter, we are recommending to the Department of Planning and Permitting, to accept the 4.5 acre park for park dedication purposes relative to the Mehana Zone Change application (DPP File No. 2004/Z-5).

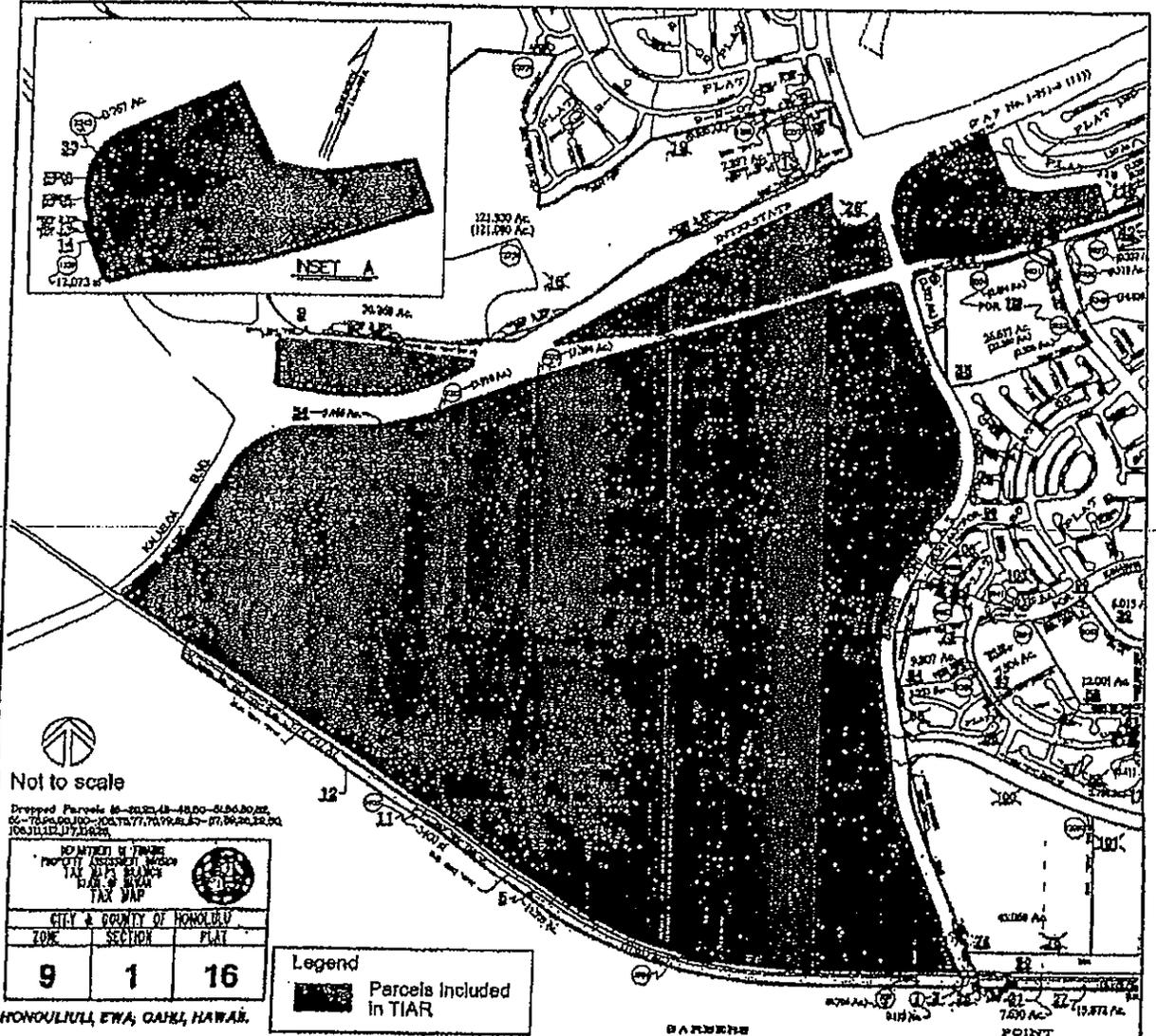
Should you need further assistance, please contact Mr. Dexter Liu, Leeward Oahu District Manager, at 675-6030.

Sincerely,

*W. D. Balfour, Jr.*  
WILLIAM D. BALFOUR, JR.  
Director

WDB:kt  
(74602)

cc: Department of Planning and Permitting



Not to scale  
 Dropped Parcels 86-2022-18-18,000-24,000,000  
 00-756,000,000-10,000,000,000-07,000,000,000  
 100,000,000,000

NO MATTER BY WHOME  
 PROPERTY INTEREST, UNDER  
 THE RULES OF THE  
 CITY & COUNTY OF HONOLULU  
 TAX MAP

CITY & COUNTY OF HONOLULU		
ZONE	SECTION	PLAT
9	1	16

Legend  
 Parcels Included in TIAR

HONOLULU, EWA, OAHU, HAWAII.

**Exhibit D: TIAR Area**  
 Kapolei Property Development, LLC

November 10, 2004  
 Helber Hastert & Fee, Planners, Inc.

**EXHIBIT W**  
(Solid Waste Management Plan)

SOLID WASTE MANAGEMENT PLAN  
MEHANA AT KAPOLEI

(As developed in consultation with the State of Hawaii, Department of Health,  
Solid Waste Management Branch, December 2006)

Recycling of materials (construction and established development on going use) is the primary goal of the Mehana at Kapolei Solid Waste Management Plan. To that end the following recommendations are being provided to contractors, homeowners and AOAO's for the project:

1. Gypsum and plaster are not subject to recycling since there are no current facilities to permitted to accept gypsum board. Should recycling facilities be available in the future, recycling is encouraged.
2. Treated wood wastes are not subject to recycling and should be disposed of at an approved Landfill. PVT is a currently approved landfill. Should recycling facilities be available in the future, recycling is encouraged.
3. Non-reusable glass shall be properly disposed. PVT is a currently approved disposable location.
4. Reuse of glass in a reusable form is encouraged. Currently (on Oahu) ~~glass bottles are only accepted for recycling.~~
5. Non-ferrous metals including uncontaminated brass, copper or aluminum should be recycled. Current facilities recovering non-ferrous metals are: C. M. Recycling, LLC; Hans Metals; Okuda Metals; Reynolds Recycling and Island Recycling.
6. Paper products including white or colored paper, newsprint and cardboard should be recycled. Current facilities recycling paper products are Honolulu Recovery and Island Recycling.
7. Green waste products generated during construction and ongoing maintenance should be delivered to composting materials when feasible. Current facilities accommodating composting include Hawaiian Earth Products.
8. Provide opportunities for residents to recycle. This will be primarily accommodated by encouraging/endorsing property owners to participate with City and County recycling programs that become available. Association newsletters can be used to inform residents.

(Note: This Solid Waste Management Policy has been developed in consultation with the State of Hawaii Department of Health Solid Waste Management Branch based on December 27, 2006 correspondence. Materials subject to recycling and approved recyclers identified above are subject to change. This plan is not intended to be in conflict with any other solid waste management policies including those of the City and County of Honolulu with respect to construction and or City and County of Honolulu existing or future residential or commercial recycling plans)