

CONDOMINIUM PUBLIC REPORT

Prepared & Developer D.R. Horton-Schuler Homes, LLC, a Delaware limited liability company, dba Schuler Homes
Issued by: Address 828 Fort Street Mall, 4th Floor, Honolulu, Hawaii 96813
Project Name (\*): WATERCOLORS AT MAKAKILO
Address: Makakilo Drive, Kapolei, Hawaii 96707
Registration No. 4840
Effective date: December 27, 2002
Expiration date: January 27, 2004

Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports: Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

Type of Report:

- PRELIMINARY: (yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report.
CONTINGENT FINAL: (green) The developer has legally created a condominium and has filed information with the Commission for this report which EXPIRES NINE (9) MONTHS after the above effective date.
X FINAL: (white) The developer has legally created a condominium and has filed complete information with the Commission.
SUPPLEMENTARY: (pink) This report updates information contained in the: Preliminary Public Report dated: Final Public Report dated: Supplementary Public Report dated:
And Supersedes all prior public reports. Must be read together with This report reactivates the public report(s) which expired on

(\* ) Exactly as named in the Declaration
This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2644 to submit your request.

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

Required and attached to this report       Not Required - Disclosures covered in this report.

**Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

No prior reports have been issued by the developer.

Changes made are as follows:

1. Amendment to Condominium Map for Watercolors at Makakilo (Condominium Map No. 1470) dated November 20, 2002, filed in the Land Court of the State of Hawaii as Document No. 2863325, amending pages T1, CPR-01, CPR-02, CPR-03, CPR-1, CPR-2, CPR-3 and CPR-4.

2. Amended and Restated Declaration of Condominium Property Regime of Watercolors at Makakilo Condominium Map No. 1470 dated November 20, 2002, filed in the Land Court of the State of Hawaii as Document No. 2863326, amending and restating the Declaration as amended by the Amended Declaration of Condominium Property Regime of Watercolors at Makakilo (Condominium Map No. 1470) dated September 12, 2002, filed in the Land Court of the State of Hawaii as Document No. 2840523 amending the original Declaration of Watercolors at Makakilo (Condominium Map No. 1470) dated April 19, 2002, filed in the Land Court of the State of Hawaii as Document No. 2797581. (This amendment restates Section H.1 (c), Section Q.1, and Section T of the Declaration and deletes in its entirety Section P and Exhibits "B-2" and "E" of the Declaration.)

3. Amended and Restated Bylaws of the Association of Homeowners of Watercolors at Makakilo dated November 20, 2002, filed in the Land Court of the State of Hawaii as Document No. 2863327, amending and restating the Bylaws as amended by the Amended Bylaws of the Association of Apartment Owners of Watercolors at Makakilo (Condominium Map No. 1470) dated September 12, 2002, filed in the Land Court of the State of Hawaii as Document No. 2840524 amending the original Bylaws of the Association of Apartment Owners of Watercolors at Makakilo (Condominium Map No. 1470) dated April 19, 2002, filed in the Land Court of the State of Hawaii as Document No. 2797582. This amendment of Section 2.2(a)(ii) of the Bylaws changes the period in which Declarant may transfer control of the Association to the Owners from five to three years.

4. Exhibit F, the Buildings and Common Elements Warranty, has been amended. The new form of warranty is attached hereto as Exhibit F.

5. The square footage for each residence has changed from the Contingent Public Report as follows:

Apt. Type	Net Living Area (sf)	<u>Contingent Public Report</u>		Net Living Area (sf)	<u>Final Public Report</u>	
		<u>Lanai/Patio (sf)</u>	<u>Garage (sf)</u>		<u>Lanai/patio (sf)</u>	<u>Garage (sf)</u>
A/A-R	1,178	No change	No change	1,179	No change	No change
B/B-R	1,357	No change	409	1,352	No change	411
C/C-R	1,459	No change	465	1,468	No change	467
D/D-R	1,558	60	No change	1,561	59	No change

6. The "Land Area" in Section III.B was converted from square footage to acres.

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## **General Information On Condominiums**

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. 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 or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

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

"Common elements" are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called "limited common elements" and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the project's Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

## **Operation of the Condominium Project**

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment 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 an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely 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 buyers should understand that it is important to all apartment owners that the transition of control from the developer to the apartment owners be accomplished in an orderly manner and in a spirit of cooperation.

I. PERSONS CONNECTED WITH THE PROJECT

Developer: D.R Horton-Schuler Homes, LLC, a Delaware limited liability company, dba Schuler Homes Name\* 828 Fort Street Mall, 4th Floor Business Address Honolulu, Hawaii 96813 Phone: (808) 521-5661 (Business)

**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):**

**James K. Schuler, President-CEO; Michael T. Jones, Executive Vice President; Harvey L. Goth, Senior Vice President; Peter M. Aiello, Vice President Design and Development; Mary K. Flood, Vice President Sales and Marketing; Frank S. Payne, Vice President Operations; Alan D. Labbe, Assistant Secretary; Lawrence Tucker, Second Assistant Secretary of Vertical Construction Corporation, the Developer's manager.**

Real Estate Broker\*: Schuler Realty Hawaii, Inc Name 828 Fort Street Mall, 4th Floor Business Address Honolulu, Hawaii 96813 Phone: (808) 521-5661 (Business)

Escrow Island Title Corporation Name 1132 Bishop Street, Suite 400 Business Address Honolulu, Hawaii 96813 Phone: (808) 531-0261 (Business)

General Contractor\*: Vertical Construction Corporation, A Delaware corporation Name 828 Fort Street Mall, 4th Floor Business Address Honolulu, Hawaii 96813 Phone: (808) 521-5661 (Business)

Condominium Managing Agent\*: Hawaiiana Management Company, Ltd. Name 711 Kapiolani Boulevard, Suite 700 Business Address Honolulu, Hawaii 96813 Phone: (808) 593-9100 (Business)

Attorney for Developer: Dennis M. Lombardi, Esq. Name 737 Bishop Street, Suite 2600 Business Address Honolulu, Hawaii 96813 Phone: (808) 547-5400 (Business)

\* For Entities: Name of corporation, partnership, Limited Liability Partnership (LLP), or Limited Liability Company (LLC)

**II. CREATION OF THE CONDOMINIUM;  
CONDOMINIUM DOCUMENTS**

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

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

The Declaration for this condominium is:

Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 2797581

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

Amendment to Declaration of Condominium Property Regime of Watercolors at Makakilo (Condominium Map 1470) dated September 18, 2002, filed in the Land Court of the State of Hawaii as Document No. 2940523.

Amended and Restated Declaration of Condominium Property Regime of Watercolors at Makakilo Condominium Map. No. 1470 dated November 20, 2002, filed in the Land Court of the State of Hawaii as Document No. 2863326.

B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

Proposed  
 Recorded - Bureau of Conveyances Condo Map No. \_\_\_\_\_  
 Filed - Land Court Condo Map No. 1470

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

Amendment to Condominium Map of Watercolors at Makakilo (Condominium Map No. 1470) dated November 20, 2002, filed in the Land Court of the State of Hawaii as Document No. 2863325.

C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment 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 which affect how the condominium project will be governed.

The Bylaws for this condominium are:

Proposed  
 Recorded - Bureau of Conveyances: Document No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
 Filed - Land Court: Document No. 2797582

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

Amendment to Bylaws of the Association of Homeowners of Watercolors at Makakilo (Condominium Map 1470) dated September 18, 2002, filed in the Land Court of the State of Hawaii as Document No. 2840524.

Amended and Restated Bylaws of the Association of Homeowners of Watercolors at Makakilo dated November 20, 2002, filed in the Land Court of the State of Hawaii as Document No. 2863327.

D. **House Rules.** The Board of Directors may adopt 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.

The House Rules for this condominium are:

Proposed  Adopted  Developer does not plan to adopt House Rules

E. **Changes to Condominium Documents** Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. **Apartment Owners:** Minimum percentage of common interest which must vote for or give written consent to changes:

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%*	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>Majority vote of Board of Directors</u>

\* The percentages for individual condominium projects may be more than the minimum set by law for projects with five or fewer apartments.

2. **Developer:**

No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules:

- A. The Community consists of 73 residential Residences, in Developer's sole discretion, in as many separate increments as Developer shall determine. Developer contemplates, however, that development shall proceed in two (2) increments. Increment 1 shall consist of 39 Residences and Increment 2 shall consist of 34 Residences. In the event that the phasing of increments departs from the foregoing, the Developer shall in advance of the construction of such increment file an amendment to the Declaration identifying the Residences in such increment. The Private Yard Areas associated with each Residence are not subdivided lots but rather exclusive limited common elements.
- B. Upon completion of the Project, the Developer may amend the Declaration and the Condominium Map (if necessary) to file the "as built" verified statement required by Section 514A-12 of the Condominium Property Act.
- C. Until all of the Residences have been sold, the Developer may amend the Declaration, the Bylaws and/or the Condominium Map to make such amendments as may be required by law, by the Real Estate Commission, by the title insurance company, by a mortgage lender, or by any governmental agency (including the VA, HUD, FNMA and/or FHLMC), provided that no such amendments change the common interest appurtenant to a Residence or substantially change the design, location or size of a Residence.
- D. Until all of the Residences have been sold and the "as built" verified statement is filed, the Developer may amend the Declaration and the Condominium Map to (i) reflect alterations in any Residence which has not been sold; and (ii) reflect minor changes in any Residence or in the common elements which do not affect the physical location, design or size of any Residence which has been sold.
- E. The Developer reserves the right to alter the product mix within this Community.



III. THE CONDOMINIUM PROJECT

A. Interest to be Conveyed to Buyer:

Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.

Leasehold or Sub-leasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

**Leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (apartment owner/tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.**

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which there negotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:      Monthly                    Quarterly  
                                  Semi-Annually            Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per:  Month  Year

For Sub-leaseholds:

Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:  
                                  Canceled                    Foreclosed

As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

Individual Apartments in Fee Simple; Common Interest in the Underlying Land in Leasehold or Sub-leasehold:

**Leases for the underlying land usually require that at the end of the lease term, the lessees (apartment owners/tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements at the lessee's expense; or (2) convey the building(s) and improvements to the lessor, often at a specified price.**

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

Lease Term Expires: \_\_\_\_\_ Rent Renegotiation Date(s): \_\_\_\_\_

Lease Rent Payable:      Monthly                    Quarterly  
                                  Semi-Annually            Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per:  Month  Year

Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

The information contained in this report is a summary of the terms of the lease. For more detailed information, you should secure a copy of the lease documents and read them thoroughly.

If you have any legal questions about leasehold property, the lease documents or the terms of the lease and the consequences of becoming a lessee, you should seek the advice of an attorney.

There are currently no statutory provisions for the mandatory conversion of leasehold condominiums and there are no assurances that such measures will be enacted in the future.

In leasehold condominium projects, the buyer of an apartment will acquire the right to occupy and use the apartment for the time stated in the lease agreement. The buyer will not acquire outright or absolute fee simple ownership of the land. The land is owned by the lessor or the leased fee owner. The apartment owner or lessee must make lease rent payments and comply with the terms of the lease or be subject to the lessor's enforcement actions. The lease rent payments are usually fixed at specific amounts for fixed periods of time, and are then subject to renegotiation. Renegotiation may be based on a formula, by arbitration set in the lease agreement, by law or by agreement between the lessor and lessee. The renegotiated lease rents may increase significantly. At the end of the lease, the apartment owners may have to surrender the apartments, the improvements and the land back to the lessor without any compensation (surrender clause).

When leasehold property is sold, title is normally conveyed by means of an assignment of lease, the purpose of which is similar to that of a deed. The legal and practical effect is different because the assignment conveys only the rights and obligations created by the lease, not the property itself.

The developer of this condominium project may have entered into a master ground lease with the fee simple owner of the land in order to develop the project. The developer may have then entered into a sublease or a new lease of the land with the lessee (apartment owner). The developer may lease the improvements to the apartment owner by way of an apartment lease or sublease, or sell the improvements to the apartment owners by way of a condominium conveyance or apartment deed.

**B. Underlying Land:**

Address: Makakilo Drive Tax Map Key (TMK): (1) 9-2-19:40, 41, 42, 43, 82  
Kapolei, Hawaii 96707

Address  TMK is expected to change because \_\_\_\_\_

Land Area: approximately 8.373  square feet  acre(s) Zoning: A-2

Fee Owner: D.R. Horton- Schuler Homes, LLC, a  
Delaware limited liability company,  
dba Schuler Homes  
 Name  
828 Fort Street Mall 4th Floor  
 Address  
Honolulu, Hawaii 96813

Lessor: N/A  
 Name  
 Address

**C. Buildings and Other Improvements:**

1.  New Building(s)  
 Conversion of Existing Building(s)  
 Both New Building(s) and Conversion
2. Number of Buildings: 73 Floors Per Building: 2  
 Exhibit \_\_\_\_\_ contains further explanations.
3. Principal Construction Material:  
 Concrete  Hollow Tile  Wood  
 Other Wood frames, metal, glass and other building materials
4. Uses Permitted by Zoning:

	<u>No. of</u> <u>Apts.</u>	<u>Use Permitted By Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>73</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Commercial	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/> Mix Res/Comm	_____	<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	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?  
 Yes  No

5. Special Use Restrictions:

The Declaration and Bylaws may contain restrictions on the use and occupancy of the apartments. Restrictions for this condominium project include but are not limited to:

Pets: Reasonable number of common household pets, such as small dogs, cats, aquarium fish and bird. No livestock or poultry and no animals classified as "pests" or prohibited from importation under state statutes.

Number of Occupants: No more than 2 persons per bedroom, not including children under 5 years old; no more than 3 persons per bedroom, including children under 5 years old; and otherwise only in accordance with any limitations imposed by state or municipal laws or ordinance.

Other: Residences shall be used for residential purposes only; no "time-sharing" permitted.

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0 Stairways: 0 Trash Chutes: 0

Apt. Type	Quantity	BR/Bath	Net Living Area (sf)*	Lanai/Patio (sf)	Entry Area (sf)	Garage(sf)
A**	9	3 or 4/ 2½	1,179	36	44	390
A-R**	8	3 or 4/ 2½	1,179	36	44	390
B	13	4/ 2 ½	1,352	0	39	411
B-R	7	4/2 ½	1,352	0	39	411
C	7	4/ 2½	1,468	0	28	467
C-R	10	4/ 2½	1,468	0	28	467
D	12	4/ 2½	1,561	59	30	454
D-R	7	4/2 ½	1,561	59	30	454

Total Number of Apartments: 73

\* Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.

Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

Boundaries of Each Apartment: Each Residence includes all walls, columns and partitions (both load bearing and not load bearing) which are within the Residence's perimeter walls including without limitation the Residence's perimeter walls, which are therefore included in the Residence square footage, the Residence's foundation, all floors, ceilings, roofs, doors, windows, sliding glass doors, screen doors, door frames and window frames, the air space within the Residence, the garage including its floor, foundation, ceiling, roof, doors and perimeter walls, the lanais, if any, shown on the Condominium Map to the exterior edge of the exterior railings or other boundaries of such lanais, 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 Residence, and all pipes, plumbing (including water heaters), wires, conduits and other utility or service lines and facilities servicing only the Residence. The Residences shall also include all load-bearing columns, girders, beams, building components and other elements included within each Residence. The Residence shall not include any pipes, shafts, wires, conduits or other utility or service lines running through a Residence which are utilized for or serve more than one Residence, all of which are deemed common elements as provided in the Declaration.

Residences followed by a "--R" represent a reverse floorplan configuration from that reflected on the condominium map.

\*\*Residence types A and A-R have an option for an alternate bedroom 4, increasing the Net Living Area by approximately 164 square feet. Regardless of such expansion, no adjustment will be made in the common interest allocable to residence types A and A-R in the event of such exercise.

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

Permitted Alterations to Apartments: Alterations or additions solely within or to a Residence, its Private Yard Area or within a limited common element appurtenant to and for the exclusive use of a Residence shall require the written approval of the Department of Planning and Permits and the Palehua Community Association Design Review Committee and must comply with Palehua Community Design Guidelines and the Improvement Guidelines attached as Exhibit F to the Declaration of Condominium Property Regime. Also, no alteration or addition may proceed without the foregoing approvals having been submitted to the Board of Directors which may object thereto for non-compliance, as permitted by the Declaration. Residence owners directly affected by such alterations or additions are deemed to have approved the same provided the alteration or additions complies with the foregoing requirements. The Board has been empowered, but is not obligated, to adopt special design guidelines applicable to the Watercolors Community. Buyers are encouraged to read Sections M.2, I.11 and I.12 of the Declaration for more information. Any alteration or addition different in any material respect from the Condominium Map shall be commenced only pursuant to an amendment to the Declaration.

**Apartments Designated for Owner-Occupants Only:**

Fifty percent (50%) of residential apartments must be so designated; developer has a right to substitute similar apartments for those apartments already designated. Developer must provide this information either in a published announcement or advertisement as required by section 514A-102, HRS; or include the information here in this public report and in the announcement (see attachment 11a). Developer has elected to provide the information in a published announcement or advertisement.

7. Parking Stalls:

Total Parking Stalls: 161

	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>		TOTAL
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	
Assigned (for each unit)	<u>2**</u>						<u>146</u>
Guest		<u>15</u>					<u>15</u>
Unassigned							
Extra for Purchase							
Other:							
Total Covered & Open:	<u>161</u>		<u>0</u>		<u>0</u>		<u>161</u>

Each apartment will have the exclusive use of at least 2 parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

\*\*Each Residence includes a two-car enclosed garage.

Commercial parking garage permitted in condominium project.

Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium project.

8. Recreational and Other Common Facilities:

There are no recreational or common facilities.

Swimming pool       Storage Area       Recreation Area

Laundry Area       Tennis Court       Trash Chute/Enclosure(s)

Other: \_\_\_\_\_

9. Compliance With Building Code and Municipal Regulations; Cost to Cure Violations

There are no violations.       Violations will not be cured.

Violations and cost to cure are listed below:       Violations will be cured by \_\_\_\_\_  
(Date)

10. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations (For conversions of residential apartments in existence for at least five years):

N/A

11. Conformance to Present Zoning Code

a.  No variances to zoning code have been granted.

Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>X</u>	<u>          </u>	<u>          </u>
Structures	<u>X</u>	<u>          </u>	<u>          </u>
Lot	<u>X</u>	<u>          </u>	<u>          </u>

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

D. Common Elements, Limited Common Elements, Common Interest:

1. Common Elements: Common Elements are those parts of the condominium project other than the individual apartments. Although the common elements are owned jointly by all apartment owners, those portions of the common elements which are designated as limited common elements (see paragraph 2 below) may be used only by those apartments to which they are assigned. The common elements for this project, as described in the Declaration, are:

described in Exhibit   B  .

as follows:

2. Limited Common Elements: Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

There are no limited common elements in this project.

The limited common elements and the apartments which use them, as described in the Declaration, are:

described in Exhibit C.

as follows:

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is used to determine each apartment'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 apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

described in Exhibit D.

as follows:

The rights reserved to the Developer to alter the Residences in the Community (see Items 1 and 2), may result in alteration of the common interest and attendant voting rights of a homeowner. See Section F.2 of the Declaration that provides:

The common interest and easements appurtenant to each Home shall have a permanent character and shall not be altered except as noted in Section F.13 of the Declaration. The common interest, voting rights and easements appurtenant to each Home may be altered (diminished or increased) by a recorded amendment to this Declaration: (a) as may be determined necessary by Developer, without the consent of any party, to correct typographical or mathematical errors in the statement of such common interests, (b) filed by Developer, without the joinder of any party, upon the alteration of the Community as permitted pursuant to Section M.3 and/or (c) upon the action or consent of all Owners of Homes affected thereby, and the consent of the holders of any mortgage affecting such Homes as shown in the Association's records of ownership, or who have given the Board notice of their interest. The common interest and appurtenant easements shall not be separated from the Home to which they appertain and shall be deemed to be conveyed or encumbered with that Home even though such interest or easements are not expressly mentioned in the conveyance or other instrument. The common elements shall remain undivided and the right to partition or divide any part of the common elements shall not exist except as provided in the Act and the Declaration. Section M.3 allows the Developer prior to the sale of all Homes to file an "as built" certificate to (a) make alterations in the Community which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Home (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 model home type to be placed in a Private Yard Area); and (b) make other alterations in the Community which make minor changes in any Home in the Community or in the common elements which do not affect the physical location, design or size of any Home which has been sold and the conveyance thereof recorded.

- E. 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 an apartment in the project.

Exhibit E describes the encumbrances against the title contained in the title report dated October 22, 2002 and issued by Island Title Corporation.



**Blanket Liens:**

A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project that secures some type of monetary debt (such as a loan) or other obligation. A blanket lien is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

There are no blanket liens affecting title to the individual apartments.

There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. The buyer's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>
None	None

F. **Construction Warranties:**

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

1. **Building and Other Improvements:**

The Developer's sole warranty will be provided in the form attached to this Public Report as Exhibit F.

2. **Appliances:**

The Developer makes no warranty as to appliances or other consumer products installed in any Residence or in the common elements. If there are no applicable manufacturer's or dealer's warranties relating to such appliances or other consumer products, the Developer will endeavor to assign and pass on to each Residence owner the benefit of such warranties.

G. **Status of Construction and Date of Completion or Estimated Date of Completion:**

Construction commenced in May 2002 and should be completed by approximately September 2003.

H. **Project Phases:**

The developer [X] has [ ] has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's plans or right to perform for future development (such as additions, mergers or phasing):

Alteration of the Community: The Developer has reserved the right in its sole and absolute discretion:

1. 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 Residence (and the limited common elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, including specifically the right to alter the mix of model home types (increase or decrease the number of model home types); and
2. To make other alterations in the community (and to amend the Declaration and the Condominium Map accordingly) which make minor changes in any Residence in the community or in the common elements which do not affect the physical location, design or size of any Residence which has been sold and the conveyance thereof recorded.

Multi-Increment Phase: The Developer has reserved the right to develop this Community in increments as set forth in Section II. E.2 of this Public Report.



**V. MISCELLANEOUS**

**A. Sales Documents Filed With the Real Estate Commission:**

Sales documents on file with the Real Estate Commission include but are not limited to:

- Notice to Owner Occupants
- Specimen Sales Contract  
Exhibit   H   contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated \_\_\_\_\_  
Exhibit   I   contains a summary of the pertinent provisions of the escrow agreement.
- Other Exhibit "J" is a Residence Selection Form; Notice of Chronological Reservation System and Receipt of Owner-Occupied Affidavit Form

**B. Buyer's Right to Cancel Sales Contract:**

1. Rights Under the Condominium Property Act (Chapter 514A, HRS):

Preliminary Report: Sales made by the developer are not binding on the prospective buyer. Sales made by the developer may be binding on the developer unless the developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

Supplementary Report to a Preliminary Report: Same as for Preliminary Report.

Contingent Final Report or Supplementary Report to a Contingent Final Report: Sales made by the developer are binding if:

- A) The Developer delivers to the buyer a copy of:
  - 1) Either the Contingent Final Public Report **OR** the Supplementary Public Report which has superseded the Contingent Final Public Report for which an effective date has been issued by the Real Estate Commission; **AND**
  - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); **AND**
- C) One of the following has occurred:
  - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
  - 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Final Report or Supplementary Report to a Final Report: Sales made by the developer are binding if:

- A) The Developer delivers to the buyer a copy of:
  - 1) Either the Final Public Report **OR** the Supplementary Public Report which has superseded the Final Public Report for which an effective date has been issued by the Real Estate Commission; **AND**
  - 2) Any other public report issued by the developer prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
- B) The buyer is given an opportunity to read the report(s); **AND**
- C) One of the following has occurred:
  - 1) The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - 2) Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or

- 3) The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

Material Change: Binding contracts with the Developer may be rescinded by the buyer if:

- A) There is a material change in the project which directly, substantially, and adversely affects (1) the use or value of the buyer's apartment or its limited common elements; or (2) the amenities available for buyer's use; **AND**
- B) The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime, as amended and/or restated.
- C) Bylaws of the Association of Apartment Owners, as amended and/or restated.
- D) House Rules, if any.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other: Declaration of Covenants, Conditions and Restrictions of the Palehua Community dated January 14, 1977, dated January 18, 1977, filed as Document No. 801577, as amended.

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, HI 96809, at a nominal cost.

This Public Report is a part of Registration No. 4840 filed with the Real Estate Commission on April 23, 2002.

Reproduction of Report. When reproduced, this report must be on:

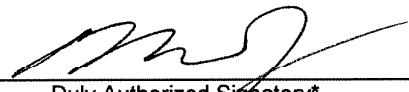
YELLOW paper stock       WHITE paper stock       PINK paper stock       GREEN paper stock

C. **Additional Information Not Covered Above**

1. All prospective purchasers should also be aware that the Community is within and a part of the master planned community known as the Palehua Community Association, and is subject to certain conditions and restrictions contained in various documents that affect the Community, including: (i) the covenants, conditions, restrictions, reservations, agreements, obligations and other provisions contained in the Declaration of Covenants, Conditions and Restrictions of the Palehua Community dated January 14, 1977, filed in the Bureau of Conveyance of the State of Hawaii as Document No. 801577, as amended by instrument dated January 18, 1977, filed as Document No. 801577.
2. All prospective purchasers should also be aware that the Private yard Areas in the Community are not subdivided lots. The private yard areas are limited common elements, the boundaries of which are established by the surrounding fence line.
3. Prospective purchasers should be aware that the performance bond provided by the developer pursuant to Hawaii Revised Statutes 514A-40(5) is from Honsador, a material house and not a licensed surety. While the Real Estate Commission has accepted such bonds contingent on certain conditions first being fulfilled by escrow and the developer before full release of buyer's funds, prospective purchasers are urged to inquire into this matter if it is a concern to them.

- D. 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 buyers 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.
- E. The developer declares subject to the penalties set forth in section 514A-49(b) that this project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Section 514A-1.6.

D.R. HORTON-SCHULER HOMES, LLC, a Delaware limited liability company, dba SCHULER HOMES  
 Printed Name of Developer

By:  \_\_\_\_\_ Date 11-20-02  
 Duly Authorized Signatory\*

\_\_\_\_\_  
 MICHAEL T. JONES, Executive Vice President  
 Printed Name & Title of Person Signing Above  
 Vertical Construction Corporation, a Delaware  
 Corporation, Developer's Manager

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; partnership or Limited Liability Partnership(LLP) by the general partner; Limited Liability Company(LLC) by the manager or member; and for an individual by the individual.***

## EXHIBIT A

### DESCRIPTION OF BUILDINGS

The Community shall contain 73 single family detached Residences. None of the Residences have a basement. The Residences shall be constructed principally of metal, wood, glass and related building materials.

There shall be four different model types in the Community, designated as Model Types A, B, C and D. Each of the models include, without limitation, all components, roof, exterior walls and the foundation. A description of each model type is as follows:

#### Model Type A and A-R

This Model Type is a two-story Residence containing three or four bedrooms, two and one-half bathrooms, living/dining area, kitchen, laundry room, covered entry lanai, attached two-car garage and other improvements as shown on the Condominium Map. This Model Type contains a net living area of approximately 1,179 square feet, entry area of 44 square feet and lanai area of 36 square feet, and two-car garage area of approximately 390 square feet. An alternate bedroom 4 option is available increasing the living area square foot by approximately 164 square feet. There are 17 planned Model Type A and A-R Residences in the Community.

#### Model Type B and B-R

This Model type is a two-story Residence containing three or four bedrooms, two and one-half bathrooms, living/dining area, kitchen, family room, laundry area, covered entry lanai, attached two-car garage and other improvements as shown on the Condominium Map. This Model Type contains a net living area of approximately 1,352 square feet, entry lanai area of approximately 39 square feet, and two-car garage area of approximately 411 square feet. This Model type has an option to convert the 4<sup>th</sup> bedroom into an expanded master suite without change in the interior square footage. There are 20 planned Model Type B and B-R Residences in the Community.

#### Model Type C and C-R

This Model Type is a two-story Residence containing four bedrooms, two and one-half bathrooms, living/dining room, kitchen, laundry area, covered entry lanai, attached two-car garage and other improvements as shown on the Condominium Map. This Model Type contains a net living area of approximately 1,468 square feet, entry lanai area of approximately 28 square feet, and two-car garage area of approximately 467 square feet. There are 17 planned Model Type C and C-R Residences in the Community.



Model Type D and D-R

This Model Type is a two-story Residence containing four bedrooms, two and one-half bathrooms, living/dining area, family room, kitchen, laundry area, covered entry lanai, rear covered lanai, attached two-car garage and other improvements as shown on the Condominium Map. This Model Type contains a net living area of approximately 1,561 square feet, entry lanai area of approximately 30 square feet, rear lanai area of approximately 59 square feet and two-car garage area of approximately 454 square feet. There are 19 planned Model Type D and D-R Residences in the Community.

**END OF EXHIBIT A**

## EXHIBIT B

### COMMON ELEMENTS

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

1. The Land, in fee simple, described in Exhibit "A" attached to this Declaration and those improvements to the Land 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 drainage facilities or swales, pipes, shafts, wires, conduits or other utilities or service lines running through a Residence, or Private Yard Area which are utilized for or serve more than one Residence, or Private Yard Area or other feature of the Community.
3. All sidewalks, pathways, curbs, and guest or special parking areas as labeled on the Condominium Map.
4. 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 which are utilized by or serve more than one Residence or for services such as power, light, water, gas, sewer, drainage, telephone and radio and television signal distribution, if any.
5. All areas, rooms, spaces, structures, housings, chutes, shafts or facilities of the Community within or outside of the buildings, which are for common use or which serve more than one Residence, such as electrical, maintenance, service, security, machine, mechanical and equipment rooms and the equipment, machinery and facilities therein.
6. 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.
7. 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.
8. All other parts of the Community not included in the definition of a Residence or Private Yard Area.

**END OF EXHIBIT B**

**EXHIBIT C**

**LIMITED COMMON ELEMENTS**

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

1. **Private Yard Area:**

The land area appurtenant to each Residence, as described in this Declaration and as shown on the Condominium Map, and bearing the same Private Yard Area number as the unit number assigned to the Residence, is a limited common element. Private Yard Areas are not legally subdivided lots. Private Yard Area includes the land beneath the Residence bearing the same number as the Private Yard Area, the fenced yard area to the rear and sides of the Residence as demarked by the fence location shown on the Condominium Map. The parking area (if any) directly fronting the garage of the Residence to the boundary of such area with the Community Access Road is also a limited common element appurtenant to the Residence served.

2. **Mailboxes & Designated Trash Container Location:**

Each Residence may be provided a designated trash container location for placement of the trash container on trash pick-up days. The trash container space may be used only as permitted under the Declaration. Private mailboxes are provided in a designated group mailbox location.

3. **Party Walls/Fences:**

The fences and walls or portion thereof that have been constructed on the common boundary between Private Yard Areas as shown on the Condominium Map, including those fences and walls defined as "Party Walls" in the Declaration are limited common elements, benefiting the Owners of the Private Yard Areas served by such fence or wall. Walls and fences constructed on the boundary of a Private Yard Area and the common area or the exterior boundary of the Community are limited common elements benefiting the Residence to which the Private Yard Area is appurtenant.

**END OF EXHIBIT C**

**EXHIBIT D**

**COMMON INTERESTS FOR INCREMENTS 1 & 2\***  
**(assuming both increments are constructed)**

Model Type	Residence Number	Undivided Common Interest of Each Residence
A/A-R (17)	4, 9, 14, 16, 23, 27, 34, 42, 46, 48, 52, 54, 56, 60, 63, 67, 71	0.0120083 (1.20083%)
B/B-R (20)	2, 6, 8, 12, 15, 17, 20, 30, 41, 43, 45, 47, 51, 55, 62, 64, 66, 68, 70, 72	0.013152475 (1.3152475%)
C/C-R (17)	3, 5, 10, 19, 22, 24, 25, 28, 29, 31, 35, 37, 39, 49, 57, 58, 73	0.0142234 (1.42234%)
D/D-R (19)	1, 7, 11,13, 18, 21, 26, 32, 33, 36, 38, 40, 44, 50, 53, 59, 61, 65, 69	0.0153164 (1.53164%)

**COMMON INTEREST FOR INCREMENT 1 ONLY**

Model Type	Residence Number	Allocation of Common Expenses Until Addition of Future Increments
A/A-R (7)	4, 9, 14, 16, 23, 27, 34	0.022128 (2.2128%)
B/B-R (8)	2, 6, 8, 12, 15, 17, 20, 30	0.024236 (2.4236%)
C/C-R (13)	3, 5, 10, 19, 22, 24, 25, 28, 29, 31, 35, 37, 39	0.02621 (2.621%)
D/D-R (11)	1, 7, 11,13,18,21,26, 32, 33,36,38	0.028226 (2.8226%)

\* The Developer contemplates that the development shall proceed in two (2) increments. Increment 1 shall consist of 39 Residences and Increment 2 shall consist of 34 Residences. In the event that the phasing of increments departs from the foregoing, the Developer shall in advance of the construction of such increment, file an amendment to the Declaration identifying the Residences in such increment. The Private Yard Areas associated with each Residence are not subdivided lots, but rather exclusive limited common elements.

**END OF EXHIBIT D**

**EXHIBIT E**

**ENCUMBRANCES AGAINST TITLE**

1. Title to all minerals and metallic mines reserved to the State of Hawaii.
  
2. Unrecorded Development Agreement dated October 26, 1960, as amended, of which a Short Form of the Development Rights Agreement:

Dated: May 5, 1966  
Filed: Document No. 391241  
By and Between: Trustees under the Will and of the Estate of James Campbell,  
Deceased, and Finance Realty Co., Ltd., a Hawaii corporation

**AMENDED BY A SHORT FORM:**

Dated: January 12, 1977  
Filed: Document No. 801573

**FURTHER AMENDED AND RESTATED BY INSTRUMENT**

Dated: January 15, 1985  
Filed: Document No. 1277747

3. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Declaration of Covenants, Conditions and Restrictions of the Palehua Community:

Dated: January 14, 1977  
Filed: Document No. 801577

**AMENDED BY DECLARATION OF ADDITIONAL PROPERTY ANNEXED TO  
PALEHUA COMMUNITY AND DECLARATION OF RESERVATIONS**

Dated: December 23, 1996  
Filed: Document No. 2358414

4. AS TO PARCEL FIRST ONLY:

Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Declaration of Restrictive Covenants (Private Park):

Dated: April 16, 1981  
Filed: Document No. 1073031

5. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Deed:

Dated: December 22, 1989  
Filed: Document No. 1693447

6. AS TO PARCEL FIRST, LOT 3149 ONLY:

a. EASEMENT "726" as set forth by:

Land Court Order No.: 37656, Map 233  
Filed: June 13, 1973  
Purpose: Sewer

b. EASEMENT "969" area 25,297 square feet, more or less, as set forth by:

Land Court Order No.: 50886, Map 292  
Filed: August 9, 1978  
Purpose: Sewer

c. EASEMENT

Dated: June 4, 1979  
Filed: Document No. 1084524  
Purpose: A non-exclusive easement over said Easement "726", for sewer  
In favor of: City and County of Honolulu

d. EASEMENT

Dated: June 4, 1979  
Filed: Document No. 1084527  
Purpose: A non-exclusive easement over said Easement "969", for sewer  
In favor of: City and County of Honolulu

e. EASEMENT "1194" as set forth by:

Land Court Order No.: 59927, Map 321  
Filed: June 3, 1981  
Purpose: Parking

f. EASEMENT

Dated: June 22, 2001  
Filed: Document No. 2722826  
Purpose: A perpetual right and easement to construct, reconstruct, operate, maintain, repair and remove a switching vault site, etc.  
In favor of: Hawaiian Electric Company, Inc.

g. The following matters as shown on survey map prepared by George S. Yoshimura, Licensed Surveyor with M & E Pacific, Inc., dated May 5, 2001:

1. Portion of 3149 along boundary with Lot 2507 is maintained by Lot 2507.

7. AS TO PARCEL FIRST, LOT 3150 ONLY:

a. EASEMENT "969" area 25,297 square feet, more or less, as set forth by:

Land Court Order No.: 50886, Map 292  
Filed: August 9, 1978  
Purpose: Sewer

b. EASEMENT

Dated: June 4, 1979  
Filed: Document No. 1084527  
Purpose: A non-exclusive easement over said Easement "969", for sewer  
In favor of: City and County of Honolulu

c. EASEMENT "1195" area 15,734 square feet, more or less, as set forth by:

Land Court Order No.: 59927, Map 321  
Filed: June 3, 1981  
Purpose: Parking and access

d. EASEMENT "1196" area 646 square feet, more or less, as set forth by:

Land Court Order No.: 59927, Map 321  
Filed: June 3, 1981  
Purpose: Parking

e. Portion of Lot 3150 along boundary with Lot 2507 is maintained by Lot 2507 as shown on survey map prepared by George S. Yoshimura, Licensed Surveyor with M & E Pacific, Inc., dated May 5, 2001.

8. AS TO PARCEL FIRST, LOT 3151 ONLY:

a. EASEMENT "730" as set forth by:

Land Court Order No.: 37656, Map 233  
Filed: June 13, 1973  
Purpose: Drainage

b. EASEMENT

Dated: October 16, 1975  
Filed: Document No. 765401  
Purpose: A non-exclusive easement over said Easement "730", for drainage  
In favor of: City and County of Honolulu

c. EASEMENT "1189" area 3,324 square feet, more or less, as set forth by:

Land Court Order No.: 59617, Map 317  
Filed: April 29, 1981  
Purpose: Drainage

d. EASEMENT "1197" area 165 square feet, more or less, as set forth by:

Land Court Order No.: 59927, Map 321  
Filed: June 3, 1981  
Purpose: Parking



9. AS TO PARCEL FIRST LOT 3152 ONLY:

- a. EASEMENT "1189" area 3,324 square feet, more or less, as set forth by:

Land Court Order No.: 59617, Map 317  
Filed: April 29, 1981  
Purpose: Drainage

- b. EASEMENT "1198" area 1,550 square feet, more or less, as set forth by:

Land Court Order No.: 59927, Map 321  
Filed: June 3, 1981  
Purpose: Parking

- c. EASEMENT "1199" (10 feet wide) area 1,992 square feet, more or less, as set forth by:

Land Court Order No.: 59927, Map 321  
Filed: June 3, 1981  
Purpose: Sewer

10. AS TO PARCEL SECOND ONLY:

- a. EASEMENT "731" (10 feet wide) area 668 square feet, more or less, as set forth by:

Land Court Order No.: 37656, Map 233  
Filed: June 13, 1973  
Purpose: Sewer

- b. EASEMENT "753" (10 feet wide) area 1,347 square feet, more or less, as set forth by:

Land Court Order No.: 39564, Map 244  
Filed: April 11, 1974  
Purpose: Sewer

- c. EASEMENT

Dated: October 16, 1975  
Filed: Document No. 765401  
Purpose: A non-exclusive easement over said Easement "731", for sewer  
In favor of: City and County of Honolulu

d. EASEMENT "1190" 8,476 square feet, more or less, as set forth by:

Land Court Order No.: 59617, Map 317  
Filed: April 29, 1981  
Purpose: Sewer

e. EASEMENT "1200" area 2,066 square feet, more or less, as set forth by:

Land Court Order No.: 59927, Map 321  
Filed: June 3, 1981  
Purpose: Parking

f. EASEMENT

Dated: June 4, 1979  
Filed: Document No. 1084524  
Purpose: A non-exclusive easement over said Easement "753", for sewer  
In favor of: City and County of Honolulu

g. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Deed:

Dated: May 26, 1988  
Filed: 1573089

h. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Limited Warranty Deed:

Dated: March 17, 1997  
Filed: Document No. 2370861

i. Exposed 3" pipe as shown on survey map prepared by George S. Yoshimura, Licensed Surveyor with M & E Pacific, Inc., dated May 5, 2001.

j. EASEMENT "7559" area 2,514 square feet, more or less, as set forth by:

Land Court Order No.: 142907, Map 1094  
Filed: August 9, 2001  
Purpose: Water line

- k. Grantor hereby reserves the right to grant to Makakilo Joint Venture (the "Joint Venture") and Kalani Gardens Limited Partnership ("KGLP"), and their respective successors and assigns, an easement for waterline purposes over, under, along, across and through Easement 7559, as shown on Map 1094 of Land Court Application 1069, benefiting the Joint Venture as the operator of the Makakilo Nursery and KGLP as the fee owner of Lot 14093, area 58.573 acres, more or less, as shown on Map 1094, subject, however, to the right of the Grantee to relocate said Easement 7559, whereupon Grantor's reserved right shall also apply to the new easement area.

Dated: October 31, 2001  
Filed: Document No. 2749868

11. Terms, provisions, covenants and conditions in the Agreement Regarding Easements; Grant of Right of Entry:

Dated: October 31, 2001  
Filed: Document No. 2749870  
By and Between: Finance Holdings, Ltd., a Hawaii corporation, Finance Realty, Ltd., a Hawaii corporation, Kalani Gardens Limited Partnership, a Hawaii limited partnership, Makakilo Nursery Joint Venture, a Hawaii joint venture, and Schuler Homes, Inc., a Delaware corporation

12. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Declaration of Condominium Property Regime:

Dated: April 19, 2002  
Filed: Document No. 2797581

#### AMENDMENT TO DECLARATION

Dated: September 12, 2002  
Filed: Document No. 2840523

13. Terms and provisions contained in the Bylaws of the Association of Apartment Owners of Watercolors at Makakilo:

Dated: April 19, 2002  
Filed: Document No. 797582

#### AMENDMENT TO BYLAWS

Dated: September 12, 2002  
Filed: Document No. 2840524

14. Amendment to Condominium Map of Watercolors at Makakilo (Condominium Map No. 1470):

Dated: November 20, 2002

Filed: 2863325

15. Amended and Restated Declaration of Condominium Property Regime of Watercolors at Makakilo Condominium Map No. 1470:

Dated: November 20, 2002

Filed: 2863326

16. Amended and Restated Bylaws of the Association of Homeowners of Watercolors at Makakilo:

Dated: November 20, 2002

Filed: 2863327

**END OF EXHIBIT E**

**EXHIBIT F**

**BUILDINGS AND COMMON ELEMENTS WARRANTY  
[FORM ATTACHED]**

# HOME BUILDER'S LIMITED WARRANTY

Administered by Professional Warranty Service Corporation

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

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

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

If **WE** determine that a condition does not constitute a **CONSTRUCTION DEFECT** that is **OUR** responsibility and therefore deny **YOUR** request for warranty performance, **YOU** have the right to initiate binding arbitration that will irrevocably determine whether the condition constitutes a **CONSTRUCTION DEFECT** that is **OUR** responsibility. If this binding arbitration determines that the condition does constitute a **CONSTRUCTION DEFECT** that is **OUR** responsibility, **WE** will resolve the problem in accordance with the remedies prescribed in this **LIMITED WARRANTY**. The arbitrator will make a determination based on the language contained in Section III, **OUR Coverage Obligations**.

Enclosed with this **LIMITED WARRANTY** is a Limited Warranty Validation Form. The Limited Warranty Validation Form provides the dates on which the warranty coverage period begins and expires. It is important that this form is retained with the **LIMITED WARRANTY**. Liability under this **LIMITED WARRANTY** is limited to the amount shown on the Limited Warranty Validation Form.

All express or implied warranties other than this **LIMITED WARRANTY**, including any oral or written statement or representation made by **US** or any other person, and any implied warranty of habitability, merchantability or fitness, are hereby disclaimed by **US** and are waived by **YOU**. In addition, **YOU** waive the right to seek damages or other legal or equitable remedies from **US**, **OUR** subcontractors, agents, vendors, suppliers, design professionals and materialmen, under any other common law or statutory theory of liability, including but not limited to negligence and strict liability. **YOUR** only remedy in the event of a **CONSTRUCTION DEFECT** in or to the **HOME** or the **COMMON ELEMENTS** or to the real property on which the **HOME** or the **COMMON ELEMENTS** is situated is the coverage provided to **YOU** under this **LIMITED WARRANTY**. There may be instances where an additional **PWC** administered Builder's Limited Warranty is issued together with this **LIMITED WARRANTY**. If both of these warranties are issued to **YOU**, **YOU** agree to request warranty performance under either warranty relative to warrantable issues on the **HOME** or the **COMMON ELEMENTS**. **YOU** may not collect twice relative to the same defect and amounts paid or expended by **US** for warranty performance under either warranty will reduce the limit of liability remaining under both warranties simultaneously.

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

If any provision of this LIMITED WARRANTY is determined to be unenforceable, such a determination will not affect the remaining provisions. If this LIMITED WARRANTY or any provision herein is determined to be unenforceable as to a HOMEOWNERS ASSOCIATION or a specific HOMEOWNER, such a determination will not affect the enforceability of this LIMITED WARRANTY or such provision as to any other HOMEOWNERS ASSOCIATION or any other HOMEOWNER. The issue of enforceability, as well as all other issues, will be determined by Binding Arbitration as provided for in this LIMITED WARRANTY.

## I. Coverage Limit

The amount shown on the Limited Warranty Validation Form is OUR limit of liability. It is the most WE will pay or expend for all covered CONSTRUCTION DEFECTS regardless of the number of requests for warranty performance made against this LIMITED WARRANTY. Once OUR limit of liability has been paid, no further requests for warranty performance can be made against this LIMITED WARRANTY or any other PWC administered Builder's Limited Warranty issued for the HOME or the COMMON ELEMENTS.

## II. Warranty Coverage

Coverage under this LIMITED WARRANTY is expressly limited to CONSTRUCTION DEFECTS which occur during the WARRANTY PERIOD indicated on the Limited Warranty Validation Form and are reported by YOU in accordance with the notification requirements of Section VII, Procedure to Request US To Perform Under This LIMITED WARRANTY.

Coverage

During the WARRANTY PERIOD indicated on the Limited Warranty Validation Form that is attached to and made part of this LIMITED WARRANTY, WE warrant the HOME and the COMMON ELEMENTS will be free of CONSTRUCTION DEFECTS. To be eligible for coverage WE must receive written notice from YOU of the alleged CONSTRUCTION DEFECT as soon as it is reasonably possible after YOU have become aware or should have become aware of a CONSTRUCTION DEFECT but in no event later than thirty (30) days after the expiration of the coverage.

## III. OUR Coverage Obligations

All notices of alleged CONSTRUCTION DEFECTS, and complaints under this LIMITED WARRANTY must be made by YOU in writing. Telephonic or face-to-face discussion will not protect YOUR rights under this LIMITED WARRANTY (see Section VII, Procedure to Request US To Perform Under This LIMITED WARRANTY).

In the event YOU allege a CONSTRUCTION DEFECT occurs during the WARRANTY PERIOD, upon receiving written notice from YOU, WE, or a third party designated by US or acting on OUR behalf, will inspect, investigate and/or test (including destructive testing) the alleged CONSTRUCTION DEFECT to determine if a CONSTRUCTION DEFECT exists. Upon confirmation of a CONSTRUCTION DEFECT, WE, or a third party designated by US or acting on OUR behalf, will (1) repair or replace the CONSTRUCTION DEFECT, (2) pay to YOU the actual amount it would cost US to repair or replace the CONSTRUCTION DEFECT or (3) PAY to YOU an amount equal to the diminution in fair market value caused by the CONSTRUCTION DEFECT. The decision to repair, replace, or to make payment to YOU is at OUR or OUR authorized representative's sole option.

WE will have been considered to have breached this LIMITED WARRANTY only if WE fail to resolve a CONSTRUCTION DEFECT in accordance with the terms and conditions of this LIMITED WARRANTY.

**A. Standards By Which the Presence of a CONSTRUCTION DEFECT Will Be Determined**

In the event YOU believe that a flaw in the HOME or the COMMON ELEMENTS constitutes a CONSTRUCTION DEFECT, the following factors will be considered by US in determining whether the condition constitutes a CONSTRUCTION DEFECT. Should either YOU or WE elect to initiate binding arbitration, these factors will be considered by the arbitrator in rendering a decision:

1. Any performance standards or guidelines or other documents or manuals that contain OUR building standards, that were provided to YOU at or prior to closing on the HOME, or in the case of the HOMEOWNERS ASSOCIATION, prior to transferring title to all the COMMON ELEMENTS. Absent such standards, the Residential Construction Performance Guidelines published by the National Association of Home Builders, in effect at the time of closing on the HOME, or in the case of the HOMEOWNERS ASSOCIATION, at the time of transferring title to all the COMMON ELEMENTS shall apply. Absent a specific standard in the documents identified above, building practices and standards in use in the region of the country in which the HOME or the COMMON ELEMENTS are located shall apply;
2. Consideration as to whether the magnitude of the flaw or imperfection:
  - materially affects the structural integrity of the HOME or COMMON ELEMENTS; or
  - has an obvious and material negative impact on the appearance of the HOME or COMMON ELEMENTS; or
  - jeopardizes the life or safety of the occupants; or
  - results in the inability of the HOME or the applicable COMMON ELEMENTS to provide the functions that can reasonably be expected in such a HOME or COMMON ELEMENT.
3. Consideration as to whether a condition is the result of normal wear and tear (conditions that are normal wear and tear, or are caused by normal wear and tear are not CONSTRUCTION DEFECTS);
4. Consideration as to whether the condition was caused by, or in any way resulted from, the failure of the HOMEOWNER or HOMEOWNERS ASSOCIATION to perform normal or routine maintenance (any condition that is determined to be a HOMEOWNER or HOMEOWNERS ASSOCIATION maintenance issue, or any condition that results from improper or inadequate HOMEOWNER or HOMEOWNERS ASSOCIATION maintenance, is not a CONSTRUCTION DEFECT);
5. Consideration as to whether the condition was caused by the HOMEOWNER or HOMEOWNERS ASSOCIATION or their representatives, other than US, after the HOMEOWNER took possession of the HOME or the COMMON ELEMENTS (WE and YOU conducted a walk through inspection just prior to closing on the HOME. Damage that was caused by YOU or YOUR representatives is not a CONSTRUCTION DEFECT, for example, a large, visible scratch on marble tile in the entry foyer that was not noted in the walk through inspection, but was reported after furniture was moved into the HOME, will not be considered a CONSTRUCTION DEFECT);
6. Recognition that any condition resulting directly or indirectly from or worsened by changes, additions, alterations or other actions or omissions by the HOMEOWNER or HOMEOWNERS ASSOCIATION or their agents, other than US, will not be considered a CONSTRUCTION DEFECT (this includes changes to the topography, drainage or grade of the property);
7. Any Exclusions contained in this LIMITED WARRANTY.



## IV. Homeowner Maintenance Obligations

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

## V. Coverage Limitations

When **WE** or a third party designated by **US** or acting on **OUR** behalf, repair or replace a **CONSTRUCTION DEFECT** the repair or replacement will include the repair or replacement of only those surfaces, finishes and coverings that were damaged by the **CONSTRUCTION DEFECT** that were part of the **HOME** or the **COMMON ELEMENTS** when title was first transferred by **US**. Surfaces, finishes and coverings that require repair or replacement in order for **US** or a third party designated by **US** to repair or replace **CONSTRUCTION DEFECTS** will be repaired or replaced. The extent of the repair and replacement of these surfaces, finishes or coverings will be to approximately the same condition they were in prior to the **CONSTRUCTION DEFECT**, but not necessarily to a like new condition.

When repairing or replacing surfaces, finishes and coverings, the repair or replacement will attempt to achieve as close a match with the original surrounding areas as is reasonably possible, but an exact match cannot be guaranteed due to such factors as fading, aging and unavailability of the same materials.

In the case where a **CONSTRUCTION DEFECT** exists and the **HOME** is rendered uninhabitable and the **CONSTRUCTION DEFECT** is repaired or replaced, the repair or replacement shall include the reasonable cost of the **HOMEOWNER'S** alternative shelter until the **HOME** is made habitable.

## VI. Exclusions

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

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

11. Any deviation from plans and specifications that has not resulted in a **CONSTRUCTION DEFECT**.
- B. OUR LIMITED WARRANTY** does not cover any **CONSTRUCTION DEFECT** which would not have occurred in the absence of one or more of the excluded events or conditions listed in Exclusions, Section VI. A.1 a. – A.1.q., A.2. or A.3. above, regardless of:
1. the cause of the excluded event or condition; or
  2. other causes of the loss or damage; or
  3. whether other causes acted concurrently or in any sequence with the excluded event or condition to produce the loss or damage.

## VII. Procedure to Request US To Perform Under This LIMITED WARRANTY

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

### A. Notification

**YOU** must notify **US** in writing as soon as it is reasonably possible after **YOU** have become aware or should have become aware of a **CONSTRUCTION DEFECT**, but in no event may **YOUR** written notice of a **CONSTRUCTION DEFECT** or **YOUR** written request for warranty performance be postmarked or received by **US** later than thirty (30) days after this **LIMITED WARRANTY** has expired.

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

### B. Cooperate With US

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

### C. Do Not Make Voluntary Payments

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

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

#### D. Sign A Release

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

#### E. If YOU Disagree With US

If **YOU** believe **WE** have not responded to **YOUR** request for warranty performance to **YOUR** satisfaction or in a manner that **YOU** believe this **LIMITED WARRANTY** requires, **YOU** may provide written notice to **PWC** requesting Mediation. Upon **PWC's** receipt of written notice from **YOU**, **PWC** may review and mediate **YOUR** request by communicating with **YOU**, **US**, and any other individuals or entities that **PWC** believes may possess relevant information. If after forty-five (45) days, **PWC** is unable to successfully mediate **YOUR** request for warranty performance, or at any earlier time when **PWC** determines that **YOU** and **WE** are at an impasse, **PWC** will notify **YOU** that **YOUR** request for warranty performance remains unresolved and that **YOU** may elect to initiate Binding Arbitration. Binding Arbitration as described in the following section is the sole remedy for the resolution of disputes between **YOU** and **US** as set forth in the following section.

### VIII. Binding Arbitration Procedure

Any disputes between **YOU** and **US**, or parties acting on **OUR** behalf, including **PWC**, related to or arising from this **LIMITED WARRANTY**, the design or construction of the **HOME** or the **COMMON ELEMENTS** or the sale of the **HOME** or transfer of title to the **COMMON ELEMENTS** will be resolved by binding arbitration. Binding arbitration shall be the sole remedy for resolving any and all disputes between **YOU** and **US**, or **OUR** representatives. Disputes subject to binding arbitration include, but are not limited to:

- A. Any disagreement that a condition in the **HOME** or the **COMMON ELEMENTS** is a **CONSTRUCTION DEFECT** and is therefore covered by this **LIMITED WARRANTY**;
- B. Any disagreement as to whether a **CONSTRUCTION DEFECT** has been corrected in compliance with this **LIMITED WARRANTY**;
- C. Any alleged breach of this **LIMITED WARRANTY**;
- D. Any alleged violation of consumer protection, unfair trade practice, or any other statute;
- E. Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and any other claims arising in equity or from common law;
- F. Any dispute concerning the issues that should be submitted to binding arbitration;
- G. Any dispute concerning the timeliness of **OUR** performance and/or **YOUR** notifications under this **LIMITED WARRANTY**;
- H. Any dispute as to the payment or reimbursement of the arbitration filing fee;
- I. Any dispute as to whether this **LIMITED WARRANTY**, or any provision hereof, including, but not limited to any waiver hereunder, is unenforceable;
- J. Any other claim arising out of or relating to the sale, design or construction of **YOUR HOME** or the **COMMON ELEMENTS**, including, but not limited to any claim arising out of, relating to or based

on any implied warranty or claim for negligence or strict liability not effectively waived by this **LIMITED WARRANTY**.

The arbitration shall be conducted by Construction Arbitration Services, Inc., or such other reputable arbitration service that **PWC** shall select, at its sole discretion, at the time the request for arbitration is submitted. The rules and procedures of the designated arbitration organization, that are in effect at the time the request for arbitration is submitted, will be followed. A copy of the applicable rules and procedures will be delivered to **YOU** upon request.

This arbitration agreement shall be governed by the United States Arbitration Act (9 U.S.C. §§ 1 – 16) to the exclusion of any inconsistent state law, regulation or judicial decision. The award of the arbitrator shall be final and binding and may be entered as a judgment in any court of competent jurisdiction.

Each party shall bear its own attorneys fees and costs (including expert costs) for the arbitration. The arbitration filing fee and other arbitration fees shall be divided and paid equally as between **YOU** and **US**. This filing fee shall be no more than the amount charged by the arbitration service to **PWC** for each arbitration. Contact **PWC** to determine the arbitration filing fee in effect at the time an arbitration is being requested. The arbitrator shall, as part of any decision, award to the party prevailing at the arbitration any applicable filing fees or other arbitration fees paid by that party.

The process for **YOU** to initiate arbitration is described below.

**Step 1** YOU complete a Binding Arbitration Request Form and mail it to PWC along with the appropriate arbitration filing fee. A Binding Arbitration Request Form is attached to this **LIMITED WARRANTY**. **YOUR** Binding Arbitration Request Form must be received no later than ninety (90) days after this **LIMITED WARRANTY** expires. **YOU** must still notify **US** of an alleged **CONSTRUCTION DEFECT** as soon as it is reasonably possible after **YOU** have become aware or should have become aware of the **CONSTRUCTION DEFECT**, but in no event later than thirty (30) days after expiration of this **LIMITED WARRANTY**. Please Note that while **YOU** have thirty (30) days after this **LIMITED WARRANTY** expires to notify **US** and ninety (90) days after it expires to file for arbitration, this time period does not extend the **WARRANTY PERIOD** for **CONSTRUCTION DEFECTS**. Additionally, no investigation, inspection, testing, repair, replacement, or payment, nor any promise of same by **US** under this **LIMITED WARRANTY**, nor any dispute resolution efforts, shall extend the term of this **LIMITED WARRANTY** or extend or toll any statutes of limitations or any of **YOUR** rights or remedies.

**Step 2** PWC Will Arrange the Arbitration Proceeding. The arbitrator or arbitration organization will notify **YOU** of the time, date and location of the arbitration hearing. Most often the hearing will be conducted at the **HOME** or the **COMMON ELEMENTS** or some other location that is agreeable to all the parties to the dispute. In scheduling the hearing the arbitrator will set a time and date that is reasonably convenient to all the parties.

**Step 3** The Arbitration Hearing. The parties at the arbitration hearing will include the arbitrator, **YOU**, **US** and/or a third party designated by **US** or acting on **OUR** behalf. Any party to the proceeding may be represented at the hearing. All persons who are parties to the arbitration, as well as representatives and witnesses, are entitled to attend hearings.

After evidence is presented by **YOU**, **US** or **OUR** representatives, a decision will be rendered by the arbitrator. The decision is final and binding on **YOU** and **US**. The arbitrator first will determine whether any claimed or alleged **CONSTRUCTION DEFECT** exists and whether it is **OUR** responsibility. Second, if the arbitrator finds **US** responsible for a **CONSTRUCTION DEFECT**, the arbitrator will determine the scope of any repair or replacement, **OUR** cost of any such repair or replacement, and the diminution in fair market value, if any, caused by such **CONSTRUCTION DEFECT**. Based upon the arbitrator's decision, **WE** shall choose whether **WE** shall (1) repair, replace the **CONSTRUCTION DEFECT**, (2) pay to **YOU** the actual amount it would cost **US** to repair or replace the **CONSTRUCTION DEFECT** or (3) **PAY** to **YOU** an amount equal to the diminution in fair market value caused by

the **CONSTRUCTION DEFECT**. The decision to repair, replace, or to make payment to **YOU** is at **OUR** or **OUR** authorized representative's sole option. In addition, the arbitrator shall render a decision resolving any other disputed matters or issues related to or arising from this **LIMITED WARRANTY**, the design or construction of the **HOME** or the **COMMON ELEMENTS** or the sale of the **HOME** or transfer of title to the **COMMON ELEMENTS**.

**Step 4** **OUR Arbitration Performance Obligations**. **WE** will comply with the arbitrator's decision no later than 60 days from the date of the award or other such date as may be specified or allowed in the decision. However, delays caused by circumstances beyond **OUR** or **OUR** representative's control shall be excused.

**Step 5**. If **YOU** believe **WE** Have Failed To Comply With The Award. **YOU** should contact **PWC** at its mailing address specified in this **LIMITED WARRANTY** if **YOU** believe **WE** have not complied with the arbitrator's award. **PWC** will mediate this dispute and if it cannot be resolved, will advise **YOU** that a compliance inspection arbitration is available to determine whether **WE** have performed adequately under the original arbitration award. **PWC** will communicate these findings to both **US** and **YOU**. If it is determined that **WE** have not properly performed, **WE** will be obligated to immediately comply.

**PWC's** sole responsibility is to administer this **LIMITED WARRANTY** on **OUR** behalf and as such **PWC** assumes no other liabilities in connection with this **LIMITED WARRANTY**. Under no condition or circumstance is **PWC** responsible for fulfilling any of **OUR** obligations under this **LIMITED WARRANTY**.

## IX. General Conditions

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

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

### B. **Transfer to Subsequent HOMEOWNERS**

This **LIMITED WARRANTY** will transfer to new owners of the **HOME** for the remainder of the **WARRANTY PERIOD**. **YOU** agree to provide this **LIMITED WARRANTY** to any subsequent purchaser of the **HOME** as a part of the contract of sale of the **HOME**. **OUR** duties under this **LIMITED WARRANTY** to the new **HOMEOWNER** will not exceed the limit of liability then remaining, if any.

### C. **Transfer of Manufacturer's Warranties**

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

### D. **Recovery Rights**

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

**E. General Provisions**

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

**X. Definitions**

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

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

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

- A. **OUR** cost to correct a **CONSTRUCTION DEFECT** including the correction of those surfaces, finishes and coverings damaged by the **CONSTRUCTION DEFECT**;
- B. **OUR** cost of repair or replacement of furniture, carpet or personal property damaged by the **CONSTRUCTION DEFECT**. Should replacement be necessary, **OUR** obligation is limited to replacement with items providing the same function and quality and that are readily available at the time the item is being replaced.
- C. **OUR** costs of removal or replacement in order to repair or replace a **CONSTRUCTION DEFECT**;
- D. The reasonable cost of the **HOMEOWNER'S** alternative shelter where the **HOME** is uninhabitable due to a **CONSTRUCTION DEFECT** or where the **HOME** is rendered uninhabitable by the repair of the **CONSTRUCTION DEFECT**.

Diminished fair market value is considered "**CONSEQUENTIAL OR INCIDENTAL DAMAGE**" and is excluded under this **LIMITED WARRANTY** unless **WE** elect this remedy in lieu of the repair, replacement or other payment as to a **CONSTRUCTION DEFECT**.

**CONSTRUCTION DEFECT(S)** means a flaw in the materials or workmanship used in constructing the **HOME** that:

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

**WE** and any arbitrator assigned to rule relative to a **CONSTRUCTION DEFECT** will consider both this definition and

Section III – A. (Standards By Which the Presence of a CONSTRUCTION DEFECT Will Be Determined) in determining the existence of a CONSTRUCTION DEFECT. A flaw is a CONSTRUCTION DEFECT if either WE or an arbitrator conducting a binding arbitration hearing declares the flaw to be a CONSTRUCTION DEFECT. OUR obvious and visible failure to complete the construction of the HOME or COMMON ELEMENTS, or any portion of the HOME or COMMON ELEMENTS, is not a CONSTRUCTION DEFECT.

**CONSUMER PRODUCT** means any item of equipment, appliance or other item defined as a CONSUMER PRODUCT in the Magnuson-Moss Warranty Act (15 U.S.C. §. 2301, et seq.) Examples of Consumer Products include, but are not limited to dishwasher, garbage disposal, gas or electric cook-top, range, range hood, refrigerator or refrigerator/freezer combination, gas oven, electric oven, microwave oven, trash compactor, garage door opener, clothes washer and dryer, hot water heater and thermostat.

**EMERGENCY CONDITION** means an event or situation that creates the imminent threat of damage to the HOME or COMMON ELEMENTS, or results in an unsafe living condition due to a CONSTRUCTION DEFECT that YOU (or as applicable, the HOMEOWNERS ASSOCIATION) become aware of at a point in time other than OUR normal business hours and YOU were unable to obtain OUR or OUR authorized representative's prior written approval to initiate repairs to stabilize the condition or prevent further damage.

**HOME** means a single family residence either attached or detached covered by this LIMITED WARRANTY or a condominium or cooperative unit in a multi-unit residential structure/building covered by this LIMITED WARRANTY.

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

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

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

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

**PWC** means Professional Warranty Service Corporation, which administers the warranty program in which WE participate. As such, PWC assumes no other liabilities in connection with this LIMITED WARRANTY. The PWC mailing address is:

**Professional Warranty Service Corporation  
P.O. Box 800 Annandale, VA 22003-0800**

**SYSTEMS** means the following:

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

**WARRANTY PERIOD** shall commence on the date the title to the HOME is transferred to the first HOMEOWNER. Notwithstanding anything to the contrary set forth in this LIMITED WARRANTY, the WARRANTY PERIOD for the COMMON ELEMENTS of an individual structure/building commences on the date the title for the first HOME in the structure/building is transferred to the first HOMEOWNER or as concerns clubhouses or outbuildings or other COMMON ELEMENTS not part of the HOME the date the title to these structures is transferred to the



**HOMEOWNERS ASSOCIATION.** The dates the **WARRANTY PERIOD** begins and ends are indicated on the Limited Warranty Validation Form, which is attached to and made part of this **LIMITED WARRANTY**.

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

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

**SAMPLE**

**BINDING ARBITRATION REQUEST FORM**

Dear Homeowner (Homeowners Association):

Prior to requesting binding arbitration under the terms of the HOME BUILDER'S LIMITED WARRANTY, you should have sent your builder a clear and specific written request outlining the situation or condition that you are herein submitting to binding arbitration. If you have taken this step and believe the builder has not properly responded in accordance with the HOMEBUILDER'S LIMITED WARRANTY, fill out this form and send it to PWC along with the arbitration filing fee. Be sure to attach a copy of all pertinent correspondence between you and your builder relative to the issue.

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

Your name: \_\_\_\_\_

Address: \_\_\_\_\_

CITY

STATE

ZIP

Home Phone: (\_\_\_\_) \_\_\_\_\_ Business Phone: (\_\_\_\_) \_\_\_\_\_

LIMITED WARRANTY #: \_\_\_\_\_ Date Warranty Period begins: \_\_\_\_\_

Builder's Name: \_\_\_\_\_

Address: \_\_\_\_\_

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

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

\_\_\_\_\_  
Signature Date Signature Date

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

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

## SUBSEQUENT HOME BUYER ACKNOWLEDGMENT AND TRANSFER

Any coverage remaining under the HOME BUILDER'S LIMITED WARRANTY applicable to the home specified on the Limited Warranty Validation Form is transferred to the subsequent homeowner. Any obligations under the HOME BUILDER'S LIMITED WARRANTY to any subsequent homeowner shall not exceed the limit of liability remaining at the time of transfer, if any.

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

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

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

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

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

Signature(s) of Subsequent Home Buyer(s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

Print above name(s): \_\_\_\_\_

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

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

Address of Home: \_\_\_\_\_

Limited Warranty No.: \_\_\_\_\_

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

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

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

**EXHIBIT G**

**ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

**(see form)**

**EXHIBIT "G"**  
**ESTIMATE OF INITIAL MAINTENANCE FEE**  
**AND**  
**ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

Waterplops at Makakilo  
Phase 1  
(39 units)

( for Increment 1 consisting of 39 units)

<b>Estimate of Initial Maintenance Fees:</b>		Monthly Fee	Yearly Total
Apartment			
Residence A	2.21280%	\$154.50	\$1,853.97
Residence A	2.21280%	\$154.50	\$1,853.97
Residence A-R	2.21280%	\$154.50	\$1,853.97
Residence A-R	2.21280%	\$154.50	\$1,853.97
Residence A-R	2.21280%	\$154.50	\$1,853.97
Residence A-R	2.21280%	\$154.50	\$1,853.97
Residence B	2.42360%	\$169.22	\$2,030.59
Residence B	2.42360%	\$169.22	\$2,030.59
Residence B	2.42360%	\$169.22	\$2,030.59
Residence B	2.42360%	\$169.22	\$2,030.59
Residence B-R	2.42360%	\$169.22	\$2,030.59
Residence B-R	2.42360%	\$169.22	\$2,030.59
Residence B-R	2.42360%	\$169.22	\$2,030.59
Residence C	2.62100%	\$183.00	\$2,195.98
Residence C	2.62100%	\$183.00	\$2,195.98
Residence C	2.62100%	\$183.00	\$2,195.98
Residence C	2.62100%	\$183.00	\$2,195.98
Residence C-R	2.62100%	\$183.00	\$2,195.98
Residence C-R	2.62100%	\$183.00	\$2,195.98
Residence C-R	2.62100%	\$183.00	\$2,195.98
Residence C-R	2.62100%	\$183.00	\$2,195.98
Residence C-R	2.62100%	\$183.00	\$2,195.98
Residence C-R	2.62100%	\$183.00	\$2,195.98
Residence C-R	2.62100%	\$183.00	\$2,195.98
Residence C-R	2.62100%	\$183.00	\$2,195.98
Residence D	2.82260%	\$197.07	\$2,364.89
Residence D	2.82260%	\$197.07	\$2,364.89
Residence D	2.82260%	\$197.07	\$2,364.89
Residence D	2.82260%	\$197.07	\$2,364.89
Residence D	2.82260%	\$197.07	\$2,364.89
Residence D-R	2.82260%	\$197.07	\$2,364.89
Residence D-R	2.82260%	\$197.07	\$2,364.89
Residence D-R	2.82260%	\$197.07	\$2,364.89
Residence D-R	2.82260%	\$197.07	\$2,364.89
Residence D-R	2.82260%	\$197.07	\$2,364.89
<b>TOTALS</b>	<b>100.00000%</b>	<b>\$6,982.00</b>	<b>\$83,784.00</b>

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

**Estimate of Maintenance Fee Disbursements  
Watercolors at Makakilo  
Phase 1  
(39 units)**

	Monthly Fee	Yearly Total
<b>Utilities and Services</b>		
Electricity	\$50.00	\$600.00
Water/Irrigation	\$950.00	\$11,400.00
Water/Sewer/Residences	\$975.00	\$11,700.00
Refuse	\$820.00	\$9,840.00
<b>Maintenance</b>		
Grounds Banks	\$1,700.00	\$20,400.00
Tree Trimming	\$25.00	\$300.00
Landscape Extras	\$150.00	\$1,800.00
<b>Management</b>		
Management Fee	\$677.00	\$8,124.00
Admin/Design Review	\$100.00	\$1,200.00
Legal Fees	\$25.00	\$300.00
Repairs	\$100.00	\$1,200.00
<b>Insurance</b>	\$500.00	\$6,000.00
<b>Taxes &amp; Gov't</b>	\$25.00	\$300.00
Audit	\$75.00	\$900.00
Gov't Assm'l/GET, Condo Reg.	\$30.00	\$360.00
Reserves	\$780.00	\$9,360.00
<b>TOTAL</b>	<b>\$6,982.00</b>	<b>\$83,784.00</b>

I, Phyllis Kacher, as agent for/and/or employed by Hawaiiana Management Company, the condominium managing agent/developer for the Watercolors at Makakilo Phase 1 project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Phyllis Kacher  
Signature

4-11-02  
Date

Pursuant to 514A-83.6, Hawaii Revised Statutes, a new association created after January 1, 1993 need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. The Developer has not conducted a reserve study for the Project. The budget amount for Reserves is an estimate only.

**EXHIBIT "G"**  
**ESTIMATE OF INITIAL MAINTENANCE FEES**  
**AND**  
**ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

Watercolors at Makakilo  
Phases 1 and 2  
(73 units)

<b>Estimate of Initial Maintenance Fees:</b>		Monthly Fee	Yearly Total
Apartment			
Residence A	1.20084%	\$160.67	\$1,928.07
Residence A	1.20084%	\$160.67	\$1,928.07
Residence A	1.20084%	\$160.67	\$1,928.07
Residence A	1.20084%	\$160.67	\$1,928.07
Residence A	1.20084%	\$160.67	\$1,928.07
Residence A	1.20084%	\$160.67	\$1,928.07
Residence A	1.20084%	\$160.67	\$1,928.07
Residence A	1.20084%	\$160.67	\$1,928.07
Residence A	1.20084%	\$160.67	\$1,928.07
Residence A-R	1.20084%	\$160.67	\$1,928.07
Residence A-R	1.20084%	\$160.67	\$1,928.07
Residence A-R	1.20084%	\$160.67	\$1,928.07
Residence A-R	1.20084%	\$160.67	\$1,928.07
Residence A-R	1.20084%	\$160.67	\$1,928.07
Residence A-R	1.20084%	\$160.67	\$1,928.07
Residence A-R	1.20084%	\$160.67	\$1,928.07
Residence A-R	1.20084%	\$160.67	\$1,928.07
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B	1.31524%	\$175.98	\$2,111.75
Residence B-R	1.31520%	\$175.97	\$2,111.69
Residence B-R	1.31520%	\$175.97	\$2,111.69
Residence B-R	1.31520%	\$175.97	\$2,111.69
Residence B-R	1.31520%	\$175.97	\$2,111.69
Residence B-R	1.31520%	\$175.97	\$2,111.69
Residence B-R	1.31520%	\$175.97	\$2,111.69
Residence C	1.42230%	\$190.30	\$2,283.64
Residence C	1.42230%	\$190.30	\$2,283.64
Residence C	1.42230%	\$190.30	\$2,283.64
Residence C	1.42230%	\$190.30	\$2,283.64
Residence C	1.42230%	\$190.30	\$2,283.64
Residence C	1.42230%	\$190.30	\$2,283.64
Residence C	1.42230%	\$190.30	\$2,283.64
Residence C-R	1.42247%	\$190.33	\$2,283.92
Residence C-R	1.42247%	\$190.33	\$2,283.92
Residence C-R	1.42247%	\$190.33	\$2,283.92
Residence C-R	1.42247%	\$190.33	\$2,283.92
Residence C-R	1.42247%	\$190.33	\$2,283.92

**EXHIBIT "G"**  
**ESTIMATE OF INITIAL MAINTENANCE FEES**  
**AND**  
**ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

Watercolors at Makakilo  
 Phases 1 and 2  
 (73 units)

Residence C-R	1.42247%	\$190.33	\$2,283.92
Residence C-R	1.42247%	\$190.33	\$2,283.92
Residence C-R	1.42247%	\$190.33	\$2,283.92
Residence C-R	1.42247%	\$190.33	\$2,283.92
Residence C-R	1.42247%	\$190.33	\$2,283.92
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D	1.53160%	\$204.93	\$2,459.14
Residence D-R	1.53160%	\$204.93	\$2,459.14
Residence D-R	1.53160%	\$204.93	\$2,459.14
Residence D-R	1.53160%	\$204.93	\$2,459.14
Residence D-R	1.53160%	\$204.93	\$2,459.14
Residence D-R	1.53160%	\$204.93	\$2,459.14
Residence D-R	1.53160%	\$204.93	\$2,459.14
Residence D-R	1.53160%	\$204.93	\$2,459.14
<b>TOTALS</b>	<b>100.00004%</b>	<b>\$13,380.01</b>	<b>\$160,560.06</b>


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



**Estimate of Maintenance Fee Disbursements  
Watercolors at Makakilo  
Phase 1 and 2  
(73 units)**

	Monthly Fee	Yearly Total
<b>Utilities and Services</b>		
Electricity	\$100.00	\$1,200.00
Water/Irrigation	\$1,900.00	\$22,800.00
Water/Sewer/Residences	\$1,825.00	\$21,900.00
Refuse	\$1,540.00	\$18,480.00
<b>Maintenance</b>		
Grounds Banks	\$3,320.00	\$39,840.00
Tree Trimming	\$50.00	\$600.00
Landscape Extras	\$300.00	\$3,600.00
<b>Management</b>		
Management Fee	\$1,250.00	\$15,000.00
Admin/Design Review	\$300.00	\$3,600.00
Legal Fees	\$50.00	\$600.00
Repairs	\$300.00	\$3,600.00
<b>Insurance</b>	\$800.00	\$9,600.00
<b>Taxes &amp; Gov't</b>	\$50.00	\$600.00
Audit	\$75.00	\$900.00
Gov't Assm't/GET, Condo Reg.	\$60.00	\$720.00
Reserves	\$1,460.00	\$17,520.00
<b>TOTAL</b>	<b>\$13,380.00</b>	<b>\$160,560.00</b>

I, Phyllis Kacher, as agent for/and/or employed by Hawaiiana Management Company, the condominium managing agent/developer for the Watercolors at Makakilo Phases 1 and 2 project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

  
Signature

11-15-02  
Date

Pursuant to 514A-83.6, Hawaii Revised Statutes, a new association created after January 1, 1993 need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. The Developer has not conducted a reserve study for the Project. The budget amount for Reserves is an estimate only.

## **EXHIBIT H**

### **SUMMARY OF SALES CONTRACT**

The Deposit Receipt, Reservation and Sales Agreement (the "Sales Contract") contains the price and other terms and conditions under which a purchaser will agree to buy a Residence in the Project. 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 residence.
- (b) That the purchaser acknowledges having received and read a public report (either preliminary or final) for the Project prior to signing the Sales Contract.
- (c) That the Developer makes no representations concerning rental of a residence, income or profit from a residence, or any other economic benefit to be derived from the purchase of a residence.
- (d) That the Sales Contract may be subordinate to the lien of a construction lender.
- (e) That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.
- (f) Requirements relating to the purchaser's financing of the purchase of a residence.
- (g) That the residence and the Project will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.
- (h) That, except to the extent of a limited warranty in form attached as Exhibit "F" to this Public Report, the Developer makes no warranties regarding the residence, the Project or anything installed or contained in the residence or the Project.
- (i) That the Project will be subject to ongoing construction and sales activities which may result in certain annoyances to the purchaser.
- (j) That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
- (k) That the Developer has reserved certain rights and powers relating to the Project and the purchaser acknowledges and consents to the exercise of such rights and powers.
- (l) 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.
- (m) If the purchaser defaults, Developer may retain purchaser's deposits and bring on action against purchaser.

The Sales Contract contains various other important provisions relating to the purchase of a residence in the Project. Purchasers and prospective purchasers should carefully read the specimen Sales Contract on file with the Real Estate Commission.

**END OF EXHIBIT H**

## **EXHIBIT I**

### **SUMMARY 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.
- (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.

**END OF EXHIBIT I**

**EXHIBIT J**

**WATERCOLORS AT MAKAKILO  
RESIDENCE SELECTION FORM AND  
NOTICE OF CHRONOLOGICAL RESERVATION SYSTEM  
AND RECEIPT OF OWNER-OCCUPANT AFFIDAVIT FORM  
Residence Selection Form**

Residence No. Selected \_\_\_\_\_ Model Type \_\_\_\_\_  
Square Footage \_\_\_\_\_ Projected Price \_\_\_\_\_  
Reservation List Number: \_\_\_\_\_

PRINT Full name of Buyers:

\_\_\_\_\_  
FIRST MIDDLE LAST

\_\_\_\_\_  
FIRST MIDDLE LAST

\_\_\_\_\_  
FIRST MIDDLE LAST

\_\_\_\_\_  
FIRST MIDDLE LAST

Address: \_\_\_\_\_  
Street Address  
\_\_\_\_\_  
City State Zip

Phone (Res.) \_\_\_\_\_ (Bus.) Husband \_\_\_\_\_  
(Bus.) Wife \_\_\_\_\_

Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

This Residence Selection Form does not constitute a sales contract or a reservation. If Buyer elects not to sign the Deposit Receipt, Reservation and Sales Agreement presented by Seller for the purchase of a residence within three (3) days of Seller's request, then Buyer's deposit is refundable and Buyer shall have no further right to execute a Sales Contract for the residence selected.

RECEIPT OF EARNEST MONEY DEPOSIT ACKNOWLEDGED:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ A.M./P.M. Check Amount \_\_\_\_\_

By: \_\_\_\_\_  
(Agent for Developer/Real Estate Broker)

Identification of Deposit: [ ] Cash  
[ ] Check

Check No. \_\_\_\_\_

**WATERCOLORS AT MAKAKILO**  
**Notice and Receipt**

This is a Notice given by D.R. HORTON-SCHULER HOMES, LLC, a Delaware limited liability company, dba Schuler Homes (the "Developer") in regard to a proposed fee simple detached single family residence community to be known as "WATERCOLORS AT MAKAKILO" (the "Community"), which the Developer has made preliminary plans to develop at Kapolei, City and County of Honolulu, Hawaii, TMK No. (Oahu) 9-2-19:40, 41, 42, 43 and TMK No. 9-2-19:82. The purpose of this Notice is to inform prospective purchasers of fee simple detached single family residences in the Community of the chronological reservations system that has been established for selecting prospective purchasers who will be offered the opportunity to enter into sales contracts for such residences, if the Developer elected to proceed with present plans to construct and market the Community.

By signing below, the undersigned acknowledges the following:

1. The undersigned has received the form of "Affidavit of Intent to Purchase and Reside in an Owner-Occupant designated Fee Simple Detached Single Family Residence" (the "Owner-Occupant Affidavit").

2. The undersigned has read or has been given an opportunity to read the Owner-Occupant Newspaper Announcement ("Pre-Sale Notice") regarding the Community, or a copy thereof, which was first published in the Honolulu Advertiser/Star Bulletin on \_\_\_\_\_.

3. Prior to the date on which the Pre-Sale Notice was first published, the undersigned did not receive any information regarding the Community or any advance notice of the first publication date from any person who, to the best of the undersigned's knowledge, is an agent or employee of the Developer, or is a licensed real estate agent.

4. The undersigned has been furnished with or been given an opportunity to review a list of those residences in the Community which have been designated as "fee simple detached single family residences" for sale to prospective owner-occupants: ("designated residences") pursuant to section 514A-103, HRS.

5. The undersigned understands that the Developer's Real Estate Broker is compiling a "Reservation List" of prospective owner-occupants in the chronological order in which each has submitted both a completed Owner-Occupant Affidavit and an earnest money deposit in the amount of \$1,000. After the issuance by the Real Estate Commission of an effective date for the first Public Report on the Community, each of the prospective owner-occupants on the final Reservation List will be offered an opportunity to select and enter into a sales contract for the purchase of a designated residence in the order in which their names appear on the Reservation List. Those prospective owner-occupants who are not initially offered an opportunity to select and enter into a sales contract for the purchase of a residence, or who initially decline to select and enter into a sales contract, may retain their position on the Reservation List as "back-up" prospective owner-occupants.

6. The undersigned understands that any earnest money deposit which the undersigned submits will be deposited in an escrow account that **will not earn interest for the undersigned's account**. At any time prior to entering into a sales contract for the purchase of a designated residence, the undersigned may request in writing to be removed from the Reservation List and thereupon will receive a full refund of the undersigned's earnest money deposit without interest. If the undersigned is not offered the opportunity to enter into a sales contract within 6 months after the issuance of an effective date for the first Public Report on the Community, or the undersigned elects not to enter into a sales contract, the undersigned will be removed from the Reservation List and receive a full refund of the earnest money deposit without interest.

7. This is a "Notice" to prospective owner-occupants and a "Receipt" for the Owner-Occupant Affidavit only. **This is not a contract and does not give the undersigned any right to purchase a residence in the Community or to have the undersigned's name appear on the Reservation List. To be on the Reservation List, the undersigned must return a fully completed and executed Owner-Occupant Affidavit and make the earnest money deposit set forth above.**

8. The undersigned has signed this Notice and Receipt in the presence of an agent or representative of the Developer or the Developer's Real Estate Broker.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

Signed in my presence:

\_\_\_\_\_  
Agent for Developer/Broker

**WATERCOLORS AT MAKAKILO  
AFFIDAVIT OF INTENT TO PURCHASE AND RESIDE IN AN OWNER-OCCUPANT  
DESIGNATED FEE SIMPLE DETACHED SINGLE FAMILY RESIDENCE**

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 fee simple detached single family residence designated for an "owner-occupant" in WATERCOLORS AT MAKAKILO detached single family residence ("Community") proposed by D.R. HORTON-SCHULER HOMES, LLC, a Delaware limited liability company, dba SCHULER HOMES. ("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 detached single family residence ("designated residence") pursuant to section 514A-103 of the Owner-Occupant Law, and upon closing escrow, to reside in the designated residence as our principal residence for 365 consecutive days.

2. The term "owner-occupant" as used herein is defined in section 514A-101 of the Owner-Occupant Law as:

"...any individual in whose name sole or joint legal title is held in a residential residence which, simultaneous to such ownership, serves as the individual's principal residence, as defined by the state department of taxation, for a period of not less than three hundred and sixty-five consecutive days, provided that the individual retains complete possessory control of the premises of the residential residence 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." (Emphasis added).

3. We understand that if two or more prospective owner-occupants intend to reside jointly in the same designated residence, 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 residence, 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 residence to us), we shall notify the Real Estate Commission immediately upon any decision to cease being an owner-occupant of the designated residence.

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 residence.

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

8. This Affidavit shall be reaffirmed by us no earlier than our receipt for the Community's Final Public Report and no later than the closing of escrow for the residence. The developer shall cancel our sales contract or reservation if we fail to make the reaffirmation. If the sales contract has become binding pursuant to section 514A-62 of the Condominium Property Act, we may be considered to be in default under our sales contract, and the Developer may exercise the default or other remedies provided for in the sales contract and any other remedies provided by law.

9. 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 residence until at least 365 consecutive days have elapsed since the recordation of the instrument conveying title to the designated residence to us. Furthermore, we understand that we have the burden of proving our compliance with the law.







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: \_\_\_\_\_

**END OF EXHIBIT J**