

**CONDOMINIUM PUBLIC REPORT**

Prepared &  
Issued by:

Developer Waihuna Joint Venture, a Hawaii general partnership  
Address 220 S. King Street, Suite 2170, Honolulu, Hawaii 96813

Project Name(\*): WOODCREEK CROSSING  
Address: Wikao Street, Mililani, Hawaii 96789

Registration No. 5051

Effective date: September 22, 2003  
Expiration date: October 22, 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. A Final Public Report will be issued by the developer when complete information is filed.

**FINAL:**  
**(white)** The developer has legally created a condominium and has filed complete information with the Commission.  
[ ] No prior reports have been issued.  
[ x ] This report supersedes all prior public reports.  
[ ] This report must be read together with \_\_\_\_\_

**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.*

FORM: RECO-30 286/986/189/1190/892/0197/1098/0800/0203

**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. The Developer has reserved the right to reduce the land area that is a part of the common elements of the Project (see Exhibit "A" to this Condominium Public Report). The land of the project is currently comprised of three parcels of land having an aggregate area of approximately 172.825 acres, but the land of the project is intended to be only one parcel of land having an approximate area of 8.333 acres which is a portion of the three parcels of land. The Department of Planning and Permitting of the City and County of Honolulu has approved the consolidation and resubdivision of the three parcels of land into two lots, one with an approximate area of 8.333 acres (the "Lot A") and one with an approximate area of 164.489 acres (the "Lot B"). The Developer has filed a petition with the Land Court of the State of Hawaii to complete the consolidation and resubdivision of the three parcels into the Lot A and the Lot B. After the consolidation and resubdivision has been completed, the Developer will amend the Declaration of Condominium Property Regime, By-Laws of the Association of Apartment Owners and the Declaration of Covenants, Conditions and Restrictions to withdraw Lot B, so that only Lot A will be the land of the Project.
2. The tot lot that is a part of the common elements is now referred to as a park. The Project will be subject to a Declaration of Restrictive Covenants (Private Park) (the "Park Declaration") regarding the use and maintenance of the park.
3. The Developer has deleted the provisions reserving to the Developer the right to (i) reduce the size of the project, (ii) to subdivide and withdraw portions of the property from the condominium property regime in connection with the reduction of the size of the project, and (iii) to merge the Project with one or more other condominium projects developed on the land that is withdrawn.
4. The 10-foot wide drainage easement affecting the Private Yards appurtenant to Apartment Nos. 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76 and 77 has been revised to a 6-foot wide flowage easement.
5. The Private Yards are subject to easements for refuse collection and utility purposes.
6. The disclosure and provisions regarding the risk of falling boulders has been revised to also include trees.
7. Section 6.01 of the By-Laws has been revised to provide that the vote or written consent for any amendment to the By-Laws proposed by the Board of Directors or by a volunteer apartment owners' committee must be obtained within three hundred sixty-five (365) days after the mailing of the proposed amendment to the apartment owners to conform to the provisions of Hawaii Revised Statutes Section 514A-82(b)(2)(B).

**SPECIAL ATTENTION**

The Project is a condominium project, not a subdivision. The land area appurtenant to each apartment is a limited common element and does not represent a legally subdivided lot. The lines on the Condominium Map showing the boundaries of the land areas are for illustration purposes only and are not intended as and should not be construed as formal subdivision lines.

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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: Waihuna Joint Venture Phone: (808) 537-5976  
Name\* (Business)  
220 S. King Street, Suite 2170  
Business Address  
Honolulu, Hawaii 96813

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):

Waikalani Developers Inc. - see attached page 5A for names of officers and directors  
WRD Limited Partnership - see attached page 5A for names of general partners

Real Estate Broker\*: Towne Island Homes, Ltd. Phone: (808) 537-5976  
Name (Business)  
220 S. King Street, Suite 2170  
Business Address  
Honolulu, Hawaii 96813

Escrow: Title Guaranty Escrow Services, Inc. Phone: (808) 521-0211  
Name (Business)  
235 Queen Street, 1<sup>st</sup> Floor  
Business Address  
Honolulu, Hawaii 96813

General Contractor\*: Towne Realty of Hawaii, Inc. Phone: (808) 625-1461  
Construction Manager: Name (Business)  
P.O. Box 3247  
Business Address  
Mililani, Hawaii 96789

Condominium Managing Agent\*: Certified Management, Inc. Phone: (808) 836-0911  
Name (Business)  
3179 Koapaka Street, 2<sup>nd</sup> Floor  
Business Address  
Honolulu, Hawaii 96819

Attorney for Developer: Rush Moore Craven Sutton Morry & Beh Phone: (808) 521-0400  
A Limited Liability Law Partnership, LLP (Business)  
Name  
737 Bishop Street, Suite 2400  
Business Address  
Honolulu, Hawaii 96813

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

Waikalani Developers, Inc. - Officers and Directors

<u>Name</u>	<u>Title</u>
Arthur W. Wigchers, Jr.	President
Robert E. Braun	Vice President
Chris Lau	Vice President
Takeshi Matsukata	Vice President
Michael Peyton	Vice President
Robert Danley	Vice President and Director
Gerald Stein	Vice President and Director
James B. Young	Vice President and Secretary
Stephan J. Chevalier	Treasurer
Joseph J. Zilber	Director

WRD Limited Partnership - General Partners

<u>Name</u>	<u>Title</u>
WRD Development, Inc.	General Partner

WRD Development, Inc. - Officers and Directors

<u>Name</u>	<u>Title</u>
Arthur W. Wigchers, Jr.	President
Robert E. Braun	Vice President
James F. Janz	Vice President
Gerald Stein	Vice President
James B. Young	Vice President and Secretary
Chris Lau	Vice President and Director
Stephan J. Chevalier	Treasurer
Joseph J. Zilber	Director

**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:

<input type="checkbox"/>	Proposed			
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No. _____	
			Book _____	Page _____
<input checked="" type="checkbox"/>	Filed -	Land Court:	Document No. <u>2983236</u>	

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]: First Amendment of Declaration of Condominium Property Regime of Woodcreek Crossing and Condominium Map No. 1562 dated September 17, 2003, recorded as Land Court Document No. 2994793.

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:

<input type="checkbox"/>	Proposed			
<input type="checkbox"/>	Recorded -	Bureau of Conveyances Condo Map No. _____		
<input checked="" type="checkbox"/>	Filed -	Land Court Condo Map No. <u>1562</u>		

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]: First Amendment of Declaration of Condominium Property Regime of Woodcreek Crossing and Condominium Map No. 1562 dated September 17, 2003, recorded as Land Court Document No. 2994793.

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:

<input type="checkbox"/>	Proposed			
<input type="checkbox"/>	Recorded -	Bureau of Conveyances:	Document No. _____	
			Book _____	Page _____
<input checked="" type="checkbox"/>	Filed -	Land Court:	Document No. <u>2983237</u>	

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]: None.

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:

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

See Exhibit "A"



**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 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

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:       Wikao Street       Tax Map Key (TMK):       (1) 9-5-2-004 and -025 (portion)  
      Mililani, Hawaii 96789      

Address  TMK is expected to change because       the property will be consolidated  
      and resubdivided. Each apartment will have a separate street address.

Land Area:       8.333\*       [ ] square feet  acre (s) Zoning:       R-5      

\* The land currently is comprised of three parcels of land with a total area of approximately 172.825 acres. The Developer is in the process of consolidating the parcels and resubdividing the combined parcel into two new parcels. One of the new parcels with an area of approximately 8.333 acres is intended to be and will be the land of the Project.

Fee Owner: Waihuna Joint Venture  
 Name  
220 S. King Street, Suite 2170  
 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: 58 Floors Per Building 2

Exhibit "B" contains further explanations.

3. **Principal Construction Material:**

Concrete  Hollow Tile  Wood

Other Steel, Glass

4. **Uses Permitted by Zoning**

	<u>No. of Apts.</u>	<u>Use Permitted By Zoning</u>	
<input checked="" type="checkbox"/> Residential	<u>77</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: Permitted with restrictions, among other things, a reasonable number

Number of Occupants: \_\_\_\_\_

Other: See Declaration, By-Laws and House Rules, generally

There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: 0                      Stairways: 0                      Trash Chutes: 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath.</u>	<u>Net Living Area (sf)*</u>	<u>Net Other Area (sf)</u>	<u>(Identify)</u>
<u>1942</u>	<u>23</u>	<u>4/2 1/2</u>	_____	_____	_____
<u>2315</u>	<u>16</u>	<u>4/2 1/2</u>	_____	_____	_____
<u>3636</u>	<u>38</u>	<u>3/2 1/2</u>	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total Number of Apartments: 77

\* **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:  
See Exhibit "D"

Permitted Alterations to Apartments:  
See Exhibit "E"

**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:	<u>165</u>				
	<u>Regular</u>		<u>Compact</u>		<u>Tandem</u>
	<u>Covered</u>	<u>Open</u>	<u>Covered</u>	<u>Open</u>	<u>TOTAL</u>
Assigned (for each unit)	<u>2</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>154</u>
Guest	<u>      </u>	<u>11</u>	<u>      </u>	<u>      </u>	<u>11</u>
Unassigned	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Extra for Purchase	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Other: _____	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Total Covered & Open	<u>165</u>	<u>      </u>	<u>0</u>	<u>0</u>	<u>165</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.

- Commercial parking garage permitted in condominium project.
- Exhibit "D" 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: park

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	x	_____	_____
Structures	x	_____	_____
Lot	x	_____	_____

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 "F" .

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 "G".

as follows:

NOTE: The land areas referenced in Exhibit "G" are not legally subdivided lots.

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 \_\_\_\_\_.

as follows:

Each apartment's common interest is an undivided 1/77 fractional interest (being also an undivided 1.29870+ percentage interest).

- 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 "H" describes the encumbrances against the title contained in the title report dated August 28, 2003 and issued by Title Guaranty of Hawaii, Incorporated.

**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 <b>Prior to Conveyance</b></u>
Mortgage	Buyer's contract will be cancelled and Buyer's deposit will be returned, less Escrow cancellation fee. Buyer may lose all rights to acquire the apartment.

**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 will convey each apartment by an Apartment Deed with a warranty of title. Other than that, the Developer and the Construction Manager will make no warranties, expressed or implied, about any apartment, the project or anything installed or contained in them. This includes, but is not limited to, warranties of merchantability, habitability, workmanlike construction, fitness for a particular use or purpose or for sufficiency of design. The Developer will assign to the buyers any and all warranties given to the Developer by the subcontractors constructing the improvements and any manufacturer's and dealer's warranties covering any furnishings, fixtures or appliances. The Developer and the Construction Manager are not adopting any such warranties or acting as a co-warrantor, but simply passing through to the buyers the benefit of any such warranties. The Developer and the Construction Manager make no promises, representations or warranties, express or implied, regarding the scope, term, rights or benefits of such warranties.

2. **Appliances:**

See Section F.1 above.



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

Construction of the Project began in May 2003, and to be completed by December 2004.

H. **Project Phases:**

The developer [ ] has [x] 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):

See Exhibit "A" regarding the Developer's reserved right to reduce the land of the Project.



## 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 "J" contains a summary of the pertinent provisions of the sales contract.
- Escrow Agreement dated December 16, 2002.  
Exhibit "K" contains a summary of the pertinent provisions of the escrow agreement.
- Other \_\_\_\_\_

### 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.

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.
  - C) Bylaws of the Association of Apartment Owners, as amended.
  - 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 \_\_\_\_\_

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer or through the developer's sales agent, if any. 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. 5051 filed with the Real Estate Commission on April 16, 2003.

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C. **Additional Information Not Covered Above**

**Launani Valley Master Association**

The Project is located within an area intended to be developed as a master planned community known as "LAUNANI VALLEY," described in that certain Declaration of Covenants, Conditions and Restrictions for Launani Valley dated December 10, 1992, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 1978661, as amended by Annexation of Additional Property and Amendment of Declaration of Covenants, Conditions and Restrictions for Launani Valley dated June 22, 1993, recorded as aforesaid as Land Court Document No. 2038686 (the "Master Declaration"). Among other things, the Master Declaration provides:

(a) for the establishment of a Hawaii non-profit corporation known or to be known as the LAUNANI VALLEY COMMUNITY ASSOCIATION (the "Master Association");

(b) that every owner of a Lot (as defined in the Master Declaration) within Launani Valley, including all apartment owners of apartments in the Project, shall be a member of the Master Association by virtue of such ownership;

(c) that the Master Association shall have the power and authority to levy against each Lot, including apartments in the Project, an "Initiation Assessment," regular "Maintenance Assessments," and "Individual Special Assessments" which are separate from and in addition to the assessments for common expenses made by the Association of Apartment Owners of the Project; and

(d) that liens may be created on Lots, including apartments in the Project, for non-payment of assessments made by the Master Association.

All apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use the Project, shall be bound by and comply strictly with the Master Declaration and the Articles of Incorporation, By-Laws and any duly adopted rules and regulations of the Master Association.

**Consolidation and Resubdivision of the Land of the Project**

The Developer has reserved the right to reduce the land area that is a part of the common elements of the Project. The land of the project is currently comprised of three parcels of land having an aggregate area of approximately 172.825 acres, but the land of the project is intended to be only one parcel of land having an approximate area of 8.333 acres which is a portion of the three parcels of land. The Department of Planning and Permitting of the City and County of Honolulu has approved the consolidation and resubdivision of the three parcels of land into two lots, one with an approximate area of 8.333 acres (the "Lot A") and one with an approximate area of 164.489 acres (the "Lot B"). The Developer has filed a petition with the Land Court of the State of Hawaii to complete the consolidation and resubdivision of the three parcels into the Lot A and the Lot B. After the consolidation and resubdivision has been completed, the Developer will amend the Declaration of Condominium Property Regime to withdraw Lot B, so that only Lot A will be the land of the Project. The Developer may exercise the foregoing reserved rights without being required to obtain the consent or joinder of the Association of Apartment Owners, any apartment owner, lienholder, or any other person who may have an interest in the Project. By acquiring an interest in the Project, every person consents to the consolidation and subdivision and the withdrawal of Lot B, and any amendment of the Declaration of Condominium Property Regime and the Condominium Map to effect the same, agrees to execute, deliver and record such documents and do such other things as may be necessary or convenient to effect the same, and irrevocably appoints the Developer as the person's attorney-in-fact with power to execute, deliver and record such documents and to do such things on the person's behalf.

**Declaration of Covenants, Conditions and Restrictions of Woodcreek Crossing**

The Project is subject to a Declaration of Covenants, Conditions and Restrictions of Woodcreek Crossing dated August 25, 2003, executed by the Developer and recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2983235, incorporating certain conditions and requirements from the City and County of Honolulu regarding the Project and the construction of improvements in or upon the Apartments and the Private Yards.

### Declaration of Restrictive Covenants (Private Park)

The Project will be subject to a Declaration of Covenants (Private Park) (the "Park Declaration") to be recorded by the Developer in the Office of the Assistant Registrar of the Land Court of the State of Hawaii incorporating certain conditions and requirements from the City and County of Honolulu regarding the park that is a part of the common elements of the Project. The Developer has reserved the right to record the Park Declaration and also to amend the Park Declaration to change the land described in the Park Declaration after the consolidation and resubdivision described above is completed. The Developer may exercise the foregoing reserved rights without being required to obtain the consent or joinder of the Association of Apartment Owners, any apartment owner, lienholder, or any other person who may have an interest in the Project. By acquiring an interest in the Project, every person consents to the execution and recording of the Park Declaration and the amendment of the Park Declaration to change the land described in the Park Declaration, agrees to execute, deliver and record such documents and do such other things as may be necessary or convenient to effect the same, and irrevocably appoints the Developer as the person's attorney-in-fact with power to execute, deliver and record such documents and to do such things on the person's behalf.

### Easements

(a) The Private Yards appurtenant to Apartment Nos. 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76 and 77 will be subject to a 6 foot wide flowage easement shown on the Condominium Map.

(b) The Private Yards appurtenant to Apartment Nos. 1, 3, 6, 7, 8, 9, 12, 15, 19, 22 and 23 will be subject to drainage easements shown on the Condominium Map..

(c) The Private Yards appurtenant to Apartment Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 and 38 will be subject to a 6 foot wide easement shown on the Condominium Map for refuse collection and utility purposes.

(d) The Private Yards appurtenant to Apartment Nos. 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76 and 77 will be subject to a 2 foot wide easement shown on the Condominium Map for refuse collection and utility purposes.

(e) Each Apartment will each have a non-exclusive easement to use the portion of the sidewalk, if any, and the portion of the driveway that is not a part of the Private Yard fronting each such apartment for the placement of trash and refuse, including without limitation trash cans and receptacles, for removal by the City and County of Honolulu.

(f) The private road that is a part of the common elements shall be subject to a twenty (20) foot wide access easement as shown on the Condominium Map.

### Maintenance Fees

Pursuant to Section 514A-15(b), Hawaii Revised Statutes, Developer will initially pay the actual common expenses, but not maintenance reserves, for the Project. Buyers will become obligated for the payment of their respective share of the common expenses only after receiving a copy of a disclosure statement filed by Developer with the Real Estate Commission giving the date on which the apartment owners shall be obligated to commence paying their respective shares of the common expenses.

### Water Meter and Charges

There is one water meter for the Project. Each apartment will have a submeter to measure the amount of water usage by the apartment. Each apartment owner will be billed monthly by the Association of Apartment Owners for water usage and must pay to the Association the water and sewer charges together with the apartments' share of common expenses. Water used by the common elements are included in the monthly maintenance fees.

### Wheeler Army Airfield

The Project is located within the vicinity of Wheeler Army Airfield and may be subject to noise, vibrations, nuisances, disturbances, or other hazards to persons or property caused by military and airfield operations at

Wheeler Army Airfield, which operations are not subject to regulation by the Developer, the City and County of Honolulu or the State of Hawaii. The noise levels at the Project caused by military and airfield operations at Wheeler Army Airfield may exceed government noise level standards and there are some individuals for whom these noise levels are not acceptable. The Association of Apartment Owners and all apartment owners, their tenants, families, servants and guests, and any other persons who may in any manner use or be present at the Project, by accepting ownership, possession or occupancy of any apartment in the Project or by the use of or presence at the Project, (i) acknowledge and understand that the military and airfield operations at Wheeler Army Airfield may result in noise, vibrations, nuisances, disturbances or hazards to persons or property on or at the Project; (ii) assume all risks of impairment of the use and enjoyment of the apartments and the Project, loss of market value of the apartments and the Project, and personal injury or property damage caused by such operations except for violations of law, gross negligence or willful misconduct; (iii) release and agree to not file any claim, action or lawsuit for any kind of relief, legal or equitable, against Developer, the City and County of Honolulu or the State of Hawaii relating to military and airfield operations at Wheeler Army Airfield, including but not limited to claims, actions, or lawsuits for costs or damages resulting from aircraft noise and/or vibration, and (iv) shall each indemnify, forever hold harmless and defend the Developer, the City and County of Honolulu and the State of Hawaii from any and all liability, claims, losses, damages or expenses, including attorneys' fees, arising from the military and airfield operations at Wheeler Army Airfield.

#### Mold and Mildew

Microorganisms, including, but not limited to, mold, mildew, spores, or any other form of fungi or bacteria ("Microorganisms"), occur naturally in the environment and may be present, during or after construction, in the indoor air and/or on the interior surfaces of the apartments, including, without limitation to, cavities, attics, windows, foundations, floor slabs, and/or on the exterior surfaces of the apartments, or any part thereof. Concentration of moisture in the apartments may result from cooking, showering or similar activities inside the apartments, the outside atmosphere, and/or the design, construction means and methods, and/or the building materials used in the construction of the apartments. This moisture may cause the growth, release, discharge, dispersal or presence of Microorganisms which, at certain levels, can cause deterioration of building materials, damage to property, health hazards, personal injuries and/or other irritant effects, such as, without limitation to, skin irritation, respiratory problems and/or allergic reactions. Likewise, concentrations of chemicals released from household furnishings, appliances, mechanical equipment, personal possessions or building materials may, at certain levels, create health hazards and/or other irritant effects, such as, without limitation to, skin irritation, respiratory problems and allergic reactions. Because Microorganisms occur naturally in the environment, Developer cannot eliminate the possibility that Microorganisms may grow in, on or about the apartments. Buyers may minimize these effects by proper utilization and maintenance of heating, cooling, dehumidification or ventilation equipment, interior maintenance and cleaning and exterior maintenance, such as, but not limited to, proper grading, landscaping, painting and caulking. Each buyer will acknowledge that the buyer has been informed of the effects of Microorganisms and chemicals, and each buyer will assume all risk of damage, personal injury or destruction of or injury to property that may arise as a result of or be in any way connected with the indoor air quality or the presence of Microorganisms or chemicals in, on or about the apartments.

Each buyer will also release and discharge, and agree to indemnify and defend, Developer and its successors and assigns, construction manager, contractors, subcontractors, material suppliers and the officers, employees, agents of each of them, from and against any and all claims, obligations, demands, damages, causes of action, liabilities, losses and expenses, including reasonable attorneys' and expert fees, whether now known or hereafter known, foreseen or unforeseen, that the buyer or any occupant of the apartment had, has, or may have in the future, in law or in equity (the "claim"), that are attributable to (1) bodily injury, sickness, emotional distress, disease, death or any other personal injury or adverse health effects, or (2) injury to or destruction of tangible personal property, including loss of the use thereof arising out of or relating to, or in any way connected with, indoor air quality, moisture, or the growth, release, discharge, dispersal or presence of any Microorganisms or chemicals in the air or on the interior surfaces of the apartment including, without limitation to, wall cavities, the attic, windows and the basement, or on the exterior surfaces of the apartment or on any part thereof, whether or not the claim is caused by, in whole or in part, any act or omission of Developer, its construction manager, contractors, subcontractors or material suppliers, in the construction of the Project, including, but not limited to, Developer's or its construction manager's, contractors', subcontractors' or material suppliers' construction means and methods, material selection and installation, and/or design services, if any. Developer makes no express or implied warranty of habitability, merchantability, fitness for a particular purpose or good workmanship as to building materials and/or construction means and methods with regard to indoor air quality or the presence of Microorganisms or chemicals in, on or about the apartments.

### Boulders and Trees

The Project is located in an area near hillsides. In recent years, there have been some incidents on the Island of Oahu where rocks and boulders have fallen from hillsides and caused damage to property or personal injuries or death. It is possible that rocks, boulders and trees may fall from the hillsides near the Project and may cause damage to property or personal injuries or death. Developer will remove or caused to be removed some rocks and boulders from the hillsides and to prune trees on the hillsides that have been identified as presenting a risk of falling, but because rocks and boulders may fall without human intervention, Developer cannot eliminate the possibility that rocks, boulders or trees may not fall from the hillsides some time in the future. The buyers and the Association of Apartment Owners should periodically inspect the condition of the hillsides near the Project to determine if there is a risk of rocks, boulders or trees falling and, if the Association so determines, take action to eliminate or reduce such risk. Each buyer will acknowledge that the buyer has been informed of the risk of rocks, boulders and trees falling from the hillsides near the Project, and the buyer assumes all risk of damage, personal injury, death or destruction of or injury to property that may arise as a result of or be in any way connected with rocks, boulders or trees falling from the hillsides.

Notwithstanding any other contrary provision in this Agreement, each buyer will fully, finally and forever releases and discharges, and will indemnify and defend, Developer and its successors and assigns, consultants, construction manager, contractors, subcontractors, material suppliers and the officers, employees, agents of each of them, from and against any and all claims, obligations, demands, damages, causes of action, liabilities, losses and expenses, including reasonable attorneys' and expert fees, whether now known or hereafter known, foreseen or unforeseen, that the buyer or any occupant of the Apartment had, has, or may have in the future, in law or in equity, that are attributable to (1) bodily injury, sickness, emotional distress, disease, death or any other personal injury or adverse health effects, or (2) injury to or destruction of tangible personal property, including loss of the use thereof arising out of or relating to, or in any way connected with, rocks or boulders falling from the hillsides near the Project, or any act or omission of Developer, its consultants, construction manager, contractors, subcontractors or material suppliers, in connection with the removal of any rocks or boulders from the hillsides.

### Park Indemnity

Each buyer will agree to indemnify, defend and hold Developer and its successors and assigns, construction manager, contractors, subcontractors, material suppliers and the officers, employees, agents of each of them, harmless from and against any and all claims, obligations, demands, damages, causes of action, liabilities, losses and expenses, including reasonable attorneys' and expert fees, that the buyer or any member of the buyer's family or anyone claiming by, through or under the buyer may have is attributable to any personal injury, death or property damage arising from the use of the park that is a part of the common elements of the Project.

### Mandatory Arbitration

Any dispute by or between Developer and buyers arising after the closing of the sale of an apartment out of or incident to the sales contract between Developer and the buyer or the apartment, or the construction, development or management of the Project or the sale of any apartment or the use or occupancy thereof, or any other aspect of the relationship between Developer and the buyer regarding the Project shall be submitted to arbitration. Any person that desires to submit any issue or dispute to arbitration shall promptly so notify the other party in writing.

Claims or disputes involving \$25,000 or less shall be heard by one (1) competent, neutral arbitrator, who shall be appointed by mutual agreement of the parties to the dispute. If the parties fail to agree upon an arbitrator within twenty (20) days of notice of a party's desire to arbitrate any dispute, then either party may request the American Arbitration Association ("AAA") or Dispute Prevention & Resolution, Inc. ("DPR") or a judge of the First Circuit Court, State of Hawaii to appoint the arbitrator.

Claims involving more than \$25,000 or non-monetary issues shall be heard by a panel of three (3) competent arbitrators. The party requesting the arbitration shall appoint an arbitrator who shall be named in the written notice of the party's desire to arbitrate a dispute. The other party shall appoint an arbitrator within twenty (20) days of receipt of the notice. The two arbitrators chosen by the parties will then appoint a third competent, neutral arbitrator by mutual agreement.

If the second party fails to appoint an arbitrator within twenty (20) days after receiving the first party's notice of its desire to arbitrate a dispute; or the parties' chosen arbitrators fail to appoint a third arbitrator within twenty (20) days after the second arbitrator is chosen, then either party may request the AAA or DPR or a judge of the First



Circuit Court, State of Hawaii, to appoint the third arbitrator. In the event of the failure, inability or refusal of any arbitrator to act, a new arbitrator shall be appointed in such arbitrator's place.

The arbitration shall be conducted in the City and County of Honolulu, State of Hawaii, pursuant to the rules of the AAA or DPR. The decision of the single arbitrator or a majority of the arbitrators, as applicable, shall be final, conclusive and binding on the parties and their respective legal representatives, successors and assigns, and judgment may be entered thereon in an appropriate court of law pursuant to Hawaii Revised Statutes, Chapter 658A, as it may be amended ("Chapter 658A"). Each party shall pay one-half (½) of the costs of the arbitration, including the fees of the single arbitrator or the third arbitrator, as applicable, and the dispute resolution organization's charges; provided, however, that each party shall pay the fees of the arbitrator appointed by such party and its witness fees and attorneys' fees. Notwithstanding any provision contain in the rules of the AAA or DPR or Chapter 658A, the parties and the arbitrator(s) agree (a) that the arbitrator(s) shall not have the authority to determine any dispute involving parties other than Seller and Buyer, and (b) each party hereby irrevocably waives any right and claim to exemplary or punitive damages in any jurisdiction.

The parties further agree that any documents of conveyance of the apartment by the buyer shall contain a provision substantially in the form set forth above, requiring the grantee to arbitrate any and all disputes concerning the apartment or the Project. Further, Developer and the buyer each agree to indemnify, defend and hold harmless each other from and against any and all damage occurring as a result of the resolution of any such dispute other than by arbitration proceedings under this paragraph.

#### Affiliations

Waikalani Developers, Inc. (one of the partners of Waihuna Joint Venture, the developer of the project), Towne Realty of Hawaii, Inc. (the construction manager), and Towne Island Homes, Ltd. (the real estate broker) are each wholly owned subsidiaries of Towne Development of Hawaii, Inc.

- D. 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 Act 251 (SLH 2000) [Section 514A-1.6] (The developer is required to make this declaration for issuance of an effective date for a final public report.)
- E. 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.

WAIHUNA JOINT VENTURE  
 Printed Name of Developer

By:  August 25, 2003  
 Duly Authorized Signatory\* Date

Takeshi Matsukata, Vice President of Waikalani Developers, Inc.  
 Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

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

DEVELOPER'S RESERVED RIGHTS

1. The Developer reserves the right to conduct extensive sales activities on the Project for the sale of apartments in the Project, and for the sale of apartments in other projects developed by Developer on property located near or adjacent to the Project, including without limitation, the use of model apartments, sales and management offices, and extensive sales displays and activities until the date of the closing of the sale of the last unsold apartment in the Project or in such other projects (see Section 4.13 of the Declaration).

2. The Developer reserves an easement over and upon the Project as may be reasonably necessary for the completion of the development and construction of the Project and the correction of defects in the Project. Such easement shall terminate twenty-four (24) months after all the apartments in the Project have been sold. (See Section 4.15 of the Declaration).

3. The Developer reserves the right, for itself and its successors and assigns, at any time prior to December 31, 2010, to designate and to grant to any public or governmental authority or other entity rights-of-way and other easements which are for the sole benefit of the Project, for the benefit of lands located near or adjacent to the Project, or which do not materially and adversely interfere with the use, nor materially and adversely impair the value of the Project or any apartment in it, over, across, under and through the common elements for lines and other transmission facilities and appurtenances for electricity, gas, telephone, water, sewer, drainage, and other public services and utilities, and rights to enter for the purpose of installing, repairing, altering and removing such lines and facilities and of trimming any trees in the way thereof; provided that in connection with the installation, maintenance, repair, alteration or removal of any such lines and facilities pursuant to rights-of-way and other easements granted hereunder, the Declarant or its successors or assigns, as applicable, must require that the common elements be restored promptly at the expense of the party owning and exercising such easement right; provided, further, that the Association of Apartment Owners, through the Board of Directors, and with the consent and agreement of the holders of any then existing easements affected thereby, is authorized to grant, convey, transfer, cancel, relocate and otherwise deal with any and all such public services and utilities easements now or hereafter located on or affecting the Project without requiring any consideration therefor. To the extent that joinder of any apartment owner and lien holder or other person who may have any interest in the Project, any apartment or the land of the Project may be required in order to validate any act or thing done pursuant to the foregoing reservation, such joinder shall be accomplished by a power of attorney from each of the owners, lien holders or other such parties. The acquiring or acceptance of ownership in an apartment or of a lien covering an apartment or any other interest in the Project or the land of the Project shall constitute a grant of such power of attorney and the grant, being coupled with an interest, shall be irrevocable and shall not be affected by the disability of the party granting such power. (See Section 4.16 of the Declaration).

4. The Developer reserves the right, for itself and its successors and assigns, without the consent or joinder of any apartment owner or other party, to designate and to grant an easement to use any private road and/or bridge that are a part of the common elements of the Project and the 20 foot wide access easement shown on the Condominium Map to the owner of the property adjoining said 20 foot wide access easement. To the extent that joinder of any apartment owner and lien holder or other person who may have any interest in the Project or any apartment in it may be required in order to validate any act or thing done pursuant to the foregoing reservation, such joinder shall be accomplished by a power of attorney from each of the owners, lien holders or other such parties. (See Section 4.17 of the Declaration).

5. The Developer reserves the right to amend the Declaration (see Section 25 of the Declaration), without the consent or joinder of the Association or the persons then owning or leasing the apartments or their mortgagees, as follows:

a. From time to time, after completion of construction of the buildings of the Project, pursuant to the provisions of Section 514A-12, Hawaii Revised Statutes, to record verified statements of a registered architect or professional engineer certifying that the final plans of the buildings theretofore filed or being filed simultaneously with such amendments fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built.

b. To change the number of each type of apartment in the Project; provided, however, that this right shall apply only to apartments that are not yet built or are owned by the Developer.

c. To make changes to the Project and the Project drawings and/or specifications; provided that such changes do not violate applicable laws and codes and do not constitute a material change to any apartment not owned by the Developer.

d. To satisfy any requirement of the Department of Veterans' Affairs ("VA") or the Federal Housing Administration ("FHA") which the Developer deems necessary or convenient.

e. To such extent and with such language as may be requested by the FHA, VA, Federal Home Loan Mortgage Corporation or Federal National Mortgage Association, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of an apartment in the Project.

6. The Developer reserves the right to reduce the land area that is a part of the common elements of the Project. Section 24 of the Declaration provides as follows:

**SECTION 24. RESERVED RIGHT TO SUBDIVIDE AND WITHDRAW LAND.** The Land described in Exhibit "A" is comprised of three (3) parcels of land having an aggregate area of approximately 172.825 acres, but the Land of the Project is intended to be one (1) parcel of land having an approximate area of 8.333 acres which is a portion of the Land described in Exhibit "A". The Department of Planning and Permitting of the City and County of Honolulu has approved the consolidation and resubdivision of the Land described in Exhibit "A" into two (2) lots, one with an approximate area of 8.333 acres (the "Lot A") and one with an approximate area of 164.489 acres ("Lot B"). Declarant has filed a petition with the Land Court of the State of Hawaii to recognize the consolidation and resubdivision of the Land described in Exhibit "A" into Lot A and Lot B. Notwithstanding any other provision in this Declaration to the contrary, the Declarant, its successors and assigns, hereby reserves the right to amend this Declaration and the Condominium Map, and to record or file such amendments in the Office of the Assistant Registrar, to (i) amend Exhibit "A" so that the Land of the Project is Lot A with all easements and other rights appurtenant thereto and subject to all encumbrances of record, (ii) to withdraw Lot B from the operation of this Declaration, and (iii) to delete this Section 24.

Declarant may exercise the foregoing reserved rights without being required to obtain the consent or joinder of the Association, any Apartment Owner, lienholder, or any other person who may have an interest in the Project. Each and every party acquiring an interest in the Project, by such acquisition, consents to the consolidation and subdivision and the withdrawal of land provided for in this Section 24, and to the amendment or amendments of this Declaration and the Condominium Map and the recording thereof in the Office of the Assistant Registrar to effect the same; agrees to join in, consent to, execute, deliver and file such documents and instruments and do such other things as may be necessary or convenient to effect the same; and appoints the Declarant and its assigns such party's attorney-in-fact with full power of substitution to execute, deliver and file such documents and instruments and to do such things on such party's behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights, and shall not be affected by the disability of such party or parties; and which grant of such power shall be binding upon any assign of or successor-in-interest to any such party and shall be deemed to be automatically granted anew by any assign or successor-in-interest upon any transfer of an

Apartment in the Project or any interest therein, whether by deed, mortgage, or any other instrument of conveyance.

The rights reserved to the Declarant in this Section 24 shall be covenants running with the land and shall inure to the benefit of and be binding upon the Declarant and its successors and assigns, the Association and each Apartment Owner or any lien holder or any other person with an interest in the Project or any Apartment and their respective heirs, personal representatives, successors, successors in trust and assigns. The Declarant shall have the right to transfer, assign, hypothecate, mortgage or otherwise dispose of such reserved rights without the consent or approval of the Association, any Apartment Owner or any lien holder or any other person who may have an interest in the Project or any Apartment. The rights reserved to the Declarant in this Section 24 may not be impaired or affected by any amendment to this Declaration, except with the prior written consent of Declarant.

There are similar provisions in Section 6.1(d) of the By-Laws and Section 7.02(c) of the Declaration of Covenants, Conditions and Restrictions of Woodcreek Crossing.

EXHIBIT "B"

BUILDINGS OF THE PROJECT

There are seventy-seven (77) separate condominium apartments in the Project situated in fifty-eight (58) buildings. Thirty-nine (39) of the buildings are single-family residences and are sometimes referred to as the "Houses." The remaining nineteen (19) buildings are duplex residences and are sometimes referred to as a "Duplex" or the "Duplexes."

EXHIBIT "C"

SCHEDULE OF APARTMENTS

<u>Apartment Number</u>	<u>Apartment Type</u>	<u>Net Living Area (square feet)</u>	<u>Lanai Area (square feet)</u>	<u>Garage Area (square feet)</u>	<u>Total Area (square feet)</u>
1	2315	1,703	76	364	2,143
2	1942	1,311	81	431	1,823
3	2315	1,703	76	364	2,143
4	1942	1,311	81	431	1,823
5	3636	1,173	120	385	1,678
6	3636	1,173	120	385	1,678
7	3636	1,173	120	385	1,678
8	3636	1,173	120	385	1,678
9	1942	1,311	81	431	1,823
10	1942	1,311	81	431	1,823
11	2315	1,703	76	364	2,143
12	1942	1,311	81	431	1,823
13	2315	1,703	76	364	2,143
14	3636	1,173	120	385	1,678
15	3636	1,173	120	385	1,678
16	3636	1,173	120	385	1,678
17	3636	1,173	120	385	1,678
18	1942	1,311	81	431	1,823
19	2315	1,703	76	364	2,143
20	1942	1,311	81	431	1,823
21	1942	1,311	81	431	1,823
22	2315	1,703	76	364	2,143
23	3636	1,173	120	385	1,678
24	3636	1,173	120	385	1,678
25	3636	1,173	120	385	1,678
26	3636	1,173	120	385	1,678
27	1942	1,311	81	431	1,823

<u>Apartment Number</u>	<u>Apartment Type</u>	<u>Net Living Area (square feet)</u>	<u>Lanai Area (square feet)</u>	<u>Garage Area (square feet)</u>	<u>Total Area (square feet)</u>
28	2315	1,703	76	364	2,143
29	1942	1,311	81	431	1,823
30	3636	1,173	120	385	1,678
31	3636	1,173	120	385	1,678
32	3636	1,173	120	385	1,678
33	3636	1,173	120	385	1,678
34	1942	1,311	81	431	1,823
35	2315	1,703	76	364	2,143
36	1942	1,311	81	431	1,823
37	2315	1,703	76	364	2,143
38	1942	1,311	81	431	1,823
39	2315	1,703	76	364	2,143
40	1942	1,311	81	431	1,823
41	3636	1,173	120	385	1,678
42	3636	1,173	120	385	1,678
43	3636	1,173	120	385	1,678
44	3636	1,173	120	385	1,678
45	1942	1,311	81	431	1,823
46	1942	1,311	81	431	1,823
47	2315	1,703	76	364	2,143
48	3636	1,173	120	385	1,678
49	3636	1,173	120	385	1,678
50	3636	1,173	120	385	1,678
51	3636	1,173	120	385	1,678
52	1942	1,311	81	431	1,823
53	2315	1,703	76	364	2,143
54	3636	1,173	120	385	1,678
55	3636	1,173	120	385	1,678
56	3636	1,173	120	385	1,678
57	3636	1,173	120	385	1,678



<u>Apartment Number</u>	<u>Apartment Type</u>	<u>Net Living Area (square feet)</u>	<u>Lanai Area (square feet)</u>	<u>Garage Area (square feet)</u>	<u>Total Area (square feet)</u>
58	2315	1,703	76	364	2,143
59	1942	1,311	81	431	1,823
60	1942	1,311	81	431	1,823
61	3636	1,173	120	385	1,678
62	3636	1,173	120	385	1,678
63	3636	1,173	120	385	1,678
64	3636	1,173	120	385	1,678
65	3636	1,173	120	385	1,678
66	3636	1,173	120	385	1,678
67	1942	1,311	81	431	1,823
68	1942	1,311	81	431	1,823
69	2315	1,703	76	364	2,143
70	1942	1,311	81	431	1,823
71	2315	1,703	76	364	2,143
72	3636	1,173	120	385	1,678
73	3636	1,173	120	385	1,678
74	3636	1,173	120	385	1,678
75	3636	1,173	120	385	1,678
76	1942	1,311	81	431	1,823
77	2315	1,703	76	364	2,143

EXHIBIT "D"

BOUNDARIES OF APARTMENTS

Apartment Nos. 1, 2, 3, 4, 9, 10, 11, 12, 13, 18, 19, 20, 21, 22, 27, 28, 29, 34, 35, 36, 37, 38, 39, 40, 45, 46, 47, 52, 53, 58, 59, 60, 67, 68, 69, 70, 71, 76 and 77 are Houses and each consists of an entire building. The boundaries of each such apartment consists of the exterior surfaces of the perimeter walls, roofs and eaves and the bottom surfaces of the foundations, floors and/or footings of each apartment, as applicable, and includes any lanais, entry areas, gutters, downspouts and railings attached to and a part of the building. Each building includes a garage with two (2) parking spaces.

Apartment Nos. 5, 6, 7, 8, 14, 15, 16, 17, 23, 24, 25, 26, 30, 31, 32, 33, 41, 42, 43, 44, 48, 49, 50, 51, 54, 55, 56, 57, 61, 62, 63, 64, 65, 66, 72, 73, 74 and 75 each consists of a duplex unit in a Duplex and shall not be deemed to include any pipes, wires, cables, conduits or other utility or service lines running through either apartment which are utilized for or serve the other apartment in the Duplex, the same being deemed common elements as provided below. Each such apartment shall be deemed to include the portion of the common wall between the two apartments in each Duplex that is a part of the apartment, the exterior surfaces of the perimeter walls (other than the common wall) of the apartment, all doors and door frames, all windows and window frames, all floors, ceilings, walls and partitions within its perimeter walls, the portion of the roof of the Duplex covering the apartment, the bottom surface of the portion of the foundation of the Duplex under the apartment and/or the footings of the apartment, as applicable, and any lanais, entry areas, eaves, gutters, downspouts and railings attached to and a part of the apartment. The portion of the common wall between the two apartments in each Duplex from the interior decorated or finished surface of the common wall to the centerline on the horizontal of the common wall shall be a part of each apartment. Each such apartment includes a garage with two (2) parking spaces.

EXHIBIT "E"

PERMITTED ALTERATIONS TO APARTMENTS

Section 15 of the Declaration provides as follows:

Except as otherwise provided by applicable law, restoration or replacement of the Project or any building or other structure thereof or construction of any additional building or other structure or structural alteration or addition thereto different in any material respect from the Condominium Map shall be undertaken by the Association or any Apartment Owners only pursuant to an amendment of this Declaration, duly executed by or pursuant to a vote of at least seventy-five percent (75%) of the Apartment Owners and in accordance with complete plans and specifications therefor first approved in writing by the Board, and promptly upon completion of such restoration, replacement, construction, alteration or addition the Association shall duly record or file of record such amendment together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer; PROVIDED, HOWEVER, that:

(a) notwithstanding any provision in this Declaration to the contrary other than the provisions of Section 21 below, any alterations or additions to an Apartment or of certain Apartments, or within a limited common element appurtenant to and for the exclusive use of an Apartment or of certain Apartments, including without limitation any fence and/or wall, shall require only the written approval thereof, including the Apartment Owner's plans therefor, by the institutional holders of mortgages covering such Apartment (if the mortgagees require such approval), the Board, and all other Apartment Owners thereby directly affected (as determined by said Board), and such alterations or additions may be undertaken without an amendment to this Declaration or filing of a complete set of floor plans of the Project as so altered; provided, however, the garage that is a part of each Apartment shall not be altered and shall always be used for the parking of vehicles; and

(b) the owner(s) of the two Apartments in a Duplex, at their expense, may remove or alter the common wall between the two Apartments with the written approval by the institutional holders of mortgages covering such Apartments (if the mortgagees require such approval), provided that the structural integrity of the Duplex is not affected by such removal or alteration and the owner(s) provide written notice to the Board of such removal or alteration. If, subsequent to such removal or alteration, ownership of one or both of the Apartments is transferred, then the owner(s) of the Apartments, at their expense, shall restore the common wall to its original condition prior to the transfer of ownership unless the new owner(s) accept the common wall in its altered condition. The owner(s) of the Apartment shall provide written notice to the Board if the common wall is restored to its original condition.

No Apartment Owner shall replace any wall and/or fence without the approval of the Board. Existing walls and fences may be replaced with walls and fences of the same or like material or such other materials approved by the Board from time to time. The Board may, but shall not be required to, permit an Apartment Owner to replace an existing wall and/or fence along the common boundary of two Private Yards over the objection of the adjoining Apartment Owner if the Apartment Owner wishing to replace the wall and/or fence pays the entire cost of replacing the wall and/or fence. Once a wall and/or fence is replaced, the duty and cost of repair and maintenance of such wall and/or fence shall be borne equally by the Apartment Owners of both Apartments to which the Private Yards are appurtenant.

Non-material additions to the common elements shall require approval only by the Board and by sixty-five percent (65%) of the Apartment Owners, together with the consent of all other Apartment Owners thereby directly affected (as determined by the Board). For so long as a statutory definition of "non-material structural additions to the common elements" shall be prescribed by Section 514A-89 of the Act, as it may be amended from time to time or by any substitute or successor statute, said statutory definition shall be applied in interpreting the foregoing sentence.

EXHIBIT "F"

COMMON ELEMENTS

1. The Land of the Project in fee simple.
2. The park.
3. All yards, grounds, planter islands, landscaping, fences and walls that are not a part of a Private Yard which is a limited common element as described in Exhibit "G".
4. All roads, bridges, guest parking stalls, sidewalks and portions of driveways that are not a part of a Private Yard.
5. All pipes, wires, cables, ditches, conduits, ducts, water meters, electrical equipment, and other central and appurtenant transmission facilities and installations over, under and across the Project which serve more than one apartment for services such as power, light, gas, water, sewer, telephone and television signal distribution, if any.
5. Any and all other apparatus and installations of common use and all other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use.

EXHIBIT "G"

LIMITED COMMON ELEMENTS

1. The Private Yards under and surrounding each of the apartments, including without limitation any uncovered concrete slabs, walkways and driveways, as shown on the Condominium Map, and any trees, shall be appurtenant to the respective apartments, but excluding any water line, sewer line or drain line located on, in or under such Private Yards that serves more than one apartment or the common elements. Portions of the boundary between two adjoining Private Yards may be marked by a fence as originally erected between the two Private Yards. The Private Yards are not legally subdivided lots and the boundary lines between adjoining Private Yards are not intended and should not be construed to be property lines of legally subdivided lots.

2. The water lines, sewer lines or drain lines located in or under the Private Yard of an apartment which serve only that apartment shall be appurtenant to such apartment.

3. Any wall and/or fence or any portion of any wall and/or fence located within a Private Yard shall be appurtenant to and for the exclusive use of the apartment to which the Private Yard is appurtenant; excluding, however, any wall and/or fence located on or along the boundary between two adjoining Private Yards as described in paragraph 4 below.

4. Any wall and/or fence located on or along the boundary between two adjoining Private Yards shall be appurtenant to and for the exclusive use of the apartments to which the Private Yards are appurtenant, notwithstanding that the wall and/or fence, or any portion of such wall and/or fence, may be located within one of the Private Yards.

5. Any wall and/or fence or any portion of any wall and/or fence located on or along the boundary between a Private Yard and a common element shall be appurtenant to and for the exclusive use of the apartment to which the Private Yard is appurtenant, notwithstanding that the wall and/or fence, or any portion of such wall and/or fence, may be located within the common element.

6. One (1) mailbox shall be appurtenant to and for the exclusive use of each apartment.

EXHIBIT "H"

ENCUMBRANCES AGAINST TITLE

The following are the encumbrances against title to the land of the Project, identified as Tax Map Key No. (1) 9-5-002-25 (Lot 15194) and Tax Map Key No. (1) 9-5-002-004 (Lots 1278 and 1280).

Note: the land of the Project is a comprised of three parcels of land (Lots 15194, 1278 and 1280) having an aggregate area of approximately 172.825 acres, but the land of the Project is intended to be only one parcel of land having an approximate area of 8.333 acres which is a portion of the three parcels of land. The Developer is consolidating and resubdividing the three parcels of land into two lots, one with an approximate area of 8.333 acres (the "Lot A") and one with an approximate area of 164.489 acres (the "Lot B"). After the consolidation and resubdivision is completed, the Developer will amend the Declaration of Condominium Property Regime to withdraw Lot B, so that only Lot A will be the land of the Project. Not all of the encumbrances noted below will encumber Lot A.

1. For Real Property taxes that may be due and owing reference is made to the Office of the Tax Assessor, City and County of Honolulu.
2. Declaration of Condominium Property Regime of Woodcreek Crossing dated August 25, 2003, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2983236, and Condominium Map No. 1562 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii.
3. By-Laws of the Association of Apartment Owners of Woodcreek Crossing dated August 25, 2003, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2983237.
4. Declaration of Covenants, Conditions and Restrictions of Woodcreek Crossing dated August 25, 2003, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 2983235.
5. Designation of Easement "227" (25 feet wide), as shown on Map 100, as set forth by Land Court Order No. 17866, filed February 19, 1960.
6. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.
7. Mortgage, Security Agreement and Financing Statement dated May 2, 2003, recorded as aforesaid as Document No. 2933240, in favor of Bank of Hawaii, a Hawaii corporation.
8. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Indemnity Agreement dated July 7, 2003, recorded as aforesaid as Document No. 2955397, by and between Waihuna Joint Venture and Hawaiian Electric Company, Inc., re: electrical service.

AS TO LOT 15194:

9. Designation of Easement "216" (16 feet wide), as shown on Map 100, as set forth by Land Court Order No. 17866, filed February 19, 1960.
10. Designation of Easement "217" (16 feet wide), as shown on Map 100, as set forth by Land Court Order No. 17866, filed February 19, 1960.

11. Designation of Easement "225" (5 feet wide), as shown on Map 100, as set forth by Land Court Order No. 17866, filed February 19, 1960.
12. Designation of Easement "226" (25 feet wide), as shown on Map 100, as set forth by Land Court Order No. 17866, filed February 19, 1960.
13. Designation of Easement "228" (25 feet wide), as shown on Map 100, as set forth by Land Court Order No. 17866, filed February 19, 1960.
14. Grant in favor of the United States of America, dated January 5, 1961, filed as aforesaid as Document No. 268343; granting a nonexclusive easement for the construction, etc., of an underground communication cable, etc., over and across said Easement "225".
15. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Deed dated January 12, 1973, filed as aforesaid as Document No. 614694.
16. Easement over, under and across Easement "228" for roadway purposes, in favor of Lot 1278, as set forth by Land Court Order No. 42633, filed August 13, 1975.
17. Restriction of access rights over and across the boundary of Lot 14595 bordering Interstate Highway (FAP No. I-H2-1(4)), as shown on Maps 435 and 941, as set forth by Land Court Order No. 42633, filed August 13, 1975.
18. Designation of Easement "4150" (3 feet wide), as shown on Map 638, as set forth by Land Court Order No. 70496, filed July 18, 1984.
19. Designation of Easement "4151" (5 feet wide), as shown on Map 638, as set forth by Land Court Order No. 70496, filed July 18, 1984.
20. Grant in favor of the United States of America, dated May 9, 1984, filed as aforesaid as Document No. 1248290, granting a non-exclusive right-of-way in the nature of an easement for the construction, maintenance, repair, of an overhead communication cable, etc., over said Easements "4150" and "4151".
21. Easement over Easement "228" for access purposes, in favor of Lot 12307, as set forth by Land Court Order No. 92369, filed January 19, 1989.
22. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Unilateral Agreement and Declaration for Conditional Zoning dated November 2, 1992, recorded in said Office of the Assistant Registrar as Document No. 1967152.
23. Easement over Easement "228" for roadway purposes, in favor of Lot 14595, as set forth by Land Court Order No. 17866, filed February 19, 1960, Land Court Order No. 42633, filed August 13, 1975, and Land Court Order No. 116162, filed April 6, 1994.
24. Designation of Easement "5463", as shown on Map 884, as set forth by Land Court Order No. 116162, filed April 6, 1994.
25. Designation of Easement "5464", as shown on Map 884, as set forth by Land Court Order No. 116162, filed April 6, 1994.
26. Designation of Easement "5466", as shown on Map 884, as set forth by Land Court Order No. 116162, filed April 6, 1994.



27. Designation of Easement "5467", as shown on Map 884, as set forth by Land Court Order No. 116162, filed April 6, 1994.
28. Designation of Easement "5468", as shown on Map 884, as set forth by Land Court Order No. 116162, filed April 6, 1994.
29. Designation of Easement "5470", as shown on Map 885, as set forth by Land Court Order No. 116268, filed April 14, 1994.
30. Designation of Easement "5632", as shown on Map 941, as set forth by Land Court Order No. 122426, filed October 19, 1995, for flowage purposes.
31. Designation of Easement "5638", as shown on Map 941, as set forth by Land Court Order No. 122426, filed October 19, 1995, for electrical purposes.
32. Designation of Easement "5639", as shown on Map 941, as set forth by Land Court Order No. 122426, filed October 19, 1995, for electrical purposes.
33. Designation of Easement "5640", as shown on Map 941, as set forth by Land Court Order No. 122426, filed October 19, 1995, for access and utility purposes.
34. Grant in favor of Hawaiian Electric Company, Inc. dated January 16, 1996, recorded as aforesaid as Document No. 2287501, granting an easement over said Easements "5638" and "5639".
35. Grant in favor of Castle & Cooke Properties, Inc. dated September 24, 1997, recorded as aforesaid as Document No. 2408100, granting an easement over said Easements "5466" and "5632".
36. Grant in favor of Castle & Cooke Homes Hawaii, Inc. dated September 24, 1997, recorded as aforesaid as Document No. 2408101, granting a non-exclusive easement for roadway and utility purposes over said Easement "228", which Grant was in part cancelled and amended by instrument dated as of November 6, 2000, filed as aforesaid as Document No. 2784624.
37. Grant in favor of Hawaiian Electric Company, Inc. dated September 15, 1997, recorded as aforesaid as Document No. 2410154, granting a perpetual right and easement for utility purposes.
38. Designation of Easement "5637", as shown on Map 941, as set forth by Land Court Order No. 122426, filed October 19, 1995, for drainline purposes, as amended by Land Court Order No. 129605, filed November 14, 1997.
39. Designation of Easement "6107", as shown on Map 1026, as set forth by Land Court Order No. 134756, filed April 12, 1999.
40. Designation of Easement "6108", as shown on Map 1026, as set forth by Land Court Order No. 134756, filed April 12, 1999.
41. Designation of Easement "6195", as shown on Map 1038, as set forth by Land Court Order No. 138926, filed July 5, 2000.
42. Grant in favor of Castle & Cooke Homes Hawaii, Inc. dated November 6, 2001, recorded as aforesaid as Document No. 2784624, granting a non-exclusive easement for roadway and utility purposes over said Easement "6195".
43. Designation of Easement "6493", as shown on Map 1083, as set forth by Land Court Order No.

150490, filed April 28, 2003, for access, trash collection, waterline and utility purposes.

44. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Deed dated April 1, 1960, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 254783.

45. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration dated July 19, 1976, filed as aforesaid as Document No. 773994.

46. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Unilateral Agreement and Declaration for Conditional Zoning dated May 23, 1986, filed as aforesaid as Document No. 1373964.

47. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration of Covenants, Conditions and Restrictions of Launani Valley dated December 10, 1992, recorded as aforesaid as Document No. 1978661, as amended by Annexation instrument dated June 22, 1993, recorded as aforesaid as Document No. 2038685.

48. Grant in favor of Hawaiian Electric Company, Inc. dated September 15, 1997, recorded as aforesaid as Document No. 2407771, granting a perpetual right and easement for utility purposes.

AS TO LOT 1280:

49. Designation of Easements "220" to "225", inclusive, as shown on Map 100, as set forth by Land Court Order No. 17866, filed February 19, 1960.

50. Grant of non-exclusive perpetual easement appurtenant to Lot 1278, as shown on Map 100, to build, construct, repair and maintain bridges in each of Easements "220" to "224", inclusive, as shown on said Map 100, as set forth in Deed dated April 1, 1960, filed as aforesaid as Document No. 254783.

51. Grant in favor of Hawaiian Electric Company, Inc. dated April 28, 1999, recorded as aforesaid as Document No. 2542559, granting a perpetual right and easement for utility purposes.

52. Designation of Easement "38" (6 feet wide), as shown on Map 30, as set forth by Land Court Order No. 10596, filed August 31, 1951.

53. Grant in favor of Hawaiian Electric Company, Inc. dated August 21, 1957, filed as aforesaid as Document No. 209937, granting an of easement for utility purposes.

AS TO LOT 1278:

54. Grant in favor of United States of America dated September 7, 1951, filed as aforesaid as Document No. 131907, granting an easement for utility purposes.

55. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Deed dated April 1, 1960, filed as aforesaid as Document No. 254783.

56. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration dated July 19, 1976, filed as aforesaid as Document No. 773994.

57. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Unilateral Agreement and Declaration for Conditional Zoning dated May 23, 1986, filed as aforesaid as Document No. 1373964.

58. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Declaration of Covenants, Conditions and Restrictions of Launani Valley dated December 10, 1992, recorded as aforesaid as Document No. 1978661, as amended by Annexation Instrument dated June 22, 1993, recorded as aforesaid as Document No. 2038685.

59. Grant in favor of Hawaiian Electric Company, Inc. dated September 15, 1997, recorded as aforesaid as Document No. 2407771, granting a perpetual right and easement for utility purposes.

60. Designation of Easement "38" (6 feet wide), as shown on Map 30, as set forth by Land Court Order No. 10596, filed August 31, 1951.

61. Grant in favor of Hawaiian Electric Company, Inc. dated August 21, 1957, filed as aforesaid as Document No. 209937, granting a perpetual right and easement for utility purposes.

Note: The Developer will be executing and recording and the land of the Project will be subject to a Declaration of Restrictive Covenants (Private Park).

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

SEE ATTACHED EXHIBIT A

EXHIBIT "A"  
 AOA WOODCREEK CROSSING  
 Estimated Annual Common Expense

	<u>Monthly</u>	<u>Annual</u>
<b>Utilities and Services</b>		
Television		
Air Conditioning		
Electricity (common elements only)	\$175.00	\$2,100.00
Gas		
Water/Submeter (common elements)	\$635.00	\$7,620.00
Refuse Collection		
Telephone/Communication		
<b>Maintenance, Repairs, and Supplies</b>		
Building (exterminating)		
Grounds	\$1,350.00	\$16,200.00
<b>Management</b>		
Management Fee	\$562.00	\$6,744.00
Payroll and Payroll Taxes		
Office Expenses	\$313.00	\$3,756.00
<b>Insurance</b>	\$427.00	\$5,124.00
<b>Reserves</b>	\$800.00	\$9,600.00
<b>Taxes and Government Assessments</b>		
<b>Professional Services - Audit</b>	\$100.00	\$1,200.00
<b>Other - Legal Expenses</b>		
<b>Security</b>		
<b>Amenities</b>		
<b>TOTAL</b>	<u>\$4,362.00</u>	<u>\$52,344.00</u>

I, DOUGLAS MATTOS, as agent and employed by CERTIFIED MANAGEMENT, INC., the condominium managing agent or the developer, for the condominium project AOA WOODCREEK CROSSING, hereby certify that the above estimates of initial maintenance fees assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

  
 \_\_\_\_\_  
 DOUGLAS MATTOS  
 Vice President of Project Development

27-Mar-03  
 \_\_\_\_\_  
 Date

AOAO WOODCREEK CROSSING  
ESTIMATE OF INITIAL MAINTENANCE FEE  
and  
MAINTENANCE FEE DISTRIBUTION

**ESTIMATE OF INITIAL MAINTENANCE FEE**

<u>APARTMENT TYPE</u>	<u>Monthly Fee x 12 mos.</u>	<u>Yearly</u>
1.2987	\$56.65	\$679.80

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

[ ] Revised on \_\_\_\_\_

AOAO WOODCREEK CROSSING  
Certification of Reserve Study

I, DOUGLAS MATTOS, as agent and employed by CERTIFIED MANAGEMENT, INC., the condominium managing agent or the developer, for the condominium project, AOAO WOODCREEK CROSSING, hereby certify that a reserve study has been conducted in accordance with 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.



\_\_\_\_\_  
Douglas Mattos  
Vice President of Project Development

\_\_\_\_\_  
27-Mar-03  
Date

EXHIBIT "J"

SUMMARY OF SALES CONTRACT

A copy of the form of Condominium Reservation Agreement, Deposit Receipt and Sales Agreement ("Sales Contract") has been submitted to the Real Estate Commission and is available for inspection at the Developer's office. The following is a summary of some of the provisions of the Sales Contract. **ALL BUYERS AND PROSPECTIVE BUYERS SHOULD CAREFULLY READ THE SALES CONTRACT IN FULL SINCE THIS SUMMARY IS NOT INTENDED TO BE A COMPLETE DESCRIPTION OF THE PROVISIONS OF THE SALES CONTRACT.**

1. The Sales Contract does not become a binding contract until the Effective Date occurs. Until the Effective Date, the Sales Contract is only a reservation for the Apartment and is not legally binding on either Buyer or Developer. The Effective Date of the Sales Contract shall be the date on which all of the following conditions are fulfilled:

(a) A copy of the Final Public Report covering the Apartment is mailed or otherwise delivered to the Buyer;

(b) Buyer has waived or be deemed to have waived Buyer's right to terminate the Sales Contract pursuant to Hawaii Revised Statutes, Section 514A-62, as amended; and

(c) The Sales Contract has been accepted by Developer through execution of the Sales Contract by Developer's officers or designated agents.

2. If the Apartment covered by a particular Sales Contract is an Owner-Occupant Designated Apartment, and Buyer has executed an affidavit stating Buyer's intent to become an owner-occupant of the Apartment, then Buyer agrees when signing the Sales Contract that Buyer will occupy the Apartment as Buyer's principal residence. Any such Buyer shall be required to reaffirm his or her intent to be an owner-occupant no earlier than the Buyer's receipt of the Final Public Report and no later than the Closing Date. Failure to sign the reaffirmation upon the reasonable request of Developer shall constitute a default under the Sales Contract by such Buyer and Developer shall have the remedies provided in the Sales Contract.

3. Section G.3 of the Sales Contract provides as follows:

Warranties. Seller, either directly or by its construction manager, Towne Realty of Hawaii, Inc., makes no warranties itself regarding the Apartment or the Project, but Seller agrees that any and all warranties given to Seller by contractors (which does NOT include Towne Realty of Hawaii, Inc.) retained by the Seller for the Project relating to the Apartment shall accrue to Buyer on closing without further instruments or documents. Buyer acknowledges and agrees that Seller and Towne Realty of Hawaii, Inc. are not adopting any contractor's warranty or acting as co-warrantor but Seller is merely attempting to pass through to Buyer the benefit of such contractor's warranty, if any.

Seller shall also assign or cause to be assigned to Buyer the unexpired term, if any, of any manufacturer's or dealer's warranties covering any furnishings, fixtures and appliances in the Apartment. Buyer acknowledges that the Seller is only passing through to Buyer any such manufacturer's or dealer's warranties. Seller and Towne Realty of Hawaii, Inc. are not undertaking to adopt any such warranties or to act as co-warrantor with respect to any furnishings, fixtures or appliances covered thereby. The terms of the manufacturer's or dealer's written warranties are available for the Buyer's examination at the Seller's Sales Office.



Except for the agreements set forth above, it is expressly understood and agreed by and between Seller and Buyer that SELLER AND TOWNE REALTY OF HAWAII, INC. MAKE NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE APARTMENT, CONSUMER PRODUCTS INSTALLED THEREIN, THE PROJECT OR ANYTHING INSTALLED THEREIN, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS OF THE APARTMENT FOR A PARTICULAR USE OR PURPOSE OR FOR SUFFICIENCY OF DESIGN.

4. Buyer agrees that all payments required by the Sales Contract will be deposited with Escrow and that all checks will be made payable to Escrow. Buyer also agrees that any money that Buyer deposits with Escrow may be deposited together with other buyers' money in a federally insured interest bearing account, and that Escrow may distribute the money in this account according to an Escrow Agreement between Developer and Escrow. Buyer also agrees that all the interest earned from the funds deposited by buyers will be credited to Developer.

In case Buyer is late in making payments to Escrow, the late payment will bear interest at the rate of one percent (1%) per month until paid.

5. All taxes, assessments, and charges of any kind assessable against the Apartment or the land of the Project will be prorated as of the Closing Date. This means that Buyer will have to pay Buyer's share of these taxes and assessments at the Closing Date. In addition, Buyer will be responsible for paying all closing costs in connection with the purchase of the Apartment, including all costs related to any mortgages, all notary fees, recording fees, escrow fees, title insurance, conveyance taxes and fees, and preparation of the Apartment Deed to Buyer.

6. In addition to all other funds due, Buyer must deposit with Escrow at Preclosing a nonrefundable "start-up" fee for the Condominium Association. This start-up fee is an initial contribution to the Association common expenses reserve. The minimum amount of the start-up fee will be equal to two (2) months of estimated assessments for common expenses. Also, Buyer must deposit with Escrow the amount of the Initiation Assessment required under the Declaration of Covenants, Conditions and Restrictions of the Launani Valley Community, which constitutes a non-refundable "start-up" fee for the Launani Valley Community Association. These amounts are separate from the purchase price and closing costs for the Apartment.

7. Buyer may not assign Buyer's rights under the Sales Contract without the prior written consent of Developer. Under no circumstances may Buyer assign Buyer's rights to the agreement after the Preclosing or the Closing Date. If Buyer attempts to assign the agreement without Developer's written consent, Buyer shall be in default under the Sales Contract.

8. The Developer may, at its option, preclose the sale of Apartments by requiring the Buyer to deliver all documents necessary for closing and certain funds to Escrow up to sixty (60) days prior to the closing date. Buyer will have ten (10) days notice of such preclosing. Buyer must deposit all funds other than the proceeds of Buyer's first mortgage loan or the balance of the purchase price for a cash sale with Escrow, including the advanced payment for a maintenance assessment fund. Buyer must also sign all documents required for closing.

9. Buyer shall not be able to occupy the Apartment until the Closing Date for the sale of the Apartment. Developer or Escrow will notify Buyer of when the Closing Date will take place. Buyer will not be able to take occupancy until all payments required by the Sales Contract have been made. Keys will not be issued for the Apartment unless all payments have been made. If Buyer attempts to take occupancy of the Apartment prior to the Closing Date, then Buyer will be in default of the Sales Contract, and Developer has the right to remove Buyer from the Apartment using any lawful means.

10. Buyer agrees to accept an Apartment as suitable for occupancy even if there are defects or damage to the Apartment, as long as Developer promises to repair these defects within a reasonable time after Buyer takes occupancy. If Buyer wrongfully refuses to take occupancy of a defective Apartment, Buyer may have to bear the

cost of Developer's costs in any resulting legal action. Developer will notify Buyer that the Apartment is ready for inspection prior to occupancy. Buyer then has fifteen (15) days from the date Buyer receives notification to inspect the Apartment. If Buyer does not inspect the Apartment within this time, Developer may appoint an appropriate person to inspect the Apartment on Buyer's behalf and decide if it is acceptable.

11. The Developer reserves the right to change the Project and modify the condominium map and any other condominium documents for any reason up to the Effective Date of the agreement.

12. Developer will complete construction so that Buyer may occupy the Apartment within two (2) years of the Effective Date of the Sales Contract. However, this two (2) year period may be extended if construction is delayed by any matters beyond Developer's control.

13. By signing the Sales Contract, Buyer represents that Buyer is financially capable of paying the purchase price for the Apartment. Buyer also represents that any financial data he has given Developer is accurate. If Buyer does not notify Developer that Buyer's financial situation has changed as of the Closing Date, Developer will assume that the information Developer has is accurate. If the Developer discovers that any important financial data provided to Developer is not accurate and Buyer failed to notify Developer of this inaccuracy, Developer has the right to cancel the Sales Contract.

If Buyer intends to finance the purchase of an Apartment, Buyer must apply for financing and inform Developer of the name and address of the lending institution within five (5) days of Developer's acceptance of the Sales Contract or, if the Sales Contract is a reservation, from the Effective Date of the Sales Contract. Buyer agrees to do everything possible and/or necessary to successfully obtain the loan. Within fifty-five (55) days of Developer's acceptance of the Sales Contract or, if the Sales Contract is a reservation, from the Effective Date of the Sales Contract, Buyer must deliver to Developer a written, unqualified loan commitment that is reasonably acceptable to Developer signed by the lending institution agreeing to make the loan to Buyer.

If Buyer tries in good faith and with diligent effort to obtain financing but is unsuccessful in doing so, then either Developer or Buyer may cancel the Sales Contract upon written notice to the other party. If the Sales Contract is cancelled in this manner, Buyer is entitled to a refund from Escrow of Buyer's money, without interest and minus any costs incurred by Developer, Escrow, or any lending institution in processing the Sales Contract or the Buyer's loan application(s).

If Buyer does not apply for and do everything possible and/or necessary to successfully obtain the loan, then Developer may cancel the Sales Contract upon written notice to Buyer and Developer may keep all money previously paid by Buyer and any interest earned.

If Buyer is making a cash purchase of an Apartment, Buyer must provide proof to Developer within ten (10) days after Developer accepts the Sales Contract that Buyer is financially capable of making all payments under the Sales Contract. Developer has the option to terminate the Sales Contract if Developer determines at any time that Buyer is unable to make the required payments. If the Sales Contract is cancelled in this manner, Buyer is entitled to a refund from Escrow of Buyer's money, without interest and less escrow charges, the cost of any credit reports and all other costs incurred by Developer. Developer will give Buyer notice of any such cancellation.

14. As long as the Sales Contract is only a reservation, it may be terminated for any reason and at any time at the option of either Buyer or Developer, by giving written notice of termination to the other party. In the event of a termination, the Developer will instruct Escrow to refund all payments previously made by Buyer, without interest. Additionally, if the Buyer is terminating the Sales Contract pursuant to Hawaii Revised Statutes, Section 514A-63, as amended, then Escrow shall deduct an escrow cancellation fee and all costs incurred by Developer, escrow, or any lending institution in processing the Sales Contract or loan application.

15. If Buyer defaults, Developer may cancel the Sales Contract by notifying Buyer in writing. If the cancellation occurs after the Effective Date of the Sales Contract, the Developer may keep any amounts previously

paid by Buyer as liquidated damages to compensate Developer for its damages. In addition, Developer may also pursue any other legal remedy for Buyer's default.

If Developer defaults after the Effective Date of the Sales Contract, Buyer's only remedy is to cancel the Sales Contract and have all of Buyer's money refunded.

17. If less than 20 Apartments have been sold as of April 30, 2004, Developer has the option to cancel the Sales Contract. If Developer cancels the Sales Contract, Buyer will be entitled to a refund of any money Buyer has deposited with Escrow, without interest and minus an escrow cancellation fee. When Buyer has received this refund, Buyer and Developer will no longer have any obligations under the Sales Contract.

18. Developer has the option to cancel the Sales Contract if unanticipated delays in construction cause the cost of development to increase to the point where the Project is no longer economically feasible for the Developer. In this case, Developer may cancel the Sales Contract and refund Buyer's money in the same way as for a cancellation due to lack of sales described above.

19. By entering into the Sales Contract, Buyer acknowledges that Buyer has never received any information or representations from Developer or any of Developer's agents regarding rental income from the Apartment or other economic or tax benefits that Buyer may receive from ownership of the Apartment. The Buyer further agrees that he or she will not participate in any rental pool for the renting of the Apartment. Buyer may be required to sign documents which satisfy the Developer that no such representations have been made.

20. The Developer may have made one or more construction loans to finance construction of the Project. Any rights which a Buyer may possess under a Sales Contract for one of the Apartments in the Project are subject to and subordinate to the rights of the lender(s) of the construction loan(s).

21. Any dispute between Developer and Buyer arising out of or relating to the Sales Contract or the Apartment, or the construction, development or management of the Project or the sale of any Apartment or the use or occupancy of any Apartment, or any other aspect of the relationship between Developer and Buyer regarding the Project shall be resolved by mandatory arbitration.

22. Buyer accepts the following conditions as well as any inconvenience or annoyance which Buyer may experience as a result of such conditions and expressly waives any rights, claims or actions which he might otherwise have against Developer or third parties as a result of such circumstances:

(a) Construction activity by Developer or other apartment owners may continue at the Project after Buyer has occupied the Apartment and this activity may result in noise, dust, surface water run off, vapors, odors, vibration, traffic congestion, or other nuisances or annoyances to Buyer and may limit Buyer's access to portions of the Project.

(b) Sales activities, including the use of model apartment units, sign and extensive sales displays and other activities for the sale of apartments developed in the Project, and for the sale of apartments in projects developed by Developer on property near or adjacent to the Project, will continue in the Project, and the parking spaces in the Project may be used for parking for prospective purchasers and other business invitees of Seller until the earlier to occur of (i) December 31, 2010, or (ii) the sale of the last unsold apartment in the Project or in such other projects. If Developer's mortgage lender shall acquire any portion of the Project, the lender may continue such use until all the apartments have been sold and closed.

(c) Developer reserves the right for itself, its employees, agents, sales representatives, business invitees and prospective purchasers to utilize the common elements for ingress and egress to such parking spaces and model apartments and in order to show the common elements to prospective purchasers.

23. Buyer acknowledges that the Project is located within the vicinity of Wheeler Army Airfield and

may be subject to noise, vibrations, nuisances, disturbances or other hazards to persons or property caused by military and airfield operations at Wheeler Army Airfield. These operations are not subject to regulation by Developer, the City and County of Honolulu (the "City") or the State of Hawaii (the "State"). Buyer acknowledges that the noise level at the Project caused by these military and airfield operations may exceed government noise level standards and that there are some individuals for whom these noise levels are not acceptable. Buyer agrees to assume the risks of impairment to Buyer's use and enjoyment of the Apartment, loss of market value and injury or damage caused by the military and airfield operations, except for violations of law, gross negligence or willful misconduct, and agrees to indemnify, hold harmless and defend Developer, the City and the State from all claims by Buyer, damages, and costs arising from such operations. Buyer also releases and agrees not to file any claim or lawsuit against the Developer, the City or the State related to the military and airfield operations at Wheeler Army Airfield including but not limited to claims for costs or damages resulting from aircraft noise and/or vibration.

24. Developer reserves the right, for itself and its successors and assigns, without the consent or joinder of Buyer or any party, to designate and to grant an easement to use any private roads which are a part of the common elements of the Project and the 20 foot wide access easement shown on the Condominium Map to the owner of the property adjoining said 20 foot wide access easement. To the extent that joinder of Buyer may be required in order to grant the easement, Buyer grants to Developer a power of attorney to execute, deliver and record any documents necessary or convenient to grant the easement.

25. Buyer acknowledges that it has been informed that microorganisms, including, but not limited to, mold, mildew, spores, or any other form of fungi or bacteria ("Microorganisms"), may be present in the Apartment and that Microorganisms, at certain levels, can cause deterioration of building materials, damage to property, health hazards, personal injuries and/or other irritant effects, such as, without limitation to, skin irritation, respiratory problems and/or allergic reactions. Concentrations of chemicals released from household furnishings, appliances, mechanical equipment, personal possessions or building materials may, at certain levels, create health hazards and/or other irritant effects, such as, without limitation to, skin irritation, respiratory problems and allergic reactions. Because Microorganisms occur naturally in the environment, Developer cannot eliminate the possibility that Microorganisms may grow in, on or about the Apartment. Buyer releases and agrees to indemnify and defend Developer and its successors and assigns, construction manager, contractors, subcontractors, material suppliers and the officers, employees, agents of each of them, from and against any and all claims, obligations, demands, damages, causes of action, liabilities, losses and expenses, including reasonable attorneys' and expert fees, whether now known or hereafter known, foreseen or unforeseen, that Buyer or any occupant of the Apartment had, has, or may have in the future, in law or in equity (the "claim"), that are attributable to (1) bodily injury, sickness, emotional distress, disease, death or any other personal injury or adverse health effects, or (2) injury to or destruction of tangible personal property, including loss of the use thereof arising out of or relating to, or in any way connected with, indoor air quality, moisture, or the growth, release, discharge, dispersal or presence of any Microorganisms or any chemicals in the indoor air or on the interior surfaces of the Apartment including, without limitation to, wall cavities, the attic, windows and the basement, or on the exterior surfaces of the Apartment or on any part thereof.

26. Buyer acknowledges that it has been informed that the Project is located in an area near hillsides and that, in recent years, there have been some incidents on the Island of Oahu where rocks and boulders have fallen from hillsides and caused damage to property or personal injuries or death. Buyer assumes all risk of damage, personal injury, death or destruction of or injury to property that may arise as a result of or be in any way connected with rocks, boulders or trees falling from the hillsides. Buyer releases and agrees to indemnify and defend Developer and its successors and assigns, consultants, construction manager, contractors, subcontractors, material suppliers and the officers, employees, agents of each of them, from and against any and all claims, obligations, demands, damages, causes of action, liabilities, losses and expenses, including reasonable attorneys' and expert fees, whether now known or hereafter known, foreseen or unforeseen, that Buyer or any occupant of the Apartment had, has, or may have in the future, in law or in equity, that are attributable to (1) bodily injury, sickness, emotional distress, disease, death or any other personal injury or adverse health effects, or (2) injury to or destruction of tangible personal property, including loss of the use thereof arising out of or relating to, or in any way connected with, rocks, boulders or trees falling from the hillsides near the Project, or any act or omission of Seller, its consultants, construction manager, contractors, subcontractors or material suppliers, in connection with the removal

of any rocks or boulders from the hillsides or the pruning of trees on the hillsides.

27. Developer reserves the right to amend the description of the land of the Project. See Exhibit "A" of this Final Public Report and Section 24 of the Declaration of Condominium Property Regime regarding this reserved right.

EXHIBIT "K"

SUMMARY OF ESCROW AGREEMENT

A copy of the Escrow Agreement between the Developer and Title Guaranty Escrow Services, Inc. ("Escrow"), has been submitted to the Real Estate Commission and is available for inspection at the Developer's office. The following is a summary of some of the provisions of the Escrow Agreement.

NOTE: ALL BUYERS AND PROSPECTIVE BUYERS SHOULD READ THE ESCROW AGREEMENT AND ALL AMENDMENTS IN FULL AS THIS SUMMARY DOES NOT CONTAIN A COMPLETE DESCRIPTION OF ALL PROVISIONS IN THE ESCROW AGREEMENT. THIS SUMMARY IS INTENDED ONLY TO GIVE A BRIEF DESCRIPTION OF SOME OF THE ITEMS CONTAINED IN THE ESCROW AGREEMENT, AND DOES NOT ALTER OR AMEND THE ESCROW AGREEMENT IN ANY MANNER.

1. A signed copy of each sales contract for an Apartment in the Project must be given to Escrow.
2. All purchasers who are to be owner-occupants as defined in Section 514A-103, Hawaii Revised Statutes, must submit an affidavit to Escrow affirming their owner-occupant status. The affidavit setting forth the purchasers' intent to be owner-occupants must be reaffirmed no earlier than their receipt of the final public report but no later than the closing of escrow for the Apartment and all prospective owner-occupants must submit the reaffirmed affidavit and proof of receipt of the final public report to Escrow.
3. All money received by the Developer from buyers under sales contracts for apartments in the Project must be given to Escrow. Escrow, in accordance with written instructions from the Developer, shall deposit all money so received in accounts at a federally insured bank, savings and loan association or other financial institution which pays interest on deposits. Any interest earned on funds deposited into Escrow will accrue to the credit of the Developer unless otherwise provided.
4. Escrow may not make any disbursements of funds until certain conditions, including the issuance of a Final Public Report of the Project by the Real Estate Commission, have been met.
5. Under certain conditions, a buyer shall be entitled to a refund. Escrow shall pay this refund to the buyer without interest less a reasonable escrow cancellation fee. However, no escrow cancellation fee will be deducted from refunds to individuals on the Developer's owner-occupant reservation list to whom no Sales Contract was ever offered.
6. If a buyer fails to claim a refund for a cancelled sales contract, Escrow shall deposit the refund in a special account in a bank or other depository selected by Escrow, in the name of the Developer as trustee for the benefit of the buyer. Escrow will then attempt to notify the buyer about the refund.
7. If a buyer is to make a payment under a sales contract directly to Escrow, Escrow shall promptly give the buyer notice of the amount and due date of the payment. If the buyer fails to make a payment to Escrow in a timely manner, Escrow will notify Developer. If the Developer subsequently notifies Escrow in writing that Developer has terminated the sales contract and provides Escrow with copies of all notices of termination sent to the buyer, Escrow will then treat any funds the buyer has already paid as though they belong to the Developer. Upon written request by the Developer, Escrow will pay all such sums to Developer minus any escrow cancellation fee.