

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

CONDOMINIUM PROJECT NAME	NANALA AT MEHANA
Project Address	Manawai Street Kapolei, Hawaii 96707
Registration Number	6367
Effective Date of Report	<b>July 19, 2007</b>
Developer(s)	D.R. Horton-Schuler Homes, LLC, a Delaware limited liability company dba D.R. Horton-Schuler Division

**Preparation of this Report**

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

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

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

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

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

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

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

## SPECIAL ATTENTION

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

1. The Developer contemplates the creation of a 140.460 acres planned community (Mehana at Kapolei) covered by a Master Declaration of which this condominium community will be a part. This planned community will be developed in eight phases, that may include several residential and mixed use communities, condominiums, commercial, and other related facilities. Each community will have one or more increments as in the case of Nanala at Mehana.
2. Pursuant to the Unilateral Agreement and Declaration for Conditional Zoning attached hereto as Exhibit V, thirty percent (30%) of the total residential units of Mehana at Kapolei will be available to qualified buyers as defined in the aforementioned agreement. Affordable residential units may be included within or directly adjacent to Nanala at Mehana.
3. Neither the Master Declaration nor the community's Declaration, By Laws and Condominium Map have been recorded in the Bureau of Conveyances of the State of Hawaii as of the effective dated of this Developer's Public Report. Therefore, binding sales contracts cannot be entered into at this time. Upon recordation of said documents, the Developer must amend this Public Report to reflect the recorded information and any changes made to the documents submitted with the application for registration and provide a copy of the amended report to each purchaser for purchaser's approval.

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

## **General Information On Condominiums**

A condominium is a special form of ownership of real property. To create a condominium in Hawaii after July 1, 2006, the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, must be followed. In addition, certain requirements and approvals of the county in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land and/or the building(s) and other improvements are leased to the purchaser. The lease for the land usually requires that at the end of the lease term, the lessees (unit owners) deliver their interest in the land to the lessor (fee property owner).

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

You will be entitled to exclusive ownership and possession of your unit. Subject to the documents governing them, condominium units may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift or operation of law.

Your unit will, however, be part of the group of units that comprise the condominium project. Study the project's Declaration of Condominium Property Regime, Bylaws of the Association of Unit Owners, Condominium Map and House Rules, if any, which are being concurrently delivered to you with this report. These documents contain important information on the use and occupancy of the units and the common elements of the project, as well as the rules and regulations of conduct for unit owners, tenants and guests.

## **Operation of the Condominium Project**

The Association of Unit Owners is the entity through which unit owners may take action with regard to the administration, management and operation of the condominium project. Each unit owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as a unit owner. The Board and officers can take certain actions without the vote of the unit owners. For example, the Board may hire and fire employees, increase or decrease maintenance fees, adopt budgets for revenues, expenses and reserves and regulate the use, maintenance, repair and replacement of common elements. Some of these actions may significantly impact the unit owners.

Until there is a sufficient number of purchasers of units to elect a majority of the Board, it is likely at first that the Developer will effectively control the affairs of the Association. It is frequently necessary for the Developer to do so during the early stages of development and the Developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective purchasers should understand that it is important to all unit owners that the transition of control from the Developer to the unit owners be accomplished in an orderly manner and in a spirit of cooperation.

# 1. THE CONDOMINIUM PROJECT

## 1.1 The Underlying Land

Fee Simple or Leasehold Project	<input checked="" type="checkbox"/> Fee Simple	<input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner		
Address of Project	Manawai Street Kapolei, Hawaii	
Address of Project is expected to change because	New address may be assigned to individual units.	
Tax Map Key (TMK)	(1) 9-1-016-131	
Tax Map Key is expected to change because		
Land Area	5.92 acres following Developer's deletion and withdrawal of the balance of the 140.460 acres parcel as described in <b>Exhibit O</b> and in Sections E and V of the Declaration.	
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	N/A	

## 1.2 Buildings and Other Improvements (See Exhibit A)

Number of Buildings	10
Floors Per Building	2 - 3 floors
Number of New Building(s)	10
Number of Converted Building(s)	N/A
Principal Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	concrete, wood, metal, glass, hollow tile, aluminum, composite, synthetic and other construction materials

## 1.3 Unit Types and Sizes of Units

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

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

#### 1.4 Parking Stalls

Total Parking Stalls in the Project:	220 (includes garages and open space stalls)
Number of Guest Stalls in the Project:	10 (parking stalls marked with a "G" on the Condominium Map are Guest Stalls)
Number of Parking Stalls Assigned to Each Unit:	2 (may include garage and open space stall)
Attach <b>Exhibit C</b> specifying the Parking Stall number(s) assigned to each unit and the type of parking stall(s) (regular, compact or tandem and indicate whether covered or open).	
If the Developer has reserved any rights to assign or re-assign parking stalls, describe such rights. See <b>Exhibit D</b>	

#### 1.5 Boundaries of the Units

Boundaries of the unit: See **Exhibit E** for a description of the unit boundaries.

#### 1.6 Permitted Alterations to the Units

Permitted alterations to the unit (if the unit is defined as a non-physical or spatial portion of the project, also describe what can be built within such portion of the project):  
  
See **Exhibit F**

#### 1.7 Common Interest

**Common Interest:** Each unit will have a percentage interest in the common elements appurtenant to each unit. This interest is called the "common interest". It is used to determine each unit's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by unit owners. The common interest for each unit in this project, as described in Declaration, is:  
Described in **Exhibit G**.  
As follows:

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

<input type="checkbox"/>	Swimming pool
<input type="checkbox"/>	Laundry Area
<input type="checkbox"/>	Storage Area
<input type="checkbox"/>	Tennis Court
<input type="checkbox"/>	Recreation Area
<input checked="" type="checkbox"/>	Trash chute/Enclosure(s)
<input type="checkbox"/>	Exercise Room
<input type="checkbox"/>	Security Gate
<input type="checkbox"/>	Playground
<input checked="" type="checkbox"/>	Other (describe): See <b>Exhibit H</b>

**1.9 Common Elements**

<p><u>Common Elements:</u> Common elements are those parts of the condominium project other than the individual units and any other real estate for the benefit of unit owners. Although the common elements are owned jointly by all unit owners, those portions of the common elements that are designated as limited common elements (see Section 1.10 below) may be used only by those units to which they are assigned. In addition to the common facilities described in Section 1.8 above, the common elements for this project, as described in the Declaration, are set forth below.</p>	
<p>Described in <b>Exhibit I</b>.</p>	
<p>Described as follows:</p>	
<b>Common Element</b>	<b>Number</b>
Elevators	0
Stairways	0
Trash Chutes / Enclosures	2 (exterior)

**1.10 Limited Common Elements**

<p><u>Limited Common Elements:</u> A limited common element is a portion of the common elements that is reserved for the exclusive use of one or more but fewer than all units in the project.</p>
<p>Described in <b>Exhibit J</b>.</p>
<p>Described as follows:</p>

**1.11 Special Use Restrictions**

<p>The Declaration and Bylaws may contain restrictions on the use and occupancy of the units. Restrictions for this project include, but are not limited to, those described below.</p>	
<input checked="" type="checkbox"/>	Pets: See <b>Exhibit K</b>
<input checked="" type="checkbox"/>	Number of Occupants: See <b>Exhibit K</b>
<input checked="" type="checkbox"/>	Other: See <b>Exhibit K</b> , see also <b>Exhibit M</b> (Uses Permitted by Zoning)
<input type="checkbox"/>	There are no special use restrictions.

**1.12 Encumbrances Against Title**

<p>An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of a unit in the project. Encumbrances shown may include blanket liens which will be released prior to conveyance of a unit (see Section 5.3 on Blanket Liens).</p>
<p><b>Exhibit L</b> describes the encumbrances against title contained in the title report described below.</p>
<p>Date of the title report: June 7, 2007</p>
<p>Company that issued the title report: Old Republic Title &amp; Escrow of Hawaii, Ltd.</p>



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

Uses Permitted by Zoning: See <b>Exhibit M</b> for additional permitted and restricted uses.				
	Type of Use	No. of Units	Use Permitted by Zoning	Zoning
<input checked="" type="checkbox"/>	Residential	78 "Apartment" units	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	AMX 2 (Apartment Mixed Use District)
<input checked="" type="checkbox"/>	Commercial	2	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<input checked="" type="checkbox"/>	Mix Residential/Commercial	20	<input checked="" 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	none	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Agricultural		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input checked="" type="checkbox"/>	Recreational		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Other (specify)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is/Are this/these use(s) specifically permitted by the project's Declarations or Bylaws?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Variances to zoning code have been granted.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Describe any variances that have been granted to zoning code.			N/A	

### 1.14 Other Zoning Compliance Matters

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

	Conforming	Non-Conforming	Illegal
Uses	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Structures	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

**1.15 Conversions**

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

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

**1.16 Project In Agricultural District**

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

**1.17 Project with Assisted Living Facility**

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

## 2. PERSONS CONNECTED WITH THE PROJECT

<b>2.1 Developer(s)</b>	Name: D.R. Horton-Schuler Homes, LLC, a Delaware Limited liability company, dba D.R. Horton-Schuler Division Business Address: 828 Fort Street, 4 <sup>th</sup> Floor Honolulu, Hawaii 96813 Business Phone Number: (808) 521-5661 E-mail Address: <a href="mailto:mtjones@drhorton.com">mtjones@drhorton.com</a>
Names of officers and directors of developers that are corporations; general partners of a partnership; partners of a limited liability partnership (LLP); or a manager and members of a limited liability company (LLC) (attach separate sheet if necessary).	Donald R. Horton, Chairman of the Board; Donald J. Tomnitz, Vice Chairman, President & Chief Executive Officer; Samuel R. Fuller, Senior Executive Vice President; Bill W. Wheat, Executive Vice President & Chief Financial Officer; Stacey H. Dwyer, Executive Vice President & Treasurer; James K. Schuler, Senior Vice President & Region President; Michael T. Jones, Vice President of the Company & Division President; R. Dale Eggleston, Vice President; Joan L. Fleming, Vice President; Mary K. Flood, Vice President of Sales & Marketing; Galen Lee, Vice President of Finance; Donald J. Tomnitz, Vice President; Paul W. Buchschacer, Assistant Secretary; Ted I. Harbour, Assistant Secretary; Paula D. Hunter-Perkins, Assistant Secretary; Alan D. Labbe, Assistant Secretary; Thomas B. Montano, Assistant Secretary; and David T. Morice, Assistant Secretary. All officers are officers of Vertical Construction Corporation, the Developer's manager.
<b>2.2 Real Estate Broker</b>	Name: D.R. Horton-Schuler Homes, LLC, a Delaware Limited liability company, dba D.R. Horton-Schuler Division Business Address: 828 Fort Street, 4 <sup>th</sup> Floor Honolulu, Hawaii 96813 Business Phone Number: (808) 521-5661 E-mail Address: <a href="mailto:mflood@drhorton.com">mflood@drhorton.com</a>
<b>2.3 Escrow Depository</b>	Name: Old Republic Title and Escrow of Hawaii, a Hawaii corporation Business Address: 1314 South King Street, Suite 662 Honolulu, Hawaii 96814 Business Phone Number: (808) 596-7259 E-mail Address: <a href="mailto:jlwata@ortc.com">jlwata@ortc.com</a>
<b>2.4 General Contractor</b>	Name: D.R. Horton-Schuler Homes, LLC, a Delaware Limited liability company, dba D.R. Horton-Schuler Division Business Address: 828 Fort Street, 4 <sup>th</sup> Floor Honolulu, Hawaii 96813 Business Phone Number: (808) 521-5661 E-mail Address: <a href="mailto:alabbe@drhorton.com">alabbe@drhorton.com</a>
<b>2.5 Condominium Managing Agent</b>	Name: Hawaiiana Management Company, Ltd. Business Address: 711 Kapiolani Boulevard, Suite 700 Honolulu, Hawaii 96813 Business Phone Number: (808) 593-9100 E-mail Address: <a href="mailto:phyllisok@hmcmtg.com">phyllisok@hmcmtg.com</a>
<b>2.6 Attorney for Developer</b>	Name: Case Lombardi & Pettit Dennis M. Lombardi, Esq. Business Address: 737 Bishop Street, Suite 2600 Honolulu, Hawaii 96813 Business Phone Number: (808) 547-5400 E-mail Address: <a href="mailto:DML@caselombardi.com">DML@caselombardi.com</a>

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

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

#### 3.1 Declaration of Condominium Property Regime

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

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court ( <b>Not yet recorded.</b> )	June 22, 2007	

Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court		

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

The Bylaws of the Association of Unit Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Unit Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters that affect how the condominium project will be governed.

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court ( <b>Not yet recorded.</b> )	June 22, 2007	

Amendments to Bylaws of the Association of Unit Owners

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court		

#### 3.3 Condominium Map

The Condominium Map contains a site plan and floor plans, elevations and layout of the condominium project. It also shows the floor plan, unit number and dimensions of each unit.

Land Court Map Number	<b>Not yet recorded.</b>
Bureau of Conveyances Map Number	
Dates of Recordation of Amendments to the Condominium Map:	

### 3.4 House Rules

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

The House Rules for this project:

Are Proposed	<input type="checkbox"/>
Have Been Adopted and Date of Adoption	<input checked="" type="checkbox"/> June 22, 2007
Developer does not plan to adopt House Rules	<input type="checkbox"/>

### 3.5 Changes to the Condominium Documents

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

Document	Minimum Set by Law	This Condominium
Declaration	67%	75% but See <b>Exhibit N</b>
Bylaws	67%	67% but See <b>Exhibit N</b>

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

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

## 4. CONDOMINIUM MANAGEMENT

### 4.1 Management of the Common Elements

<p><u>Management of the Common Elements:</u> The Association of Unit Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.</p>	
<p>The Initial Condominium Managing Agent for this project is (check one):</p>	
<input checked="" type="checkbox"/>	Not affiliated with the Developer
<input type="checkbox"/>	None (self-managed by the Association)
<input type="checkbox"/>	The Developer or an affiliate of the Developer
<input type="checkbox"/>	Other (explain)

### 4.2 Estimate of the Initial Maintenance Fees

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

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

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

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

<p>If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fee:</p>	
<input checked="" type="checkbox"/>	Electricity for the Unit only
<input type="checkbox"/>	Gas for the Unit only
<input checked="" type="checkbox"/>	Water (F1 Units only will be sub-metered)
<input checked="" type="checkbox"/>	Sewer (F1 Units only as part of the water bill)
<input checked="" type="checkbox"/>	TV cable
<input type="checkbox"/>	Other (specify)

## 5. SALES DOCUMENTS

### 5.1 Sales Documents Filed with the Real Estate Commission

Sales Documents on file with the Commission include, but are not limited to, the following:	
<input checked="" type="checkbox"/>	Specimen Sales Contract <b>Exhibit Q</b> contains a summary of the pertinent provisions of the sales contract. Including but not limited to any rights reserved by the Developer.
<input checked="" type="checkbox"/>	Escrow Agreement dated: Name of Escrow Company: <b>Exhibit R</b> contains a summary of the pertinent provisions of the escrow agreement.
<input type="checkbox"/>	Other

### 5.2 Sales to Owner-Occupants

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

<input checked="" type="checkbox"/>	The sales of units in this project are subject to the Owner-Occupant requirements of Chapter 514B. F1 Units are not subject to the Owner-Occupant requirements. See <b>Exhibit S</b> .
<input type="checkbox"/>	Developer has designated the units for sale to Owner-Occupants in this report. See Exhibit _____.
<input checked="" type="checkbox"/>	Developer has or will designate the units for sale to Owner-Occupants by publication.

### 5.3 Blanket Liens

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

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

Type of Lien	Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance

### 5.4 Construction Warranties

Construction Warranties: Warranties for individual units and the common elements, including the beginning and ending dates for each warranty (or the method of calculating them), are as set forth below:

Building and Other Improvements: Coverage is 10 years from closing but subject to in the form attached to this Public Report as **Exhibit T**. Prospective purchasers should read the Limited Warranty with care to understand coverage, limitations and exclusions, and procedures.

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



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

Status of Construction: Developer estimates construction to commence approximately <u>September 2007</u>
Completion Deadline: If a sales contract for a unit is signed before the construction of the unit has been completed, or, in the case of a conversion, completion of any repairs, does not occur by the completion deadline set forth below, one of the remedies available to a purchaser is a cancellation of the purchaser's sales contract. The sales contract may include a right of the Developer to extend the completion deadline for force majeure as defined in the sales contract. The sales contract may also provide additional remedies for the purchaser.
Completion Deadline for any unit not yet constructed, as set forth in the sales contract: The Unit shall be completed no later than twenty-four (24) months following the date that the sales contract becomes a binding contract, which is the earlier of the date: (a) Buyer delivers to Seller Buyer's written waiver of Buyer's right to cancel the sales contract following Seller's delivery to Buyer of the Notice of Right to Cancel this sales contract, or (b) thirty (30) days have expired following Seller's delivery to Buyer of the Notice of Right to Cancel, provided Buyer has not exercised Buyer's right to cancel, subject to Seller's right to extend the Completion Deadline for force majeure events, which are defined in the sales contract.
Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract:

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

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

**5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance**

<input checked="" type="checkbox"/>	The Developer hereby declares by checking the box to the left that it shall use its own funds to complete the construction of the condominium project by the date indicated in Section 5.5 of this report, and the Developer, pursuant to its own analysis and calculations, certifies that it has sufficient funds to complete the construction of the condominium project. If the box to the left is checked, Sections 5.6.2 and 5.7, which follow below, will not be applicable to the project.
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**5.6.2 Purchaser Deposits Will Be Disbursed Before Closing**

Hawaii law provides that, if certain statutory requirements are met, purchaser deposits in escrow under a binding sales contract may be used before closing to pay for certain project costs. For this project, the Developer indicates that purchaser deposits may be used for the following purposes (check applicable box):

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

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

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

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

## 5.7 Rights Under the Sales Contract

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

**1. Developer's Public Report**

**2. Declaration of Condominium Property Regime (and any amendments)**

**3. Bylaws of the Association of Unit Owners (and any amendments)**

**4. Condominium Map (and any amendments)**

5. House Rules, if any

6. Escrow Agreement

7. Hawaii's Condominium Property Act (Chapter 514B, HRS, as amended) and Hawaii Administrative Rules (Chapter 16-107, adopted by the Real Estate Commission, as amended), provided that rules and regulations under Chapter 514B have not yet been adopted.

8. Other: All documents as provided in Exhibit L.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

See **Exhibit U**.



## EXHIBIT A

### Section 1.2 -- Buildings and Other Improvements

#### DESCRIPTION OF BUILDINGS

The Community (the term "Community" shall have the same meaning herein as "project" in HRS 514B) shall have ten (10) buildings. The buildings shall be constructed principally of concrete, wood, metal, glass, hollow tile, aluminum, composite, synthetic and other construction materials. Each building is identified on the Condominium Map as 1(A)/II, 2(B)/III, 3(C)/I, 4(A)/II, 5(B)/III, 6(C)/I, 7(B)/IV, 8(A)/IV, 9(C)/IV and 10(A)/IV.

There are four (4) different building types in the Community.

Building Type I has two (2) buildings. Each building is a three-story structure and contains twelve (12) units.

Building Type II has two (2) buildings. Each building is a three-story structure and contains twelve (12) units.

Building Type III has two (2) buildings. Each building is a three-story structure and contains ten (10) units.

Building Type IV has four (4) buildings. Each building is a two-story structure and contains eight (8) units.

#### DESCRIPTION OF UNITS

The Community shall contain one hundred (100) Units.

There are eight (8) different unit types in the Community, designated as Unit types A/Ar, B/Br, C1/Cr, C2/C2r, D/Dr, E/Er, F1 and F2. Unit types A/Ar, B/Br, C1/Cr, C2/C2r, D/Dr and E/Er have reverse plans. A description of each Unit type is as follows:

##### Unit type A/Ar

Unit type A/Ar units are three-story units containing three bedrooms, two and a half bathrooms, living/dining area, kitchen, an entry lanai, an 1-car garage, and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1440 square feet, lanai area of approximately 52 square feet, and a garage area of approximately 231 square feet. Unit type A/Ar units are "Residential Units" as described in the Declaration. There are eight (8) of these Unit type A, and eight (8) of these Unit type Ar in the Community.

##### Unit type B/Br

Unit type B/Br Units are three-story units containing an entry lanai, a flex room, a storage area; a kitchen, an lanai (at level two), a living/dinner area, three bedrooms, three bathrooms, a 1-car garage, and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1770 square feet, lanai area of approximately 139 square feet, and a garage area of approximately 214 square feet. Unit type B/Br units are "Live-

Work Units" as described in the Declaration. There are ten (10) of these Unit type B, and ten (10) of these Unit type Br in the Community.

#### Unit type C1/C1r

Unit type C1/C1r units are single-story units containing two bedrooms, two bathrooms, a living/dinning area, a kitchen, an entry lanai, a 1-car garage and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1038 square feet, an entry lanai area of approximately 67 square feet and a garage area of approximately 194 square feet. Unit type C1/C1r units are "Residential Units" as described in the Declaration. There are eight (8) of these Unit type C1, and ten (10) of these Unit type C1r in the Community.

#### Unit type C2/C2r

Unit type C2/C2r units are two-story units containing two bedrooms, two bathrooms, living/dining area, a kitchen, a lanai, a 1-car garage and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1233 square feet, a lanai area of approximately 214 square feet and a garage area of approximately 231 square feet. Unit type C2/C2r units are "Residential Units" as described in the Declaration. There are eight (8) of these Unit type C2, and ten (10) of these Unit type C2r in the Community.

#### Unit type D/Dr

Unit type D/Dr units are two-story units containing three bedrooms, two and a half bathrooms, living and dinning area, a kitchen, an entry lanai, a lanai (at level two), a 1-car garage and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1401 square feet, a lanai area of approximately 223 square feet and a garage area of approximately 217 square feet. Unit type D/Dr units are "Residential Units" as described in the Declaration. There are eight (8) of these Unit type D, and eight (8) of these Unit type Dr in the Community.

#### Unit type E/Er

Unit type E units are two-story units containing two bedrooms, two bathrooms, a great room, a kitchen, an entry lanai, a 1-car garage and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1,125 square feet, an entry lanai of approximately 91 square feet and a garage area of approximately 197 square feet. Unit type D/Dr units are "Residential Units" as described in the Declaration. There are four (4) of these Unit type E, and four (4) of these Unit type Er in the Community.

#### Unit type F1

Unit type F1 units are single-story units containing on open flat floor, a 1-car garage and other improvements as shown on the Condominium Map. This Unit type contains a net interior area of approximately 2013 square feet and a garage area of approximately 200 square feet. Unit type F1 units are "Commercial Units" as described in the Declaration. There are two (2) of this Unit type F1 in the Community.



## Unit type F2

Unit type F2 units are two-story units containing three bedrooms, two bathrooms, living/dinner area, a kitchen, an entry lanai, a lanai (at level two), a 1-car garage and other improvements as shown on the Condominium Map. This Unit type contains a net living area of approximately 1867 square feet, lanai area of approximately 210 square feet and a garage area of approximately 198 square feet. Unit type F2 units are "Residential Units" as described in the Declaration. There are two (2) of this Unit type F2 in the Community.

## **LOCATION AND NUMBERING OF UNITS:**

Each Unit shall be designated by a letter comprised of the Building Number ("1", "2", "3", "4", etc.) followed by the Unit Number (e.g. 01, 02, 03, etc.). The Unit numbers and locations are more fully illustrated on the Condominium Map.

## **ACCESS TO COMMON ELEMENTS:**

Each Unit in the Community has immediate access to the common elements of the Community or to a walkway leading to the common elements of the Community.

## **ACCESS TO A PUBLIC STREET:**

The Community will have access to Manawai Street, a public street.

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

**EXHIBIT B**

Section 1.3 -- Unit Types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living Area (sf)	Net Other Areas	Other Areas (lanai, garage, etc.) (sf.)	Area
A/Ar	16	3/2½	1,406		37 (lanai) 224 (garage)	1,667
B/Br	20	3/3	1,766		157 (lanai) 211 (garage)	2,134
C1/C1r	18	2/2	1,040		114 (lanai) 193 (garage)	1,347
C2/C2r	18	2/2	1,227		222 (lanai) 230 (garage)	1,679
D/Dr	16	3/2½	1,396		228 (lanai) 215 (garage)	1,839
E/Er	8	2/2	1,117		100 (lanai) 195 (garage)	1,412
F1	2	Flat/1	1,761		423 (lanai) 203 (garage)	2,387
F2	2	3/2	1,841		197 (lanai) 203 (garage)	2,241

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

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

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

**EXHIBIT C**

## Section 1.4 – Designation of Garage and/or Assignment of Parking Stall to Residence

UNIT NO.	GARAGE #	OPEN SPACE STALL #	UNIT NO.	GARAGE #	OPEN SPACE STALL #
101	22	216	505	98	99
102	20	21	506	96	97
103	18	19	507	94	95
104	16	17	508	92	93
105	14	15	509	90	91
106	12	13	510	89	152
107	10	11	601	130	210
108	8	9	602	128	129
109	6	7	603	126	127
110	4	5	604	124	125
111	2	3	605	122	123
112	1	209	606	120	121
201	42	43	607	118	119
202	40	41	608	116	117
203	38	39	609	114	115
204	36	37	610	112	113
205	34	35	611	110	111
206	32	33	612	109	108
207	30	31	701	207	208
208	28	29	702	205	206
209	26	27	703	204	195
210	25	192	704	202	203
301	66	170	705	200	201
302	64	65	706	199	194
303	62	63	707	197	198
304	60	61	708	196	193
305	58	59	801	186	191
306	56	57	802	184	185
307	54	55	803	183	190
308	52	53	804	181	182
309	50	51	805	179	180
310	48	49	806	178	172
311	46	47	807	176	177
312	45	44	808	175	171
401	88	219	901	167	168
402	86	87	902	165	166
403	84	85	903	164	155
404	82	83	904	162	163
405	80	81	905	160	161
406	78	79	906	159	154
407	76	77	907	157	158
408	74	75	908	156	153
409	72	73	1001	146	151
410	70	71	1002	144	145

UNIT NO.	GARAGE #	OPEN SPACE STALL #	UNIT NO.	GARAGE #	OPEN SPACE STALL #
411	68	69	1003	143	150
412	67	169	1004	141	142
501	106	107	1005	139	140
502	104	105	1006	138	132
503	102	103	1007	136	137
504	100	101	1008	135	131

Developer reserves to itself parking stall nos. 211, 212, 213, 214, 215, 217, 218, 220, 221 and 222 in the Community as shown on the Condominium Map. Developer reserves the right, but not any obligation, to assign the parking stall that are reserved to the Developer to any Unit as appurtenant Limited Common Element(s) to such Unit. Further Developer may assign such stalls to any unit and reserves all right of use and access to such stalls together with the right to sell the stalls and/or transfer the stalls to another unit. Such reassignment does not constitute a material amendment of the Declaration or the Condominium Map.

Parking stalls are "standard" in size. Parking stalls that marked with a "C" in the Condominium Map are compact sized parking stalls. Any parking stalls designated as a standard sized parking stall may be constructed as a compact sized parking stall and such modification is approved by the Buyer.

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

## EXHIBIT D

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

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

Developer reserves to itself parking stalls nos. 211, 212, 213, 214, 215, 217, 218, 220, 221, and 222 in the Community. Developer hereby reserves the right to amend the Declaration in any manner to assign parking stalls that are reserved to the Developer to any Unit as appurtenant Limited Common Element(s) to such Unit. Further Developer may assign such stalls to any unit and reserves all right of use and access to such stalls together with the right to sell the stalls and/or transfer the stalls to another unit. Such reassignment is hereby specifically declared not to constitute a material amendment of the Declaration or, when appropriate, the Condominium Map. All costs of such reassignment shall be borne as determined by Developer.

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

## EXHIBIT E

### Section 1.5 -- Boundaries of the Units

Each Unit includes all walls, columns and partitions which are not load-bearing within the Unit's perimeter walls (including the garage, if any, associated therewith, as shown on the Condominium Map), all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the Unit and all other portions of the walls, floors, or ceilings, are a part of the Common Element. Each Unit shall also include ceilings, doors, door frames, and window frames along the perimeters, all windows along the perimeters, the air space within the perimeter, the lanais, if any, shown on the Condominium Map to the inner decorated or finished surfaces of the perimeter walls of such lanais and to the interior edge of the exterior railings or other boundaries of such lanais, the entry court or area, if any, shown on the Condominium Map to the inner decorated or furnished surfaces of the perimeter walls of such entry court or area and to the interior edge of other boundaries of such entry court or area, the exterior storage areas, if any, shown on the Condominium Map, all rollers, locks, handles, tracks, and appurtenant hardware associated with all windows, doors and exterior automobile garage doors, if any, and all sliding or swinging screen doors and all glass window screens and all fixtures originally installed in the Unit, and all pipes, plumbing (including water heaters), wires, conduits and other utility or service lines and facilities servicing only the Unit. The Units shall not include the undecorated or unfinished surfaces of the perimeter party or non-party walls, the undecorated or unfinished surfaces of the doors, door frames and window frames along the perimeters, the interior load-bearing columns, girders, beams and walls, the undecorated or unfinished surfaces of the floors and ceiling surrounding each Unit, the exterior edge of the exterior railings or other exterior boundaries of the lanais, if any, shown on the Condominium Map, or any pipes, shafts, wires, conduits or other utility or service lines running through a Unit which are utilized for or serve more than one Unit, all of which are deemed Common Elements as provided in the Declaration. If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that unit is a Limited Common Element appurtenant solely to that Unit, and any portion thereof serving more than one Unit or any portion of thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

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

**EXHIBIT F**  
Section 1.6 -- Permitted Alterations

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

2. Any alterations or additions solely within a Unit, including without limitation, the addition of an exterior air conditioning unit to service the Unit that may protrude through a Common Element wall, or within a Limited Common Element appurtenant to and for the exclusive use of a Unit or more than one Unit, shall require only the written approval thereof, including the plans thereof, by the Owners of such Unit(s), by the holders of first mortgage liens affecting such Unit(s) (if the lien holder require such approval), by the appropriate agencies of the State of Hawaii and the County if such agencies so require, the DRC, if approved, and by the Board (which approval shall not be unreasonably or arbitrarily withheld or delayed), and by all other Owners thereby directly affected (as determined in a reasonable manner by the Board); provided, however, that the Board shall always have the right to disapprove a proposed addition or alteration that the Board reasonably determines could jeopardize the soundness or safety of the Property, impair any easement, or interfere with or deprive any non-consenting Owner of the use or enjoyment of any part of the property. Upon completion of such alterations or additions, the Unit Owner(s) directly affected shall duly Record and file of record an amendment to the Declaration together with the approved plans showing only such alterations or additions within a Unit space or within a Limited Common Element as aforesaid. Such amendment to the Declaration need only be executed by the Unit Owner(s) directly affected and their first mortgagees, as may be required.

3. Any other provision in the Declaration to the contrary notwithstanding and without limitation of the rights reserved to Developer in the Declaration, prior to (i) the time that all Units in the Community have been sold and the conveyance thereof recorded, and (ii) the filing by Developer of the "as built" verified statement (with plans, if applicable) required by Section 514B-34 of the Act, Developer shall have the right, without being required to obtain the consent or joinder of any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, or any other person who may have an interest in the Community, to do the following:

(a) To make alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Unit (and the Limited

Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, which right includes the ability to change the overall "product mix" (e.g., change the Unit types or change the configuration of Unit built on a particular floor of a building). Without limitation of the foregoing, Developer may change or remove of all or part of an intervening Common Element wall, floor, and/or ceiling separating two (2) Units owned by the Developer or Limited Common Elements controlled by the Developer, install doors, stairways, and other Improvements in such opening or openings in the intervening Common Element, seal hallways or other openings, and make any other reasonable related changes or additions Developer determines expedient or necessary. Further, Developer may consolidate any two (2) adjacent Units owned by the Developer into a single Unit and make any Common Element walls, floors, or ceilings between the Units part of the Unit or its Limited Common Elements. In that regard, Developer may change the designation of the Limited Common Elements appurtenant to any two (2) adjacent Units owned by the Developer so that one or more Limited Common Elements appurtenant to one Unit will be appurtenant to the other Unit or to both of the Units. Without limitation of the foregoing, Developer reserves the right to modify exterior elevations of buildings, door and window types (open versus fixed, slider versus awning or otherwise) and the location of the same, roof types and materials, and utility locations from those reflected on the Condominium Map.

(b) To make other alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) which make minor changes in any Unit in the Community or in the Common Elements that do not affect the physical location, design, or size of any Unit that has been sold and the conveyance thereof Recorded.

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

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

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

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

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

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



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

(b) Except as otherwise provided in the Declaration, the Bylaws or the Design Guidelines, an Owner may make "nonmaterial structural additions" to the Common Elements or to an Owner's unit as the foregoing term is used in and subject to the provisions of Section 514B-140(c) of the Act.

(c) The Owner of two (2) Units that are separated by a Common Element that is a wall, floor, or a ceiling, or whose lanai or Limited Common Elements are separated from each other or from such Units by a Common Element that is a wall, floor, or ceiling, has the right and an easement, subject to Board approval and compliance with the Design Guidelines, to change or remove all or part of the intervening wall, floor, and/or ceiling. The Owner also has the right, subject only to Board approval and compliance with the Design Guidelines, to install doors, stairways, and other Improvements in such opening or openings in the intervening Common Element, to seal hallways or other openings, and to make other reasonable changes or additions which do not adversely affect the structural integrity of the Unit or Limited Common Element or the building in which such Unit is situated. Before terminating its common ownership of any of the adjacent Units, the Owner must restore the Common Element wall, floor, ceiling, hallway, and/or other openings to substantially the same condition as before the change or removal, unless the new Owners each agree otherwise in writing.

(d) An Owner who owns any two (2) adjacent Units has the right, subject only to Board approval and compliance with the Design Guidelines: (i) to consolidate the Units into a single Unit; and (ii) to make any Common Element walls, floors or ceilings between the Units part of the Unit or its Limited Common Elements. The Common Interest of the newly created Unit will be equal to the sum of the Common Interests of the Units being consolidated.

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

**EXHIBIT G**

Section 1.7 -- Common Interest

**COMMON INTERESTS FOR INCREMENTS 1 AND 2**  
(assuming all increments are constructed)

Unit type / Total Units	Unit Number	Undivided Common Interest of Each Unit (decimal)	Undivided Common Interest of Each Unit (Percentage)
A/Ar (16)	105, 106, 107, 108, 305, 306, 307, 308, 405, 406, 407, 408, 605, 606, 607, 608	0.011387	1.1387%
B/Br (20)	103, 104, 109, 110, 205, 206, 303, 304, 309, 310, 403, 404, 409, 410, 505, 506, 603, 604, 609, 610	0.011387	1.1387%
C1/C1r (18)	112, 201, 210, 301, 312, 412, 501, 510, 601, 612, 701, 708, 801, 808, 901, 908, 1001, 1008	0.008281	0.8281%
C2/C2r (18)	111, 202, 209, 302, 311, 411, 502, 509, 602, 611, 702, 707, 802, 807, 902, 907, 1002, 1007	0.008281	0.8281%
D/Dr (16)	203, 204, 207, 208, 503, 504, 507, 508, 704, 705, 804, 805, 904, 905, 1004, 1005	0.011387	1.1387%
E/Er (8)	703, 706, 803, 806, 903, 906, 1003, 1006	0.008281	0.8281%
F1 (2)	101, 401	0.011387	1.1387%
F2 (2)	102, 402	0.010369	1.0369%

**COMMON EXPENSE ALLOCATIONS  
APPLICABLE TO INCREMENT 1 ONLY**

Unit type / Total Units	Unit Number	Allocation of Common Expenses Until Addition of Future Increment (decimal)	Allocation of Common Expenses Until Addition of Future Increment (Percentage)
A/Ar (8)	105, 106, 107, 108, 605, 606, 607, 608	0.022774	2.2774%
B/Br (10)	103, 104, 109, 110, 205, 206, 603, 604, 609, 610	0.022774	2.2774%
C1/C1r (9)	112, 201, 210, 601, 612, 701, 708, 1001, 1008	0.016563	1.6563%
C2/C2r (9)	111, 202, 209, 602, 611, 702, 707, 1002, 1007	0.016563	1.6563%
D/Dr (8)	203, 204, 207, 208, 704, 705, 1004, 1005	0.022774	2.2774%
E/Er (4)	703, 706, 1003, 1006	0.016563	1.6563%
F1 (1)	101	0.022774	2.2774%
F2 (1)	102	0.020716	2.0716%

Declarant contemplates that the Community shall proceed in two (2) increments. The Declarant may alter the number of Units within an Increment (by increasing or decreasing the number of Units within an Increment) or construct the Community in one (1) or more Increments in Developer's sole discretion. Increment 1 shall consist of 50 Units, Increment 2 shall consist of 50 Units.

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

## EXHIBIT H

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

The recreational and other common facilities include park area, mail centers, trash enclosures, walkway and pathways as shown on the Condominium Map, and other common elements identified in Exhibit I attached hereto. The Developer has reserved the right but is not obligated to improve the park area or to include any other recreational facilities in the Community. If improvements are made by the Developer, the Developer will amend the Condominium Map to include an updated site plan showing the improvements and include the elevations for any structural improvement. Discharge from the Community into the sewer system or the drainage easement shall be subjected to all applicable laws, ordinances, rules and regulations, including but without limitation to, all Hazardous Material Laws made by any governmental authority.

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

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

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

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

1. The Land and those improvements to the Land, excluding the Units and Private Yard Areas, if any, but including without limitation the Community Access Road, exterior lighting fixtures located along and/or adjacent to the Community Access Road, the common area landscaping and similar improvements.
2. All the benefits, if any, inuring to the land or to the Community from all easements, if any, shown on the Condominium Map or listed in Exhibit "D-1" attached to the Declaration of Condominium Property Regime.
3. All structural components, such as foundations, girders, columns, beams, floor slabs, supports, main walls, load-bearing walls, floors, ceilings (except the inner or decorated surfaces of such walls, floors and ceilings), roofs, exterior stairs and stairways, landings, railings, entrances and exits (other than the entry courts or entry areas included in the definition of a unit) of the buildings and/or Units, doors, door frames, windows, window frames, and other building appurtenances; provided, however, that all rollers, locks, handles, tracks and appurtenant hardware associated with all windows, doors and exterior garage doors, if any, and all sliding screen doors and all glass and window screens shall be the responsibility of the Unit owners and all other portions of the walls, floors, or ceilings, are a part of the common element. If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that unit is a Limited Common Element appurtenant solely to that Unit, and any portion thereof serving more than one Unit or any portion of thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.
4. All yards, grounds, gardens, planters, plants, landscaping, sidewalks, walkways, pathways, curbs, mailboxes, lamp, lamp posts, trash enclosures, mail centers, recycle bins, electrical rooms, refuse facilities and loading area.
5. All fences and walls as shown on the Condominium Map.
6. All drainage facilities or swales, pipes, shafts, wires, conduits or other utilities or service lines running through a Unit, or Private Yard Area, if any, which are utilized for or serve more than one Unit, or Private Yard Area, if any, or other features of the Community.
7. The park area as shown on the Condominium Map.
8. All non-assigned uncovered parking stalls (excluding those stalls reserved to Developer), accessible guest parking and all guest parking stalls, that are not designated as Limited Common Elements; provided that the use of accessible guest parking stall(s) shall be governed by the applicable rules and regulations set forth in the Community Rules.

There are 10 guest parking stalls and the guest parking stalls are marked with a letter "G" as shown on the Condominium Map. Declarant reserves the right to transfer guest parking stalls with Units, without affecting the total number of guest parking stalls.

9. Any and all apparatus and installations of common use and all other parts of the Community necessary or convenient to its existence, maintenance and safety, or normally in common use.
10. All ducts, electrical equipment, transformers, wiring, pipes and other central and appurtenant transmission facilities and installations over, under and across the Community or individual Private Yard Areas, if any shown on the Condominium Map, which are utilized by or serve more than one Unit or for services such as power, light, water, gas, sewer, drainage, telephone and radio and television signal distribution, if any.
11. All areas, rooms, spaces, structures, housings, chutes, shafts or facilities of the Community within or outside of the buildings, which are for common use or which serve more than one Unit, such as electrical, maintenance, service, security, machine, mechanical and equipment rooms and the equipment, machinery and facilities therein.
12. All other parts, of the Community not included in the definition of a Unit.
13. The Entry Sign Monument identifying the Community, which may be covered by a grant of easement in favor of the Association.

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

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

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

1. Private Yard Area:

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

2. Parking Stall Assignments:

In addition to the Garage designated as part of the Unit, all Units have assigned to it at least one (1) open space parking stall as a limited common element as shown on the Condominium Map. The particular parking stalls that initially will be appurtenant to the particular Unit are described in Exhibit C attached hereto.

3. Partially Included in Unit:

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

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

## EXHIBIT K

### Section 1.11 -- Special Use Restrictions

Subject to the rights reserved to Developer in the Community Documents, the Community and each of the Units are intended for and shall be restricted to the following purposes and uses, which, together with any other restrictions contained in the Community Documents, are intended and shall be deemed to be cumulative.

1. Except for Home-Based Small Businesses (defined below) otherwise or as provided in the Declaration, the Residential Units, as defined in the Declaration, shall at all times be occupied and used only for residential purposes in accordance with applicable laws, the Declaration, and the Bylaws, and for no other purposes. Without limiting the foregoing, no Unit shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

"Home-Based Small Business" shall mean a business which: (i) is operated solely within the Residential Unit incidental to the use of the Unit for residential purposes; (ii) is limited to arts and crafts, the rendition of professional services not permitting client visitation, or other similar activities; (iii) is operated by the Owner of the Residential Unit (or a member of such Owner's family) whose principal residence is the Residential Unit; (iv) is permitted by, and is at all times in compliance with, all applicable laws, the Declaration, the Bylaws, and the Community Rules; (v) maintains at all times, any licenses and permits necessary for such business as required by law; (vi) maintains a policy or policies of public liability insurance in an amount which is reasonable for such business and any additional insurance as determined by the Association, in each case naming the Association as an additional insured; (vii) does not result in (A) the violation of any of the provisions of the Declaration, (B) any unreasonable increase in the flow of traffic within the Community, (C) any odor, noise, or vibration outside of the Residential Unit, or (D) parking problems within the Community; and (vi) excludes in all cases manufacturing, kilns, hammering and sawing. No Owner, lessee, tenant, or other occupant of a Residential Unit shall regularly bring clients, customers, or other business Invitees onto the Community for business purposes.

2. Live Work Units, as defined in the Declaration, inclusive of the Limited Common Elements appurtenant to such units, shall at all times be occupied and used (i) only for residential purposes, in which event the limitations on use of Residential Units shall be applicable to the Live-Work Unit, or (ii) a mixture of residential and commercial purposes in accordance with applicable laws, the Declaration and the Bylaws, and for no other purposes. Except as denominated by Developer by Supplemental Declaration, the entry foyer, stairwell serving the second and third floors of such Units, and the second and third floor of such Units shall be used solely for residential purposes, subject to the use limitations imposed on Residential Units, and the ground floor of Live-Work Units, excluding the entry foyer, which is intended to serve the residential portion of the Unit, may be used for commercial or residential purposes. If such commercial use portion of a Live-Work Unit is used for commercial purposes, such portion of the Unit be operated and used only for those commercial purposes or uses authorized under the County's AMX-2 zoning classification described in the LUO, without the need to secure a conditional use permit - Major, subject to the limitations contained in the Declaration and/or approved by Developer. All AMX-2 uses requiring a minor or major conditional use permit or plan review use are specifically prohibited in Live-Work Units. No commercial use of a Live-Work Unit shall be undertaken or permitted unless first approved in writing by Developer or the Commercial Use Committee.



Notwithstanding the specific examples of permitted uses set out in the Permitted Commercial Use Exhibit and subject to the right of the Developer to prohibit a use, the Commercial Use Committee may authorize other uses, using reasonable discretion, so long as such other uses do not detract from the overall image of the Community, and are not otherwise precluded by law. The Commercial Use Committee will consider the effect on Live-Work Units in the Community, and the Commercial Use Committee will not approve a use on Live-Work Unit that has a materially adverse impact on any other Unit in the Community or on the Property (as defined in the Master Declaration). The Commercial Use Committee may fairly and reasonably define the Permitted Commercial Uses, from time to time, more clearly than the guidelines outlined in the Declaration. The Commercial Use Committee may establish special Rules and Regulations to apply specifically to the Live-Work Units. Moreover, the Commercial Use Committee may adopt Rules and Regulations establishing procedures allowing Owners and Persons under contract to purchase a Live-Work Unit in the Community to apply to the Board for written authorization of a proposed business use.

3. Commercial Units as defined in the Declaration, inclusive of the Limited Common Elements appurtenant to such Unit, shall at all times be occupied and used (i) only for commercial purposes, (ii) residential purposes, or (iii) a mixture of residential and commercial purposes in accordance with applicable laws, the Declaration and the Bylaws, and for no other purposes. If a Commercial Unit is used solely for residential purposes, the use of such Unit shall be subject to the limitations on use applicable to Residential Units. Conversion of use of the Commercial Unit from residential use to commercial use or mixed use shall require the advance approval of the Developer or the Commercial Use Committee. If a Commercial Unit is used for mixed residential and commercial purposes, the use of such unit shall be subject to the limitations on use applicable to Live-Work Units. Conversion of the use of the Commercial Unit from mixed use to commercial use shall require the advance approval of the Developer or the Commercial Use Committee. Commercial Units used solely for commercial purposes shall be operated and used only for commercial purposes or uses authorized under the County's AMX-2 zoning classification described in the LUO, without the need to secure a conditional use permit - Major, subject to the limitations contained in the Declaration and/or approved by Developer. All AMX-2 uses requiring a major conditional use permit or plan review use are specifically prohibited. No commercial use of a Commercial Unit shall be undertaken or permitted unless first approved in writing by Developer or the Commercial Use Committee. The Owner of the Commercial Unit shall have the absolute right to rent or lease all or any portion or portions of the Commercial Unit in connection with such commercial operations or use for any length of time and upon such terms and conditions as such Owner or Owners shall determine for a term not less than three (3) months, and to retain the revenues and rents generated from operations. Developer reserves the right to change the permitted uses that may be undertaken with a Commercial Unit, to make alterations to the Commercial Unit and the Limited Common Elements appurtenant thereto and to change the use of the Limited Common Elements, as set forth in, among other provisions, the Declaration. The Commercial Unit shall have an appurtenant easement pursuant to which the Owner's representatives, vendors, licensees, and invitees have the right, for purposes of the business conducted in the Commercial Unit, or the Limited Common Elements appurtenant thereto, to do the following things:

(a) To enter the Community using the Common Elements intended for access to and from any nearby roads or streets;

(b) To make deliveries using any delivery area located within the Commercial Unit's Limited Common Element designated for such commercial delivery area; and

(c) To use the Common Elements for ingress and egress as may be reasonably necessary or convenient in connection with the ordinary course of business operations in the Commercial Unit and its appurtenant Limited Common Elements.

4. No Unit or any interest therein shall be sold, transferred, conveyed, leased, occupied, rented, or used for or in connection with any timesharing purpose or under any timesharing plan, arrangement, or program, including, without limitation, any so-called "vacation license," "travel club membership," "exchange program" or "time-interval ownership" arrangement. The term "timesharing" or "timeshare" as used in this Section H shall be deemed to include, but is not limited to, any plan, program, or arrangement under which the right to use, occupy, own, or possess a Unit rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association, or club membership, license, rental, or use agreement, co-tenancy agreement, partnership, or otherwise. This Section shall not apply to Developer.

5. Unit Owners shall have the absolute right to sell, lease, rent, or otherwise transfer their respective Units subject to all provisions of the Act and the Community Documents. Without limitation of the foregoing, Developer shall have the absolute right to rent Units owned by Developer. No Unit may be leased or rented for an initial term of less than one hundred eighty (180) days (or such longer period as may be required by ordinance of the County to avoid classification of the Unit as a "transient vacation unit"). Also, no Owner may rent any Residential Unit or Live-Work Unit in any manner by which the occupants of the Unit are provided customary hotel or similar services, such as room service, maid service, laundry or linen service or bell service. Any lease or rental agreement of a Unit shall provide that it shall be subject in all respects to the provisions of the Community Documents and that the failure of the lessee or tenant to comply with the terms of the Community Documents shall be a default under the lease or rental agreement. Any Unit Owner leasing or renting a Unit shall provide the Association with a copy of such lease or rental agreement as soon as possible upon execution. If an Owner of a Unit desires to make an arrangement for rental or occupancy of his Unit, then the Owner must make such arrangement without the involvement or participation of Developer. DEVELOPER HAS NOT AUTHORIZED ANY AGENT, EMPLOYEE, SALESPERSON OR BROKER TO MAKE ANY REPRESENTATIONS AS TO RENTAL OR OTHER INCOME FROM ANY UNIT OR AS TO ANY OTHER ECONOMIC BENEFIT, INCLUDING POSSIBLE ADVANTAGES FROM THE OWNERSHIP OF A UNIT UNDER FEDERAL OR STATE TAX LAWS, TO BE DERIVED FROM THE PURCHASE OF A RESIDENTIAL UNIT, LIVE-WORK UNIT, OR COMMERCIAL UNIT IN THE COMMUNITY.

6. Unit Owner may use the Common Elements in accordance with the purposes for which they were intended without hindering or encroaching upon the lawful rights of the other Unit Owners, subject to the rights of the Board of Directors:

(a) To change the use of the Common Elements upon the approval of seventy five percent (75%) of the Unit Owners, provided that the change does not adversely affect (1) Developer's rights and interests in the Common Elements or the Limited Common Elements or (2) the Easements of any Unit Owner, including Developer, in a Limited Common Element, without first having secured the permission of the adversely affected Owner;

(b) On behalf of the Association, to lease or otherwise use for the benefit of the Association, including, without limitation, to grant easements and enter into licenses respecting, those Common Elements that, in accordance with Section 514B-38(5) of the Act, the Board determines are not actually used by any Unit Owners for a purpose permitted in the Declaration so long as it does not adversely affect Developer's rights and interests in the Common

Elements, provided that, unless the approval of seventy-five (75%) of the Owners is obtained, such lease shall not have a term of more than five (5) years and shall contain a provision that the lease or agreement for use may be terminated by either party thereto on not more than sixty (60) days' written notice; provided, however, that the foregoing approval requirement shall not apply to any leases, licenses, or other agreements entered into for the purposes authorized by Section 514B-140(d); and

(c) Provided it does not adversely affect Developer's rights and interests in the Common Elements or Limited Common Elements, to lease or otherwise use for the benefit of the Association those common areas and elements that, in accordance with Section 514B-38(6) of the Act, the Board determines are actually used by one or more Unit Owners for a purpose permitted in the Declaration upon obtaining the approval of seventy-five percent (75%) of the Owners, including all directly affected Owners that the Board reasonably determines actually use such Common Elements, and the Owners' Mortgagees, provided that the foregoing approval requirement shall not apply to any leases, licenses, or other agreements entered into for the purposes authorized by Section 514B-140(d).

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

8. The Owner of any Unit will not, without the prior written consent of the Board, display any sign or place any other thing in or upon any doors, windows, walls or other portions of the Unit or the Common Elements so as to be visible from the exterior. This restriction shall not apply to signs identifying the business of a Commercial Unit or conducted in the commercial use portion of a Live-Work Unit, provided such sign complies with the Signage Guidelines and is first approved in writing by (i) Developer or (ii) the Commercial Use Committee. This restriction shall not apply to any signs displayed by Developer for any purpose.

9. No Unit shall be used for any of the following activities or purposes:

(i) Any distillation or refinery facility (excepting therefrom any microbrewery or similar business that may be operated in a Commercial Unit);

(ii) Any dumping of garbage or refuse, except in places designated for disposal by the Board;

(iii) Except with the express written consent of Developer, any meeting place or place of public assembly;

(iv) Any pool hall, game arcade, betting facility (including off-track betting) or video or games arcade;

(v) Any indecent or pornographic uses, massage parlor (which for purposes of the prohibition shall not be defined to include the operation of a beauty parlor or day spa in which massage therapies are offered as an ancillary services to customers), for the sale of nude, semi-nude, erotic or pornographic adult entertainment, books, magazines, videos and other similar products, peepshow store, escort service or any other similar store or club; and any

business devoted to sale of articles and merchandise normally used or associated with illegal or unlawful activities, including, without limitation, the sale of paraphernalia used in connection with marijuana, cocaine, or other controlled drugs or substances;

- (vi) Any gymnasium or martial arts studio;
- (vii) Except with the express written consent of Developer, any dance, spa, fitness or exercise studio (but not excluding dance instruction);
- (viii) Any tattoo parlors or body piercing establishments;
- (ix) Any laundromat (provided, however that nothing herein shall prohibit the operation of a dry cleaning business in a Commercial Use Unit which does not include a self-service laundromat provided such store is a "drop off" for dry cleaning and actual dry cleaning is conducted at a site outside the Community), secondhand surplus store, bankruptcy sale;
- (x) Except with the express written consent of Developer, any discount or thrift stores;
- (xi) Churches, school or political organizations;
- (xii) Retail or wholesale sales or manufacturing, excluding those uses specifically permitted on the permitted use listed in the Permitted Commercial Uses Exhibit attached to the Declaration;
- (xiii) Kennels or other animal care facilities;
- (xiv) Storage or refining or hazardous materials and petroleum or other products;
- (xv) Sales, repair or maintenance of vehicles, including automobiles, boats, motorcycles, aircraft, trucks or recreation vehicles, or other motorized equipment, provided that light maintenance of commercial vehicles shall be allowed so long as such maintenance is conducted entirely within the interior of a garage on Live-Work Unit;
- (xvi) Other uses (other than Permitted Uses) that Commercial Use Committee, or the Board reasonably determines would detract from the overall image of the Community, or which might adversely affect the value of individual Units within the Community; or
- (xvii) Any of the prohibited commercial uses identified in Permitted Commercial Use Exhibit attached to the Declaration.
- (xviii) Additionally, no Owner or lessee shall employ an advertising medium which can be heard or experienced outside of the Unit, including, without limiting the generality of the foregoing, flashing lights, searchlights, loudspeakers, phonographs, compact disc players, radios, or television. No Owner or lessee shall distribute, or cause to be distributed, any handbills or other advertising device in the Common Elements or Property or on the public sidewalks, walkways or streets adjacent to the Community.

10. The Commercial Unit and a Live-Work Unit used for commercial purposes (herein collectively the "Commercial Use Unit(s)") and the Owner thereof, shall be subject to the following restrictions as to the use of the Commercial Use Unit:

(i) With the exception of Developer, the Owner of the Commercial Use Unit shall not use or occupy such Unit, or permit the use or occupancy of such Unit, for any purpose or in any manner which:

(A) Engages in a commercial liquor store use for off premise consumption which devotes more than twenty-five percent (25%) of the entire display space of the Unit to the display of intoxicants, exclusive of wine and beer, (which intoxicants must be only first class, high grade spirits), or sells intoxicants (except wine, beer, and items used in cooking) in containers holding less than one-fifth of a gallon;

(B) Operates a cinema/movie theater, bowling alley, skating rink, video game room, amusement gallery or amusement arcade, pool hall, funeral home or store selling caskets, facility for industrial or manufacturing uses, pet grooming or veterinary medicine;

(C) Operates a real estate sales, property management, or property rental business, concierge service, or a business for the on-site sales of Units, except with the express written permission of Developer; or

(D) Operates a drive-in or drive-thru restaurant

(E) Is not one of those uses specified as permitted AMX-2 zoning uses for the Unit use classification (Commercial Unit or Live-Work Unit) specified in Permitted Commercial Use Exhibit attached to the Declaration and has not obtained prior approval of such proposed use of the Commercial Use Committee.

(ii) The Owner of the Commercial Use Unit shall, at such Owner's expense, obtain and maintain at all times, all licenses and permits necessary for such Owner or such Owner's tenants', lessees', or occupants' operations from the Commercial Use Unit as appropriate and shall post or display in a prominent place in the Commercial Use Unit such permits and/or notices as required by law.

(iii) The Owner of the Commercial Use Unit agrees to conduct its business, and to cause their tenants, licensees and occupants to conduct their operations, at all times in a reputable manner, maintaining at all times a full staff of experienced and qualified employees for efficient operation in a proper, workmanlike and dignified manner.

(iv) The Owner of the Commercial Use Unit shall not operate or be open for business between the hours of 10:00 p.m. and 6:00 a.m., without prior written consent from the Commercial Use Committee. Deliveries to Commercial Use Units are restricted to between the hours of 8:00 a.m. and 5:00 p.m.; provided, however, alternate delivery schedules may be approved by the Commercial Use Committee, in its sole discretion, for Commercial Units (F1 Units). In all Commercial Use Units, the street front entrance shall be used as the principal means of ingress and egress for commercial invitees and customers of any business conducted in a Commercial Use Unit and no approved sign within a Commercial Use Unit shall direct invitees and customers to any rear or alleyway access to the Unit. Rear or alleyway access to any Commercial Use Unit shall not be used as the primary access to a Commercial Use Unit.

(v) The Owner of the Commercial Use Unit shall not have the right to place canopies, signs, pictures, advertisements or notices inside the Commercial Use Unit visible from the exterior of the Unit or outside the Unit (or within any Private Yard Area) without the prior written approval of the Commercial Use Committee, and the DRC, where appropriate. The Signage Guideline and Commercial Use Guidelines reserve to the Board and the foregoing committees the right to approve the design, location and size of any and all canopies, signs,

pictures, advertisements or notices placed inside the Unit that are visible from the street are or any Common Element. Notwithstanding the foregoing, signs containing any strobe lights, moving parts or day-glow colors shall be strictly prohibited.

11. The Owner of the Commercial Use Unit shall be responsible for compliance by such Owner's commercial Invitees and lessees, and such Owner's lessees' Invitees, with the provisions of the Declaration, the Bylaws, and any rules made by the Board. The Owner of the Commercial Use Unit and such Owner's lessee shall maintain a policy or policies of public liability insurance in an amount which is reasonable for the use of such Unit, naming the Association as an additional insured, and shall provide a certificate evidencing adequate coverage annually upon renewal to the Board. The Commercial Use Committee's approval of any commercial use within a Commercial Use Unit may be conditioned on additional insurance requirements. Moreover, the Board may, pursuant to power reserved to it hereunder, specially assess Commercial Use Units for among other matters, increases in costs of insurance for the Community attributable to commercial activity in the Commercial Use Units.

12. No animals, livestock, reptiles, insects, poultry, or other animals of any kind shall be kept in any Unit except as is permitted by, and in accordance with, the Bylaws.

13. No Owner shall cause or permit any mechanic's lien to be filed against any portion of the Common Elements or other Unit for labor or materials alleged to have been furnished or delivered to the such Owner's Unit or any for such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner for such cost of discharge.

14. No noxious or offensive activities shall be conducted within the Community unless authorized in advance by Developer in writing, provided that the operation of a restaurant (other than a drive-in or drive-thru restaurant) within a Commercial Unit is hereby expressly authorized, and provided for that such eatery establishment shall not offer live entertainment except on Friday or Saturday nights between the hours of 6:00 pm and 10:00 pm or on Sunday between the hours of 11:00 a.m. and 2:00 p.m.; provided, however, alternate hours of live entertainment may be authorized by the Commercial Use Committee in its sole discretion. Nothing shall be done on or within the Community that may be or may become an annoyance or nuisance to the residents of the Community, or that in any way interferes with the quiet enjoyment of occupants of Units or which may create a nuisance or injure the reputation of the Building. No odorous matters shall be emitted upon or about the Community in such quantity as to be readily detectable outside the physical boundaries of the space within which the odor was generated. Accordingly, fume filters must be used within either Commercial Unit where any cooking is permitted by the Commercial Use Committee. Unless otherwise permitted by the Community Rules, no Residential Unit Owner shall serve food or beverages, cook, barbecue, or engage in similar activities, except within such Owner's Unit and except within the Limited Common Elements appurtenant to such Owner's Unit or Common Elements designated for such purpose by the Association, if any, subject to the provisions of the Community Rules.

15. No person shall produce, or allow to be produced, noise or building shaking vibration at such levels as will be offensive to other Owners.

16. No exterior clotheslines shall be erected or maintained or hung on balconies or railings or any other location within the Community and there shall be no exterior drying or laundering of clothes or any other items on any Limited Common Element or Association property.

17. No person shall discharge into the Community's sewer system storm drain any toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety or welfare, violate any law, subject any Owner to liability under state and federal law for any clean up, or cause injury or damage to neighboring property or business elsewhere on the Community.

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

(a) To change the use of the Common Elements upon approval of seventy-five percent (75%) of the Owners;

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

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

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

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

(a) Use of Lanais in Residential Units. Residential Unit Lanais shall be used only as outdoor living areas containing patio furniture, potted plants, and other similar outdoor furnishings that comply with the standards governing the appearance of such items as set forth in the Community Rules. Said furnishings shall be equipped with protective leg caps or other devices to prevent damage to the floor of the lanais. No improvement shall be nailed, bolted, or otherwise attached to the floor, walls, or any other portion of the lanais. No hanging screens or banners and no other accoutrement (other than plants), which may be visible from any other Unit, the Common Elements, or the Community are permitted on any portion of the lanais. Any plants placed on lanais must have sufficiently large receptacles to contain all drainage from such plants, and must not be allowed to collect condensates or moisture between the receptacles and the floor of the lanais.

(b) Use of Commercial Unit Lanais and Lanais Adjoining the Commercial Use Portion of Live-Work Units. Lanais of Commercial Units and the Lanais adjoining the commercial use portion of Live-Work Units shall be used only as permitted by the Approved Commercial Use Plan approved by the Commercial Use Committee.

(c) Limitations on Lanai Use-Generally. Lanais of all Units shall not be used for storage of any type, including, without limitation, boxes, tools, exercise and sports equipment, bicycles, cleaning utensils and supplies, or other household items. Lanais shall be maintained in a clean, neat, and sanitary condition at all times, and nothing shall be placed on Lanais so as to render them unsightly or offensive to the other Owners or to any other Units in the Community or its occupants. No dust, dirt, or other substances shall be shaken, swept, or thrown from or hosed off the lanais on or into any Common Elements. Any item which in the opinion of the Board or the Board is unsightly or offensive shall be removed from the lanais upon receipt of written notice of such determination from the Board or the Board. No Owner shall change or alter the surface or exterior of any lanais without the consent of the Board.

## 20. Parking Stalls and Vehicular Restrictions.

(a) Parking Stalls for Disabled Persons. Certain Parking Stalls may be designated for use by disabled persons ("Disabled Parking Stalls") and will be designated as such on the Condominium Map. Such Disabled Parking Stalls may be assigned by Developer to the Owners of particular Units upon the initial sale of such Units or may be designated for use by the Owner of the Commercial Unit and such Owner's Invitees, jointly. Developer shall, upon assigning a Disabled Parking Stall to an Owner, designate such assignment in the records of the Association and such Disabled Parking Stalls shall constitute Limited Common Elements appurtenant to the Unit to which the stall is assigned. If any Disabled Parking Stalls remain unassigned after the sale of all the Units in the Community, the Board shall have the right to assign and manage such spaces unless the same have reserved to Developer in the Declaration. The Owners who are assigned Disabled Parking Stalls shall be subject to the rights of the Board to re-assign such parking Stalls. Evidence of disabled status shall be by distinguishing license plate or placard issued by the Hawaii Department of Motor Vehicles. Except for Developer Reserved Parking Stalls, the Board shall have the authority and be responsible for coordinating the assignment of parking stalls in the Parking Garage pursuant to the Declaration and shall adopt rules and regulations with respect thereto, including the procedure to be followed should an Owner or occupant become disabled and wish to use a Disabled Parking Stall, forms and methods of notice to be given to the Board and Owner, and procedures for review of the required evidence of disabled status. The Board shall maintain appropriate records of such assignment, including a copy of the evidence provided. In no event shall the Developer or the Association be held liable if the Developer or the Association is unable to assign a Disabled Parking Stall to a disabled Owner because all designated Disabled Parking Stalls have previously been assigned to other disabled Owners.

(b) Authorized Vehicles. The following vehicles are "Authorized Vehicles": motorized land vehicles designed and used primarily for non-commercial passenger transport, such as automobiles, passenger vans designed to accommodate ten (10) or fewer people, two-wheel motorcycles, pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less, and any vehicle owned, used, or authorized by Developer. Subject to the provision below, Authorized Vehicles may be parked in the parking areas in the Property intended for parking of motorized vehicles.

(c) Prohibited Vehicles. The following vehicles are "Prohibited Vehicles": recreational vehicles (e.g., motor homes, travel trailers, camper vans, boats, dune buggies,



etc.), stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, or other similar vehicles, buses or vans designed to accommodate more than ten (10) people, vehicles having more than two (2) axles, trailers, including, without limitation, boat trailers, inoperable vehicles or parts of vehicles, aircraft, other similar vehicles, or any vehicle or vehicular equipment deemed a nuisance by the Board. Prohibited Vehicles shall not be parked, stored, or kept in any parking or loading areas in the Property. This prohibition shall not prohibit use of such vehicles in connection with deliveries to Commercial Use Units, provided, such vehicles shall not remain in any parking or loading area any longer than required to permit loading and unloading of any delivery.

(d) General Restrictions. All Authorized Vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Unit and kept within the Property shall be parked in that Owner's assigned parking stalls. No vehicle shall be parked in any parking stall if such vehicle does not completely and clearly fit between the painted parking lines designated for a parking stall or otherwise physically fit wholly within the designated space or any other portion of the parking areas in the Property designed for ingress and egress of vehicles. There shall be no parking in the Property that obstructs free traffic flow, constitutes a nuisance, violates the Community Rules, or otherwise creates a safety hazard. The parking areas in the Property shall be used for parking Authorized Vehicles only and shall not be used for storage, living, recreational, or business purposes (except for storage in authorized storage spaces). No maintenance, repair, restoration, or construction of any vehicle shall be conducted on the Property.

(e) Traffic and Parking Regulations. The Board shall have the right to police and regulate traffic in and otherwise control the use of parking areas and streets within the Community to minimize adverse affects and over-crowdedness attributable to commercial use. In furtherance of that right, Developer and the Commercial Use Committee, at the request of the Board, may promulgate reasonable written rules and regulations with respect to such areas, and those rules and regulations shall be binding upon Owner on notice of the adoption and delivery of the rules and regulations to Owners. For the enforcement of said rules and regulations, the Board or the Commercial Use Committee, as designated in such rules and regulations, shall have the same remedies as if said rules and regulations were expressly incorporated herein, in addition to all other legal or equitable remedies, whether or not provided for in the Declaration.

Without limitation of the rights of Developer or Commercial Use Committee, reasonable rules and regulations ("Parking Rules") may address or require, among other matters:

- (i) a Commercial Use Unit occupant to offer, at their expense, valet parking during peak operating hours, as determined by Developer or the Commercial Use Committee;
- (ii) off street parking for all commercial customers or invitees;
- (iii) employee parking outside the Community; and
- (iv) permitted users of and hours of permitted use of the Loading Zone shown on the Condominium Map.

21. Community Rules Respecting Parking. Developer has the exclusive right to use and/or assign and/or unassigned Parking Stalls that are not appurtenant to any specific Unit, including any Developer's reserved stalls identified in a Recorded Supplemental Declaration. If

Developer waives this right with respect to any one or more unassigned Parking Stalls, use of those unassigned Parking Stalls, if any, may be governed by rules and regulations adopted in accordance with the Bylaws to assure equitable use of the stalls by all Owners. The Board of Directors may install parking meters, gates, security devices, checkpoints, and other equipment appropriate to this end and may issue stickers or adopt a permit or an allocation system. Without limiting the foregoing, the Board may establish additional regulations as it deems appropriate in its sole discretion with regard to street parking within the Community and with respect to any of the parking areas not assigned to individual Units, including, without limitation, designating "residential guest parking," "commercial parking," "parking," and "no parking" areas thereon. Any parking areas shall be subject to such further reasonable control and use limitations as the Board may establish. The Board shall determine, in its discretion, whether there is a violation of the parking and vehicular restrictions set forth in the Declaration or established by the Board, and, if such noncompliance is determined by the Board to exist, the Board shall have the power to enforce all parking and vehicle use regulations applicable to the Property, including the power to remove violating vehicles from any of the Property pursuant to law. To enforce such a system, the Board and the Developer shall also have the power to adopt and implement a ticket, fine, and towing program to foster compliance with any parking regulations that may be adopted. Non-payment of any approved fines or tickets may be treated as the equivalent of non-payment of common expenses and afford the Board and Developer with same enforcement rights available under the Declaration with respect to such items.

22. Developer's Limited Warranty. The Common Elements and their use is subject to an express limited warranty by Developer in favor of the Association, which is conditioned on appropriate regular and routine maintenance, inspection and repair of the Common Elements by the Association, that the construction of the Common Elements has been completed in general conformity with approved plans and specifications, subject to appropriate or required field changes in accordance with the building standards set out in Developer's Limited Warranty ("Developer's performance standards"). The exact terms of Developer's Limited Warranty are set forth in the Declaration and such limited warranty shall be effective upon the recording of the Declaration. Developer's Limited Warranty shall be administered by the Professional Warranty Service Corporation ("PWC"). An appropriate validation form, described below and in Developer's Limited Warranty, will be delivered to the Association NOT later than the first annual meeting of the Owners. It is expressly understood and agreed by and between Developer and each Owner and the Association that, other than this express limited warranty, DEVELOPER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE COMMON ELEMENTS, THE COMMUNITY OR CONSUMER PRODUCTS OR OTHER THINGS WHICH MAY BE INSTALLED OR WHICH ARE CONTAINED IN THE COMMON ELEMENTS OR THE COMMUNITY, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS FOR A PARTICULAR USE. During the term of Developer's Limited Warranty, the Association shall in each and all instances permit Developer or Developer's designated representative to repair any and all items classified by Developer as items covered by Developer's Limited Warranty. The Association and its members shall have no further rights and Developer no further obligation to the Association and/or its members in respect of such matters repaired by Developer or Developer's representative.

In providing for the maintenance, management and repair of the Area of Common Responsibility (which are defined as Common Elements in Developer's Limited Warranty) pursuant to this Section, the Association shall comply with each of those obligations specified in the attached form of Developer's Limited Warranty and undertake each of those actions therein required to be taken by the Association. In that regard, the Association shall let appropriate

contracts to service professionals in order to provide and shall provide regular and routine maintenance, inspection and repair of the Common Area. Without limitation of the obligations imposed on the Association pursuant to this Section, the Association, through its Board, shall execute all necessary documents in order to effectuate Developer's Limited Warranty, including without limitation, the "Limited Warranty Validation Form". With respect to the Developer's Limited Warranty, the Association acknowledges and agrees:

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

- PWC is only administrator of Developer's Limited Warranty.

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

- The Association board has received and shall maintain a copy of Developer's Performance Standards and further understands and acknowledges that Developer's performance standards will be utilized in determining coverage under Developer's Limited Warranty.

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

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

24. Improvements and Pests. Except as otherwise specifically provided in the Declaration, any Supplemental Declaration, or any agreement with the Association, the performance and cost of all maintenance and repair of each Private Yard Area, and all structures, parking areas,

landscaping and other Improvements located on or within such Private Yard Area shall be the sole responsibility of the Owner of the Unit to which such Private Yard Area is appurtenant. Each Owner shall maintain all Improvements, including landscaping upon or within such Owner's Private Yard Area, in a state of good condition and repair in accordance with the Declaration. Any Improvement shall comply with the City and County of Honolulu Ordinance 04-46 and the Unilateral Agreement. No Owner or occupant of a Private Yard Area shall landscape or plant in any area controlled by the Association or otherwise interfere with the landscaping and maintenance of such landscaping as performed by the Association. No such Owner or occupant shall interfere in any manner with the proper and effective operation of the irrigation facilities, if any, located in or on such common areas or easement areas, including any automatic or electric timer system(s) associated with such facilities. Further, each Owner acknowledges and agrees that the Owner is responsible for the control of pests (termites, insects, rodents and the like) in or around the Private Yard Areas and Improvements to the Private Yard Area. Notwithstanding anything to the contrary in the Declaration, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. Notwithstanding anything to the contrary contained in the Declaration, each Owner shall have and shall comply with each of those obligations specified in the attached form of Developer's Limited Warranty and undertake each of those actions therein required to be taken by the Unit Owner.

25. Maintenance.

(a) Appearance of Improvements. Each Owner shall maintain the exterior appearance of the Improvements to their Private Yard Area in a neat and attractive manner, consistent with the surrounding areas in accordance with the provisions of the Declaration and the maintenance responsibilities set out in the Declaration.

(b) Improper Maintenance and Use of Private Yard Areas. In the event any portion of any Private Yard Area is so maintained as to present a public or private nuisance or an unreasonable condition (as determined by the Board) with respect to other Owners or occupants, or as to substantially detract from the appearance or quality of the surrounding Private Yard Areas or other areas of the Community, or in the event any portion of a Private Yard Area is being used in a manner which violates the Declaration, the Community Rules or any applicable Supplemental Declaration, or in the event the Owner of any Private Yard Area or portion thereof is failing to perform any of its obligations under the Declaration, any applicable Supplemental Declaration or Community Rules, the Board may by resolution, make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto, give notice to the offending Owner that, unless corrective action is taken within ten days, the Board may cause such action to be taken at the Owner's cost. If, at the expiration of said ten-day period of time, the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be a Special Assessment against the offending Owner and the Owner's Private Yard Area, secured by a special assessment lien enforceable in accordance with the Declaration.

26. Design Guidelines. Each Owner shall comply with the Design Guidelines.

27. Grade of Private Yard Areas. Each Owner shall maintain the grade and ground cover of the Owner's Private Yard Area so as to prevent soil erosion and, excessive water run-off onto any neighboring Private Yard Area or Common Area, and the ponding of any water on the Private Yard Area. Such erosion and ponding may contribute to expansion or shrinking of soils underlying improvement and damage the area.

28. Landscaping.

(a) All Private Yard Areas shall be landscaped in accordance with plans that comply with the Declaration and the Design Guidelines contained in the Community Rules. Landscaping on all Private Yard Areas shall be maintained in a neat and attractive manner, consistent with any surrounding common areas and shall conform to any additional landscape maintenance standards established in the Design Guidelines and which may be established under the Declaration. The entire Private Yard Area must be landscaped within 90 days after Owner's purchase. In the event an Owner fails to landscape these areas on Owner's Private Yard Area within 100 days after Owner's purchase, either the Developer or the Association may, at their respective option, perform all such clearing and landscape work and the Owner shall reimburse the Developer or the Association, as the case may be, for the cost thereof upon demand together with interest thereon at the maximum rate allowed by law; provided, however, that the cost thereof does not exceed \$5,000, exclusive of interest. All such sums expended shall be a special assessment lien on the Unit, subject to foreclosure in accordance with the Declaration.

(b) Similarly, if after 30 days following written demand, the Owner fails to maintain, repair and/or restore, as the case may be, the landscaping on the Private Yard Area in a neat and attractive manner, the Developer or the Association may at their respective option perform the work and shall be reimbursed therefor, together with the interest on amounts advanced to perform such work. Any sums not paid by the Owner on demand shall be a lien against the Private Yard Area, subject to foreclosure as herein permitted. All landscaping in Private Yard Areas, including without limitation, plants, flowers, bushes, shrubs, or foliage of any kind, must be at least two (2) feet away from the Unit in order to prevent possible termite damage to the Unit.

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

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

31. Existing Drainage Facilities and Easements. No Owner shall alter the existing drainage pattern on any Private Yard Area, nor shall any Owner modify any existing drainage facility located on the Owner's Private Yard Area. Private Yard Area Owners shall be responsible for maintaining the existing drainage pattern on Owners' respective Private Yard Areas. The Owner of a Private Yard Area on which any drainage ditch facility or portion thereof is located shall be responsible, at the Owner's cost, for the maintenance, repair and cleaning, as required, of the drainage ditch facilities located on the Owner's Private Yard Area. The County shall be responsible for the maintenance of the underground drainage facilities located on a Private Yard Area, if any, which are constructed for the benefit of the County.

32. Existing Fences and Walls. Among the Improvements constructed by Developer are various vinyl or aluminum fences and masonry or cementitious walls located within various Private Yard Areas or along Private Yard Area boundaries. The Owners may not remove or alter such fences or walls. The locations of the fences or walls shown on the Condominium Map are tentative and may be changed at any time, all without further notice to Owner. The final locations of the fences and walls will be shown on the Condominium Map filed with the "as built" statement.

33. Future Additions and Alterations. No Owner shall add to or alter any Improvement constructed by the Developer, including the Units, without the prior written consent of the Director of the County planning department, and the Association's Board. All Improvements constructed on the Private Yard Areas by an Owner shall conform with the requirement of the Declaration and the Design Guidelines, if any, and the restrictions contained in the Declaration. Specifically, but without limitation, yard setbacks and the height of all Improvements on each Private Yard Area shall comply with any and all applicable zoning requirements, including, without limitation, any applicable requirements of the "Land Use" or "Zoning" or "Building" Ordinance for the County. In the event of a conflict between the Declaration and the Design Guidelines, the more restrictive provision shall control.

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

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

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

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

**EXHIBIT L**

Section 1.12 -- Encumbrances Against Title

1. Real Property Taxes which may be due and owing. Reference is made to the City and County of Honolulu Tax Assessor's Office.

2. EASEMENT "182" (15 feet wide)

As shown on Map 21

As set forth by Land Court Order No. 16009, filed February 12, 1958

3. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument : GRANT

Granted To : STANDARD OIL COMPANY OF CALIFORNIA

For : an easement over said Easement "182"

Dated : March 13, 1958

Recorded : in the Bureau of Conveyances, State of Hawaii, in Book 3404, Page 113, and in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 213791

Said Grant was assigned to CHEVRON, U.S.A., INC. by instrument dated February 10, 1978, effective as of January 1, 1977, filed as Land Court Document No. 891877, recorded in Book 13072 at Page 403.

4. RESTRICTION OF ACCESS RIGHTS

SHOWN : on Map 118, as set forth by Land Court Order No. 18309, filed August 16, 1960.

5. EASEMENT "1442" (15 feet wide)

For : Sanitary sewer purposes

As shown on Map 407

As set forth by Land Court Order No. 83457 filed April 3, 1987.

6. A 40 foot building set back line as shown on Map 407, as set forth by Land Court Order No. 83457, filed April 3, 1987.

7. Terms, provisions and conditions, contained in that certain AMENDED DOCUMENT LISTING CONDITIONS AND PRE-CONDITIONS TO RECLASSIFICATION dated November 14, 1989, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 1684751.

Said Amended Document Listing Conditions and Pre-Conditions to Reclassification was amended by instrument dated September 11, 1995, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2260756 and recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 95-119179.

8. Terms, provisions and conditions, contained in that certain AMENDED AND RESTATED



DOCUMENT LISTING CONDITIONS TO RECLASSIFICATION dated September 11, 1995, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2260754 and recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 95-119177.

Said Amended Document Listing Conditions and Pre-Conditions to Reclassification was amended by instrument dated September 11, 1995, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2260756 and recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 95-119179.

- 9. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

- Instrument : GRANT
  - Granted To : CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii
  - For : an easement over said Easement "1442"
  - Dated : August 5, 1998
  - Recorded : in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2493647

- 10. EASEMENT "7113" (6,820 square feet)

- For: roadway purposes
  - As shown on Map 1028
  - As set forth by Land Court Order No. 139733, filed October 4, 2000

- 11. Access rights in favor of Lot 13473, as shown on Map 1030, as set forth by Land Court Order No. 139916, filed October 25, 2000.

- Said matters affect Easement "7113"

- 12. EASEMENT "7118" (area 7,998 square feet)

- For: utility purposes
  - As shown on Map 1028
  - As set forth by Land Court Order No. 139733, filed October 4, 2000

- 13. EASEMENT "7119" (area 132,948 square feet)

- For: utility purposes
  - As shown on Map 1028
  - As set forth by Land Court Order No. 139733, filed October 4, 2000

- 14. EASEMENT "7120" (area 1,200 square feet)

- For: sanitary sewer purposes
  - As shown on Map 1028
  - As set forth by Land Court Order No. 139733, filed October 4, 2000

- 15. UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

Executed By : the TRUSTEES OF THE ESTATE OF JAMES CAMPBELL,  
DECEASED, "Declarant"

On the terms, covenants and conditions contained therein,

Dated : November 17, 2004

Recorded : November 19, 2004 in the Office of the Assistant Registrar of the  
Land Court, State of Hawaii, as Document No. 3195643

16. EASEMENT "8505" (10,085 square feet)

For : landscaping and utility purposes

As shown on Map 1239

As set forth by Land Court Order No. 161918, filed May 11, 2005

17. Encroachments or any other matters as shown on survey map prepared by Lance T. Stevens, Licensed Professional Land Surveyor, dated December 12, 2005, and set forth in the deed, recorded December 16, 2005 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3368412.

18. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in LIMITED WARRANTY DEED WITH COVENANTS AND RESERVATION OF RIGHTS recorded December 16, 2005 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3368412.

19. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in Master Declaration of Covenants, Conditions, Restrictions and Easements for Mehana at Kapolei recorded \_\_\_\_\_ in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. \_\_\_\_\_.

20. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in Declaration of Condominium Property Regime of Nanala at Mehana recorded \_\_\_\_\_ in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. \_\_\_\_\_.

21. Condominium Map No. \_\_\_\_\_.

22. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in Bylaws of the Association of Unit Owners of Nanala at Mehana recorded \_\_\_\_\_ in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. \_\_\_\_\_.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE ENCUMBRANCES AGAINST TITLE CONTAINED IN THE DECLARATION, BYLAWS,

CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

## EXHIBIT M

### Section 1.13 -- Uses Permitted by Zoning and Zoning Compliance Matters

The County's zoning designation for the Community is AMX-2 (Medium Density Apartment Mixed Use District with a 45-foot height limit) and properties surrounding the Community are zoned for mixed residential and commercial uses and have other differing zoning designations. The following uses are permitted subject to approval by the Commercial Use Committee as detailed in the Declaration or are prohibited where indicated:

#### PERMITTED COMMERCIAL USES

##### Commerce and Business

1. Convenience Stores means a small retail establishment intended to serve the daily or frequent needs of surrounding population. Included are grocery stores, drug stores, variety stores, pharmacies and sundry stores such as "crack seed" stores. Excluded are automobile service stations, repair establishments and drive-thru eating and drinking establishments.
2. Dance or Music Schools means an establishment where instruction in dance or music is provided students for a fee are permitted only in Commercial Units (Type F1 Units). Establishments where instruction is accessory to cabarets, nightclubs or dancehalls are not included in this definition.
3. Neighborhood Grocery Stores means small retail establishments which provide a variety of goods to the surrounding community, typically known as "mom and pop" grocery stores. Excluded are drive-thru facilities. These establishments are located in country, residential, apartment, industrial or agricultural zoning districts and were nonconforming uses prior to the adoption of LUO Chapter 21, but shall be permitted under the provisions of LUP Chapter 21.
4. Eating Establishments
5. Financial Institutions means those establishments which provide a full range of traditional banking services on the premises, such as savings and checking accounts, loans, safety deposits, fund transfers, trust functions and investments (e.g., certificates of deposit, savings bonds, annuities). This term includes only banks, credit unions, and savings and loan institutions. This term does not include those establishments, such as loan processing companies, accounting firms and other bookkeeping services, investment brokers, insurance offices, title transfer companies, pawn shops, and "pay-day," check-cashing or personal finance institutions, which are principally involved in providing a limited range of financial services or products on the premises.
6. Home Occupations means any activity intended to produce income that is carried on within a dwelling, accessory structure to a dwelling or on a zoning lot used principally for dwelling purposes. Home occupations include the use of any residential premise as a base for an off-premise, income-producing activity.
7. Medical Clinics means an office building or group of offices for persons engaged in the practice of a medical or dental profession or occupation. A medical clinic does not have beds for overnight care of patients but can involve the treatment of outpatients, excluding oncology, or anything treatment emitting radiation. A "medical profession or occupation" is any activity

involving the diagnosis, cure, treatment, mitigation or prevention of disease or which affects any bodily function or structure.

8. Personal Services means establishments which offer specialized goods and services purchased frequently by the consumer. They include barbershops, beauty shops, garment repair, laundry cleaning, pressing, dyeing, tailoring, shoe repair and other similar establishments. The term also includes commercial wedding chapels and services.

#### Dwellings and Lodgings

1. Boarding Facilities means establishments with one kitchen which provide living accommodations for roomers in addition to the resident manager or owner and family, with or without meals, for remuneration or in exchange for services. The term does not include group living facilities or monasteries and convents.

2. Consulates means the administrative offices of staff and consul, an official appointed by a foreign government representing the interests of citizens of the appointing country.

3. Duplex Units means a building containing one dwelling unit on a single zoning lot which is to be attached on a side or rear property line with another dwelling. The dwellings shall be structurally independent of each other and attached by means of a boundary wall. The attachment of the wall shall not be less than 15 feet or 50 percent of the longer dwelling on the property.

4. Dwellings, Detached, one-family means a building containing one dwelling unit, entirely surrounded by yards or other separation from buildings on adjacent lots.

5. Dwellings, Detached, two-family means a building containing two dwelling units, entirely surrounded by yards or other separation from buildings on adjacent lots. Dwelling units in a two-family detached dwelling may be either on separate floors or attached by a carport, garage or other similar connection, or attached solid wall without openings which shall not be less than 15 feet or 50 percent of the longer dwelling (see Figure 2110.3 in LUO Chapter 21).

6. Dwellings, multifamily means a building containing three or more dwelling or lodging units which is not a hotel.

#### Social and Civic Service

1. Public uses and structures means uses conducted by or structures owned or managed by the federal government, the State of Hawaii or the city to fulfill a governmental function, activity or service for public benefit and in accordance with public policy. Excluded are uses which are not purely a function, activity or service of government and structures leased by government to private entrepreneurs or to nonprofit organizations. Typical public uses and structures include: libraries, base yards, satellite city halls, public schools and post offices.

2. Schools, language

3. Meeting Facilities (excluding political organizations) means permanent facilities for recreational, social or multipurpose use. These may be for organizations operating on a membership basis for the promotion of members' mutual interests or may be primarily intended

for community purposes. Typical uses include private clubs, union halls, community centers, religious facilities such as churches, temples and synagogues and student centers.

### Parking

1. Commercial parking lots and garages mean any building or parking area designed or used for temporary parking of automotive vehicles, which is not accessory to another use on the same zoning lot and within which no vehicles shall be repaired.

### Utilities and Communications

1. Utility Installations, Type A , means uses or structures, including all facilities, devices, equipment, or transmission lines, used directly in the distribution of utility services, such as water, gas, electricity, telecommunications other than broadcasting antennas, and refuse collection other than facilities included under waste disposal and processing. A utility installation may be publicly or privately owned and does not include wind machines, which are defined separately. Also not included are: cesspools, individual household septic tank systems, individual household aerobic units, and individual water supplies.

Unless installed by the Declarant, also not included are private temporary sewage treatment plants which are allowed as an accessory use in all zoning districts, provided such use is approved by the director. These uses so approved shall be permitted notwithstanding the location on a noncontiguous lot or in another zoning district of the principal use or uses served by the plant, and subdivision (1) of the definition of accessory use shall be inapplicable. A utility installation includes accessory uses and structures directly associated with the distribution of the utility service, such as, but not limited to: accessory antennas, maintenance, repair, equipment, and machine rooms; tool sheds; generators and calibration equipment; and accessory offices. Offices permitted as accessory to a utility installation shall be directly associated with the distribution of the utility service, and not principally function as a business or executive center for the utility operation. Type A utility installations are those with minor impact on adjacent land uses and typically include: 46 kilovolt transmission substations, vaults, water wells and tanks and distribution equipment, sewage pump stations, telecommunications antennas and other similar uses.

## PROHIBITED COMMERCIAL USES REQUIRING SPECIAL DEPARTMENT OF PLANNING AND PERMITTING REVIEW

### Commerce and Business

1. Trade or Convention Center means a structure or structures capable of accommodating 10,000 or more persons assembling for a common purpose such as, but not limited to, professional or business conventions, concerts, short-term retail or wholesale activities, the large-scale marketing, buying or selling of goods or services, or sporting events. A trade or convention center may include accessory hotel, multifamily dwellings and retail or other commercial uses.

### Dwellings and Lodgings

1. Group Living Facilities means facilities which are used to provide living accommodations and, in some cases, care services.

(1) Included are monasteries and convents and dwelling units which are used to provide living accommodations and care services under a residential setting to individuals who are handicapped, aged, disabled or undergoing rehabilitation. These are typically identified as group homes, halfway houses, homes for children, the elderly, battered children and adults, recovery homes, independent group living facilities, hospices and other similar facilities.

(2) Also included are facilities that provide services, often including medical care, and are identified as convalescent homes, nursing homes, sanitariums, intermediate-care or extended-care facilities, and other similar facilities.

(3) Group living facilities include those with accommodations for more than five resident individuals, except those meeting the definition of family. Resident managers or supervisors shall not be included in this resident count.

2. Special needs housing for the elderly means housing developments which meet one of the following criteria and which require a modification in district regulations pursuant to Section 21-2.90-2(e):

(1) Provide aging-in-place dwelling units or assisted living facilities, or a combination of both, for residents of a minimum age of 60 years. Aging-in-place dwelling units typically include a congregate residential setting, such as communal dining facilities and services, housekeeping services, organized social and recreational activities, transportation services and other support services appropriate for elderly residents. Assisted living facilities typically include residences for the frail elderly and provide services such as meals, personal care, and supervision of self-administered medication; or

(2) Provide single-room-occupancy dwelling units for residents of a minimum age of 60 years. Single-room-occupancy units typically include small units to accommodate one person. Amenities such as bathrooms, kitchens and common areas may be either shared with other residents, or included within the unit. This type of housing development may be designed to serve as emergency housing for the homeless elderly, transitional housing for the elderly who are progressing to permanent housing, or as permanent housing for the elderly.

The foregoing criteria shall not apply to any resident manager, the manager's immediate family, and the dwelling unit occupied by them.

### Social and Civic Service

1. Day-care facilities means an establishment where seven or more persons who are not members of the family occupying the premises are cared for on an intermittent basis. The term includes day nurseries, preschools, kindergartens and adult day care.

2. Hospitals means an institution primarily for in-patient, intensive, medical or surgical care. It may also include facilities for extended care, intermediate care and/or out-patient care, medical offices, living facilities for staff, research and educational facilities, and related services and activities for operation of these facilities.

3. Prisons

4. Schools: Elementary, Intermediate and High
5. Universities, Colleges

#### Parking

1. Airports
2. Joint use of Parking Facilities
3. Off-site parking facilities

#### Utilities and Communications

1. Utility Installations, Type B means uses or structures, including all facilities, devices, equipment, or transmission lines, used directly in the distribution of utility services, such as water, gas, electricity, telecommunications other than broadcasting antennas, and refuse collection other than facilities included under waste disposal and processing. A utility installation may be publicly or privately owned and does not include wind machines, which are defined separately. Also not included are: cesspools, individual household septic tank systems, individual household aerobic units, and individual water supplies.

Also not included are private temporary sewage treatment plants which are allowed as an accessory use in all zoning districts, provided such use is approved by the director. These uses so approved shall be permitted notwithstanding the location on a noncontiguous lot or in another zoning district of the principal use or uses served by the plant, and subdivision (1) of the definition of accessory use shall be inapplicable. A utility installation includes accessory uses and structures directly associated with the distribution of the utility service, such as, but not limited to: accessory antennas, maintenance, repair, equipment, and machine rooms; tool sheds; generators and calibration equipment; and accessory offices. Offices permitted as accessory to a utility installation shall be directly associated with the distribution of the utility service, and not principally function as a business or executive center for the utility operation. Type B utility installations are those with potential major impact, by virtue of their appearance, noise, size, traffic generation or other operational characteristics. Typical Type B uses include: 138 kilovolt transmission substations, power generating plants, base yards, and other similar major facilities. Also included as Type B uses are transmitting antennas in country, residential, A-1, or AMX-1 districts, and freestanding antenna structures.

2. Antennas, receive-only means antennas used for radio frequency (RF) or microwave receptions only, including but not limited to receptions for television, except as provided under the definition of telecommunications antennas or utility installations.

#### Miscellaneous

1. Historic Structures, use of means use of any site or structure which has been placed on either the national or state registers of historic places, or which is specifically listed as a site or structure of significance in a special district under Article 9 of the LUO Chapter 21.



2. Joint Development means the development of two or more adjacent subdivision lots under a single or unified project concept.

## PROHIBITED COMMERCIAL USES (NOT NOTED ABOVE)

### Agriculture

1. Agribusiness Activities means accessory uses conducted on the same site where agricultural products are cultivated or raised. Included are transportation facilities used to provide for tours of the agricultural parcel.

2. Agricultural products processing, minor means and includes activities on a zoning lot not used for crop production, which are not regulated as major agricultural products processing and which perform a variety of operations on crops after harvest to prepare them for market, or further processing and packaging at a distance from the agricultural area. Included activities are vegetable cleaning, honey processing, poi-making and other similar activities. Minor activities shall be permitted as an accessory use when conducted on the same zoning lot on which the crop is cultivated.

3. Agricultural products processing, major means and includes activities involving a variety of operations on crops or livestock which may generate dust, odors, pollutants or visual impacts that could adversely affect adjacent properties. These uses include slaughterhouses, canneries and milk processing plants.

4. Animal products processing means establishments primarily involved in the processing of animal products for food and/or other uses, including the handling, storage and processing of meats, fish and fowl, skin, bone, fat and/or other animal byproducts suitable for sale or trade. This term does not include slaughterhouses, canneries or milk processing plants.

5. Aquaculture means the production of aquatic plant and animal life for food and fiber within ponds and other bodies of water.

6. Centralized bulk collection, storage and distribution of agricultural products to wholesale and retail markets

7. Composting, major means a process in which organic materials are biologically decomposed under controlled conditions to produce a stable humus-like mulch or soil amendment. The composting process includes, but is not necessarily limited to, receipt of materials, primary processing, decomposition activities, and final processing for sale and marketing. This term does not include bioremediation of fuel-contaminated soil. Major composting operations involve more complex controls to manage odors, vectors and surface water contamination. For instance, in some cases, on-site odors may not be able to be completely mitigated. Major composting includes, but is not necessarily limited to, the composting of mixed solid waste, including solid waste facility residues (rubbish), sewage sludge, waste from animal food processing operations, and similar materials. Minor composting operations involve relatively simple management and engineering solutions to control odors, vectors and surface water contamination. Minor composting includes, but is not necessarily limited to, the composting of clean, source-separated organic materials, including, but not necessarily limited to, greenwaste, animal manure, crop residues, and waste from vegetable food processing operations.

8. Composting, minor means a process in which organic materials are biologically decomposed under controlled conditions to produce a stable humus-like mulch or soil amendment. The composting process includes, but is not necessarily limited to, receipt of materials, primary processing, decomposition activities, and final processing for sale and marketing. This term does not include bioremediation of fuel-contaminated soil. Major composting operations involve more complex controls to manage odors, vectors and surface water contamination. For instance, in some cases, on-site odors may not be able to be completely mitigated. Minor composting operations involve relatively simple management and engineering solutions to control odors, vectors and surface water contamination. Minor composting includes, but is not necessarily limited to, the composting of clean, source-separated organic materials, including, but not necessarily limited to, greenwaste, animal manure, crop residues, and waste from vegetable food processing operations.

9. Crop production means agricultural and horticultural uses, including production of grains, field crops, vegetables, fruits, tree nuts, flower fields and seed production, ornamental crops, tree and sod farms, associated crop preparation services and harvesting activities.

10. Forestry

11. Open Land means land which may be improved, but which contains no structures, and which is set aside, designated or reserved for public or private recreational use or enjoyment, including but not limited to picnic grounds, beaches, beach accesses, greenways and areas for hiking, fishing, hunting, and other scenic interests.

12. Roadside stands, accessory

13. Sale and service of machinery used in agricultural production

14. Sawmills

15. Storage and sale of seed, feed, fertilizer and other products essential to agricultural production

#### Animals

1. Game preserves

2. Kennels, commercial means any structures used to care for, breed, house or keep dogs, cats or other domesticated animals for commercial purposes. Included as kennels are animal pounds or shelters.

3. Livestock grazing means the raising or feeding of livestock by grazing or pasturing. Not included are feedlots or the raising and keeping of swine.

4. Livestock production, minor means commercial small animal operations as a principal land use, such as rabbit farms, apiaries or aviaries.

5. Livestock production, major means and includes agricultural establishments primarily engaged in commercial livestock keeping or feeding as a principal land use that, because of operational characteristics, may generate dust, odors, pollutants or visual impacts that could

adversely affect adjacent properties. These include piggeries, dairies, dairy and beef cattle feedlots, chicken, turkey and other poultry farms.

6. Livestock veterinary services

7. Zoos

### Commerce and Business

1. Amusement and recreation facilities, indoor means establishments providing indoor amusement or recreation. Typical uses include: martial arts studios; billiard and pool halls; electronic and coin-operated game rooms; bowling alleys; skating rinks; reducing salon, health and fitness establishments; indoor tennis, handball and racquetball courts; auditoriums, indoor archery and shooting ranges, and gymnasiums and gymnastic schools.

2. Automobile sales and rentals, including sales and distribution of automobile parts and supplies

3. Bars, nightclubs, taverns

4. Business Services means establishments which primarily provide goods and services to other businesses, including but not limited to minor job printing, duplicating, binding and photographic processing, office security, maintenance and custodial services, and office equipment and machinery sales, rentals and repairing.

5. Cabarets

6. Catering establishments means establishments primarily involved in the preparation and transfer of finished food products for immediate consumption upon delivery to off-premises destinations including, but not necessarily limited to, hotels, restaurants, airlines and social events.

7. Data processing facilities means establishments primarily involved in the compiling, storage and maintenance of documents, records and other types of information in digital form utilizing a mainframe computer. This term does not include general business offices, computer-related sales establishments, and business or personal services.

8. Drive-thru facilities means any portion of a retail establishment which offers service to patrons via a drive-thru counter or window so that patrons need not leave their vehicles for service. The term drive-thru does not include automobile service stations.

9. Home improvement centers means single establishments primarily involved in providing a large variety of goods and services directly associated with building and home improvements.

10. Laboratories, medical

11. Laboratories, research

12. Office buildings

13. Offices, accessory

14. Off-site joint development means the development of two or more zoning lots under a single or unified density. Under off-site joint development, floor area normally attributable to a donor lot is allocated to and may be used on a receiving lot.

15. Photographic processing

16. Photography studios

17. Plant nurseries

18. Real estate offices means an establishment involved in real estate transactions that include but are not limited to the following:

(1) Selling, buying or negotiating the purchase, sale or exchange of real estate; or

(2) Listing, soliciting for prospective purchasers, leasing, renting or managing any real estate, or the improvements thereon, for others.

19. Retail, accessory

20. Retail establishments means the sale of commodities or goods to the consumer and may include display rooms and incidental manufacturing of goods for retail sale on premises only. Typical retail establishments include grocery and specialty food stores, general department stores, drug and pharmaceutical stores, hardware stores, pet shops, appliance and apparel stores, and other similar retail activities. This term also includes establishments where food or drink is sold on the premises for immediate consumption, but which lack appropriate accommodations for on-premise eating and drinking. The term does not include open storage yards for new or used building materials, yards for scrap, salvage operations for storage or display of automobile parts, service stations, repair garages or veterinary clinics and hospitals.

21. Self-storage facilities means a structure, or structures, containing individual locker compartments which allow individuals access to store possessions in these compartments. Each locker or storage area is self-contained, with provisions to secure each individual locker or storage area.

22. Travel agencies means an establishment that acts or attempts to act as an intermediary between a person seeking to purchase and a person seeking to sell travel services. Typical travel services include transportation by air, sea or rail; related group transportation; hotel accommodations; or package tours, whether offered on a wholesale or retail basis.

23. Veterinary establishments

#### Dwellings and Lodgings

1. Dwellings, owner's or caretaker's, accessory

2. Dwellings for cemetery caretakers

3. Farm dwellings means a dwelling located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling.

4. Guest houses (R-20 only) means a lodging unit for nonpaying guests or household employees not to exceed 500 square feet of floor area.

5. Hotels means a building or group of buildings containing lodging and/or dwelling units in which 50 percent or more of the units are lodging units. A hotel includes a lobby, clerk's desk or counter with 24-hour clerk service and facilities for registration and keeping of records relating to hotel guests.

6. Roomers/Rooming means a use accessory to the principal use of a dwelling unit in which overnight accommodations are provided to persons ("roomers") for compensation for periods of 30 days or more in the same dwelling unit as that occupied by an owner, lessee, operator or proprietor of the dwelling unit.

7. Time sharing means the ownership and/or occupancy of a dwelling or lodging unit regulated under the provisions of HRS Chapter 514E, as amended, relating to time share plan and time share unit hereinafter defined:

(1) "Time share plan" means any plan or program in which the use, occupancy or possession of one or more time share units circulates among various persons for less than a 60-day period in any year for any occupant. The term "time share plan" shall include both time share ownership plans and time share use plans, as follows:

(A) "Time share ownership plan" means any arrangement whether by tenancy in common, sale, deed or by other means, whereby the purchaser received an ownership interest and the right to use the property for a specific or discernible period by temporal division.

(B) "Time share use plan" means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a time share unit for a specific or discernible period by temporal division, but does not receive an ownership interest.

(2) "Time share unit" means the actual and promised accommodations and related facilities, which are the subject of a time share plan.

8. Transient vacation units means a dwelling unit or lodging unit which is provided for compensation to transient occupants for less than 30 days, other than a bed and breakfast home. For purposes of this definition, compensation includes, but is not limited to, monetary payment, services or labor of employees.

9. Vacation cabins

### Industrial

1. Base yards means the principal facility for establishments which provide their services off-site, but where a site is needed for the consolidation and integration of various support functions, and where the parking of company vehicles is a prominent if not principal activity. Typical base yards include a construction company's facility or a bus yard. Base yards

may include, but are not limited to, the following:

(1) Business office, provided administrative and executive functions are clearly accessory and incidental to the overall operation of the facility on the same zoning lot.

(2) Storage, cleaning and repair of materials, vehicles and equipment used by the establishment.

(3) Vehicle dispatch.

(4) Personnel-related support facilities (e.g., locker and shower rooms, kitchen or cafeteria, lounge).

2. Building or similar contracting and home improvement and furnishing services, and materials and equipment sales or distribution; provided incidental storage of materials or equipment is within fully enclosed buildings

3. Centralized mail and package handling facilities

4. Explosive and toxic chemical manufacturing, storage and distribution

5. Food manufacturing and processing means establishments primarily involved in the manufacture and processing of food products, other than animal products processing establishments, and which occupy less than 2,000 square feet of floor area. Typical activities include, but are not necessarily limited to, noodle factories, and coffee grinding.

6. Freight movers

7. Heavy equipment sales and rentals

8. Linen suppliers

9. Manufacturing, processing and packaging, light means establishments primarily involved in the manufacture, processing, assembly, fabrication, refinement, alteration and/or packaging by hand or by machinery, from raw materials, component parts and/or other products, of finished goods, merchandise and/or other end products suitable for sale or trade.

Light manufacturing, processing and packaging establishments involve activities which are nonoffensive to adjacent uses; involve no open storage or other types of outdoor accessory uses other than parking and loading; do not involve processes which generate significant levels of heat, noise, odors and/or particulates; and do not involve chemicals or other substances which pose a threat to health and safety. Typical activities include, but are not limited to, the production of handcrafted goods, electronics-intensive equipment, components related to instrumentation and measuring devices, bio-medical and telecommunications technologies, computer parts and software, optical and photographic equipment, and other manufacturing, processing and packaging uses meeting the criteria prescribed herein.

10. Manufacturing, processing and packaging, general means establishments primarily involved in the manufacture, processing, assembly, fabrication, refinement, alteration and/or packaging by hand or by machinery, from raw materials, component parts and/or other

products, of finished goods, merchandise and/or other end products suitable for sale or trade.

General manufacturing, processing and packaging establishments are those involving significant mechanical and chemical processes, large amounts of metal transfer, or extended shift operations. Typical activities include, but are not limited to: paper and textile milling; wood millwork and the production of prefabricated structural wood products; the manufacture of soaps and detergents; rubber processing and the manufacture of rubber products; the production of plastics and other synthetic materials; primary metals processes; the manufacture of vehicles, machinery and fabricated metal products; electroplating; cement making and the production of concrete; gypsum and related products; the production of chemical products, perfumes and pharmaceuticals; and the production of paving and roofing materials. This term does not include those activities associated with petroleum processing; the manufacture of explosives and toxic chemicals; waste disposal and processing; and/or the processing of salvage, scrap and junk materials.

11. Maritime-related vocational training, sales, construction, maintenance and repairing

12. Motion picture and television production studios

13. Petroleum processing

14. Port facilities

15. Publishing plants for newspapers, books and magazines

16. Repair establishments, major means establishments which primarily provide restoration, reconstruction and general mending and repair services. "Minor repair establishment" uses include those repair activities which have little or no impact on surrounding land uses and can be compatibly located with other businesses. "Major repair establishment" uses include those repair activities which are likely to have some impact on the environment and adjacent land uses by virtue of their appearance, noise, size, traffic generation or operational characteristics.

(A) Blacksmiths.

(B) Ship engine cleaning and repair.

(C) Airplane motor repair and rebuilding.

(D) Furniture repair.

(E) Industrial machinery and heavy equipment repair.

(F) Bus and truck repair.

(G) Repair of vehicle (all types) body and fender, and straightening of frame and body parts. "Resource extraction" means the mining of minerals, including the exploration for, and the removal and processing of natural accumulations of sand, rock, soil and gravel.

17. Repair establishments, minor means establishments which primarily provide restoration, reconstruction and general mending and repair services. "Minor repair establishment" uses include those repair activities which have little or no impact on surrounding land uses and can be compatibly located with other businesses. "Major repair establishment" uses include those repair activities which are likely to have some impact on the environment and adjacent land uses by virtue of their appearance, noise, size, traffic generation or operational characteristics.

(A) Automobile (including pickup trucks), motorcycle, moped, motorized bicycle, boat engine, motorized household appliance (e.g., refrigerator, washing machine, dryer) and small equipment (e.g., lawn mower) repairing, including painting, provided all repair work is performed within an enclosed structure and does not include repair of body and fender, and straightening of frame and body parts.

(B) Production and repair of eyeglasses, hearing aids and prosthetic devices.

(C) Garment repair.

(D) General fixit shop.

(E) Nonmotorized bicycle repair.

(F) Radio, television and other electrical household appliance repair.

(G) Shoe repair.

(H) Watch, clock, jewelry repair.

18. Resource extraction

19. Salvage, scrap and junk storage and processing

20. Storage yards

21. Warehousing means establishments primarily associated with the storage of raw materials, finished products, merchandise or other goods, within a structure for subsequent delivery, transfer or pickup, and may include structures used primarily for the storage of files or records.

22. Waste disposal and processing means facilities for the disposal and processing of solid waste, including refuse dumps, sanitary landfills, incinerators and resource recovery plants

23. Wholesale and retail establishments dealing primarily in bulk materials delivered by or to ship, or by ship and truck in combination

24. Wholesaling and distribution means establishments primarily involved in the sale and/or distribution of manufactured and/or processed products, merchandise or other goods in large quantities for subsequent resale to retail establishments, and/or industrial, institutional and commercial users.

#### Outdoor Recreation

1. Amusement facilities, outdoor, not motorized

2. Amusement facilities, outdoor, motorized means establishments primarily involved in the sale and/or distribution of manufactured and/or processed products, merchandise or other goods in large quantities for subsequent resale to retail establishments, and/or industrial, institutional and commercial users.

3. Golf courses

4. Marina accessories means land uses on harbor fast lands, which are supportive of recreational marine activities, including piers or boathouses, storage and repair of boats, clubhouses, sale of boating supplies and fuels, ice and cold storage facilities, hoists, launching ramps, wash racks, and other uses customary and incidental to marine recreation.



5. Recreation facilities, outdoor

### Social and Civic Service

1. Art galleries and museums

2. Cemeteries and columbaria mean interment facilities engaged in subdividing property into cemetery lots and offering burial plots or air space for sale. Included are cemetery lots, mausoleums and columbaria. The following are permitted as accessory uses: crematory operations, cemetery real estate operations, mortuary services, floral and monument sales, and detached one-family dwellings to be occupied only by caretakers of the cemetery.

3. Colleges, business

4. Schools, business

5. Schools, vocational, technical, industrial, trade

6. Schools, vocational, which do not involve the operation of woodwork shops, machine shops or other similar features

7. Theaters means facilities which are used primarily for the performing arts or for the viewing of motion picture films. Included are performing arts centers, concert halls and other types of live theaters. Drive-in theaters are excluded.

### Parking

1. Automobile service stations means a retail establishment which primarily provides gasoline, oil, grease, batteries, tires or automobile accessories and where, in addition, the following routine and accessory services may be rendered and sales made, but no other:

- (1) Servicing of spark plugs, batteries, tires;
- (2) Radiator cleaning and flushing;
- (3) Washing and polishing, including automated, mechanical facilities;
- (4) Greasing and lubrication;
- (5) Repair and servicing of fuel pumps, oil pumps and lines, carburetors, brakes and emergency wiring;
- (6) Motor adjustments not involving repair of head or crankcase;
- (7) Provision of cold drinks, packaged foods, tobacco and similar convenience goods for gasoline supply station customers, but only as accessory and incidental to the principal operation, and not to exceed 400 square feet of floor area;
- (8) Provision of road maps and other information material to customers;
- (9) Provision of rest room facilities;
- (10) Parking as an accessory use;
- (11) Towing service.

The following are not permitted: tire recapping or regrooving, body work, straightening of frames or body parts, steam cleaning, painting, welding, or storage of automobiles not in operating condition.

2. Car washing, mechanized

3. Heliports means an area of land or structures designated or used for the landing or takeoff of helicopters or other rotorcraft. The term includes storage, maintenance or repair facilities, and sale and storage of supplies and fuel.

4. Helistops means an area designed and used only for the landing and takeoff of helicopters or other rotorcraft. Helistops shall not include hangars or repair, maintenance and storage facilities.

5. Truck terminals

#### Utilities and Communications

1. Antennas, broadcasting means and includes antennas, towers and other accessory facilities for radio frequency (RF) transmissions for AM and FM radio and television broadcasting. These facilities are regulated by the

Federal Communications Commission (FCC) under the Code of Federal Regulations Part 73. These transmissions can be received by anyone with a radio or television. Not included are broadcasting studios and stations.

2. Broadcasting stations

3. Wind machines means devices and facilities, including appurtenances, associated with the production and transmission of wind-generated energy.

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

## EXHIBIT N

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

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

#### Amendment to Declaration:

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

Pursuant to the Declaration, except as provided in the Declaration, repair, reconstruction, restoration, replacement of the community or any building or other structure or unit within the community or construction of any additional building or other structure or structural alteration or addition thereto, different in any material respect from the Condominium Map shall be undertaken by the Association or any Home Owners only pursuant to an amendment of the Declaration, which amendment shall be duly executed by or pursuant to the affirmative vote of seventy-five percent (75%) of the Home Owners and accompanied by the written consent of the eligible holders of first mortgage (as hereinafter defined) on Homes to which at least sixty-seven percent (67%) of the votes of Homes subject to mortgages held by such eligible holders are allocated, and in accordance with complete plans and specifications therefor first approved in writing by the Board.

Pursuant to the Declaration, except as otherwise expressly provided in the Declaration or in the Act, the Declaration may be amended by the affirmative vote or written consent of not less than seventy-five percent (75%) of the owners at a meeting of the Association called for that purpose, and effective only upon the recording of an instrument setting forth such amendment and vote, duly executed by any two officers of the Association; provided, however, that, except as otherwise expressly provided in the Declaration or in the Act, the approval of eligible holders of first mortgages on Homes to which at least fifty-one percent (51%) of the votes of Homes subject to mortgages held by such eligible holders are allocated, together with such other approval requirements as set forth in the Declaration, shall be required to materially amend any provision of the Declaration, or to add any material provisions set forth in the Declaration.

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

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

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

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

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

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

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

(g) Architectural Committee Enforcement and Review Procedures. Modification of the enforcement and review procedures of the Board or Design Review Committee, or any change in the architectural and landscaping design originally installed by Developer;

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

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

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

Amendment to Bylaws:

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

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

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

## EXHIBIT O

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

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

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

2. Developer reserves a present easement over the whole of the common area, together with the right for itself and its successors and assigns, to designate, grant, convey, transfer, cancel, relocate, reserve or otherwise deal with any easements, licenses, and rights of way at any time for utilities, any public-type facility (mailboxes and the like), sanitary and storm sewers, cable television transmission facilities, party walls (including the creation of the same on the Community boundaries), refuse disposal, landscape, maintenance, driveways, parking areas, access roadways and other similar purposes, on, over, across, under and through the Common Elements of the Community and the Private Yard Areas. Without limiting the generality of the foregoing, Developer reserves the right to utilize any common roadway and utility facilities (including without limitation water, sewer, electrical, telephone, and cable) described in the prior sentence (such as, but not limited to, waterlines, sewer lines, access roadways and the like) whether located in designated easement areas or otherwise, together with the right of entry to construct, reconstruct, operate, maintain, repair and relocate such lines, facilities and appurtenances and to grant any such easements or rights of way to governmental or quasi-governmental authorities, utility or service companies, homeowner's associations or other entities and the right to grant, dedicate, designate, use and enjoy easements and/or rights-of-way for access purposes (including for vehicular and pedestrian access). Developer may, in its discretion, complete any construction of intended facilities in advance of the designation or creation and granting of the easement covering the facilities so constructed. The rights reserved to Developer include specifically without limitation the right to utilize any utility service to the Community to complete such construction, to perform warranty or punchlist repair services within the Community and to serve adjacent and separate developments outside of the Community provided Developer with respect to such separate and/or adjacent communities submeters such use, and may use roadways in the Community to serve adjacent developments provided the association controlling such development shares pro rata in the cost of maintenance and repair of the roadway and reimburses the Association for any submetered use. The easements retained in this Section and these reserved rights shall be exercised in a manner that will not materially impair or interfere with the use of any Unit. In the event of a submetered use (such as water service), the Association shall be entitled to confirm submeter readings. Each Owner, by purchasing a Unit, consents to any such designation, granting, conveyance, transfer, cancellation, relocation and reservation of easements and/or rights of way as provided above without the necessity of any Owner or those claiming by, through or under an Owner entering into any further agreement respecting such action or document; provided, however, that such Owner and those claiming by, through or under an Owner agrees to join in and execute such documents and instruments and do such other things as may be necessary or convenient to effect the same promptly at the request of Developer without payment of additional consideration.

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

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

5. Developer and its agents, employees, contractors, licensees, successors, mortgagees and assigns shall have an easement over, under and upon the Community and each and any portion of the Community and the individual Units to create and cause noise, dust, vibration and other nuisances or annoyances created by and resulting from any work connected with or incidental to the development, construction and sale of any Unit or other Improvement to the Community, any additional increment to the Community, or any other community which Developer, its successors or assigns, may develop on property adjacent to or in the vicinity of the Community. Each and every Owner or other person acquiring any interest in the Community waives any and all rights, claims or actions that might otherwise be asserted against Developer, its agents, employees, licensees, successors, mortgagees and assigns, based on any such noise, dust, vibration and other nuisances or annoyances. Without limitation of the foregoing:

(a) Developer, its agents, employees, consultants, contractors, licensees, successors, mortgagees and assigns, shall have an easement over, under and upon the Community as may be reasonable or appropriate for additional construction, the completion of renovations to the improvements of the Community, and (at the option of Developer) the correction of defects therein. In addition to any other easements reserved to Developer under the Declaration, in connection with, and to the extent necessary for the development and construction of units, common facilities, and/or increments following the transfer of ownership of any Unit to an individual or entity other than Developer, Developer shall have the right to enter upon the Community premises with employees, agents and contractors for all purposes

reasonably necessary for or useful to constructing and completing all increments in accordance with the Declaration and the Condominium Map. Such rights shall include, but are not limited to, the following:

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

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

(b) Developer, its contractors, subcontractors, licensees, mortgagees and assigns, and their respective employees and agents, shall have the right and an easement in favor of Developer and its successors and assigns is hereby granted at any time and from time to time prior to the thirtieth (30th) anniversary date from the recording of the Declaration, to enter upon, use, remove, replace, add to, or otherwise alter the Common Elements and the Limited Common Elements of the Community and to do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any additional increment to the Community, connecting any such additional increment to the utility installations of the Community, and selling the Units contained within any such additional or increment, including, but not limited to, the right to consolidate any parcel(s) of land covered hereby with any other parcel(s) of land in connection with the merger of increments; provided that the exercise of the rights granted herein shall not cause any permanent or avoidable interruption in the service of utilities to the Community, and provided further that any person exercising such rights shall use reasonable efforts, without additional cost to Developer and consistent with maintaining the progress of the design, development, construction, completion and sale of the additional increment, to minimize interference with the Owners' use and enjoyment of the Property. Developer further reserves the right to grant, for the benefit of the owner or owners from time to time of all or any portion of each of the other Increments, and without the consent or joinder of, or notice to, any party having any interest in the Community, easements over, under, across, along, upon and through the Common Elements of the Community for ingress and egress purposes, access purposes, electrical, gas, communications and other utility purposes, sanitary sewer, drainage and drainline, waterline, and flowage purposes, and all other purposes, to the State of Hawaii, the County, the Board of Water Supply of the County, any other appropriate governmental agency, and/or any public or private utility or other corporation, partnership, individual or entity, provided that such easements and rights-of-way do not materially impair or interfere with the use of any Unit in the Community or the Common Elements of the Community.

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

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

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



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

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

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

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

(d) The purpose of the easements declared and granted in this Section is to enable Developer to fully exploit and use the Community or any portion thereof for any lawful purpose whatsoever and to construct thereon any improvements which Developer is lawfully permitted to construct, and, in connection with such construction, to connect to, rest upon, abut and otherwise receive support for any improvements which may be created, from the improvements currently located on the Community adjoining the area of such improvement and for ingress and egress through the common areas of the Community as currently enjoyed. Developer's exercise of rights reserved in this Section are subject to Developer's agreement to repair at its sole cost, in a good and workmanlike manner and in accordance with all laws any damage caused to the Community by reason of the exercise of the Easements granted by this Section. The Easements granted in this Section are perpetual and may be assigned in whole or in part, subject to such limitations as may be determined appropriate by Developer in Developer's sole discretion, by Developer to one or more Owners.

6. Developer, on behalf of the Association, may seek or has obtained certain licenses and permits from the Department of Planning and Permitting of the County (the "DPP") and any other government agencies relating to the development of the Community, including, but not limited to the public storm sewer system and/or any declaration regarding improvements or use of properties Developer is required to impose on the Land in order to proceed with the development of the Land (collectively the "licenses and permits"). To the extent that any such licenses or permits have not been issued to the Association, Developer and its agents, employees, contractors, licensees, successors, mortgagees and assigns, reserve the right to transfer to the Association any and all obligations in connection with such permits. Developer hereby reserves the right, without the joinder or consent of, or notice to, the Association or any Owner or their mortgagees, to enter and/or to amend such license or permit as may be required by the DPP and to encumber the Land and the Association with the obligations thereunder arising. In connection with such licenses and permits, the Association shall have the

responsibility to comply at all times now and in the future with all requirements under such licenses and permits transferred to the Association or that encumber the Land, and all DPP regulations and any other applicable statutes, ordinances and rules and regulations of Federal, State or County agencies relating to the discharge, drainage and runoff of storm water and surface water, and their constituents, from the Community into the public storm sewer system. Neither the Association nor any Owner shall take any actions that may in any way undermine the Association's obligations to comply with the foregoing requirements. Each Owner and the Association shall execute any and all documents required by Developer in Developer's sole discretion to transfer, if required, any applicable license or permit to the Association, including without limitation any license relative to discharge, drainage and runoff. Without limitation of the foregoing, the rights reserved to Developer by this Section include by way of example and not limitation, the right: (i) to provide open space(s) and a sidewalk for use by the public in the Community; (ii) to establish a private park area(s) at the Community; (iii) to designate one or more areas and/or to record against the Community an agreement with the Department of Land and Natural Resources of the State of Hawaii for purposes of addressing the preservation, location and/or relocation of any burial or historic sites or artifacts found during development of the Community and protected under the laws of the State of Hawaii; (iv) to amend the Community Declaration and to modify the Condominium Map and scope of any Limited Common Element or Common Element, including, without limitation, the recreational facilities; and (v) to perform such additional offsite requirements as may be mandated, including, without limitation, road widening improvements and/or the provisioning of utilities, traffic signals, bus stops and/or stop signs. The Association and each Owner shall indemnify and hold harmless Developer, its successors and assigns, from and against any and all claims and demands for damages in connection with the Association's fulfillment of its obligations under transferred licenses and permits, including, without limitation, any storm sewer connection obligations.

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

8. Developer shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of or provide notice to any Unit Owner, lien holder, or other persons, to make alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) which change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any Unit (and the Limited Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, which right includes the ability to change the overall "product mix" (e.g., change the Unit types or change the configuration of Unit built on a particular floor of a building). Without limitation of the foregoing, Developer may change or remove of all or part of an intervening Common Element wall, floor, and/or ceiling

separating two (2) Units owned by the Developer or Limited Common Elements controlled by the Developer, install doors, stairways, and other Improvements in such opening or openings in the intervening Common Element, seal hallways or other openings, and make any other reasonable related changes or additions Developer determines expedient or necessary. Further, Developer may consolidate any two (2) adjacent Units owned by the Developer into a single Unit and make any Common Element walls, floors, or ceilings between the Units part of the Unit or its Limited Common Elements. In that regard, Developer may change the designation of the Limited Common Elements appurtenant to any two (2) adjacent Units owned by the Developer so that one or more Limited Common Elements appurtenant to one Unit will be appurtenant to the other Unit or to both of the Units. Without limitation of the foregoing, Developer reserves the right to modify exterior elevations of buildings, door and window types (open versus fixed, slider versus awning or otherwise) and the location of the same, roof types and materials, and utility locations from those reflected on the Condominium Map.

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

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

11. Developer reserves right to change the designation and use (for a term of years or such period as Developer elects, in its sole discretion) of any one or more or portion of the Live-Work Units and the Limited Common Elements appurtenant thereto such that they may be used solely as Residential Units. Developer additionally reserves the right to change the designation and use (for a term of years or such period as Developer elects, in its sole discretion) of up to but not more than three (3) Live-Work Units and the Limited Common Elements appurtenant thereto such that they may be used wholly as one or more Commercial Units, with or without prejudice to the Owner of such Live-Work Unit to use the Unit as a Residential Unit or a Live-Work Unit having mixed commercial and residential uses. Developer further reserves the right to change the designation and use (for a term of years or such period as Developer elects, in its sole discretion) of any one or more or portion of the Commercial Units or Residential Units and the Limited Common Elements appurtenant thereto to any other use classification as set forth in the Declaration. The rights reserved to Developer under the Declaration may be exercised without the consent or joinder of, or notice to, any Owner, or Owner's mortgagee, and shall be exercised, if at all, with respect to each such Unit in respect of which the right is reserved prior to the Recordation of the conveyance of such Unit to a unrelated party, unless such right is specifically reserved to Developer in its deed of conveyance to such party, in which event Developer's reserved right under the Declaration shall not be extinguished upon the conveyance of the affected Unit.

12. Developer reserves and shall have the right to alter the common interest and easements appurtenant to each Unit, which otherwise shall have a permanent character, as noted in this Section. The common interest, voting rights and easements appurtenant to each Unit may be altered (diminished or increased) by a Recorded amendment to the Declaration: (a) as may be determined necessary by Developer, without the consent of any party, to correct typographical or mathematical errors in the statement of such common interests, (b) filed by Developer, without the joinder of any party, upon the alteration of the Community as permitted pursuant to the Declaration and upon alteration permitted by the Declaration, and/or (c) upon the action or consent of all Owners of Units affected thereby, and the consent of the holders of any mortgage affecting such Units as shown in the Association's records of ownership, or who have given the Board notice of their interest.

13. Developer reserves the right to change the designation of compact and standard sized parking stalls, to change covered and uncovered parking stalls, and to amend the Declaration and Condominium Map as necessary or convenient to describe the change in the designation of the size of parking stalls and to change covered and uncovered parking stalls.

14. Any other provision in the Declaration to the contrary notwithstanding, the Developer shall have the right (but shall not be obligated) at its sole discretion under this Section, without being required to obtain the consent or joinder of, or provide notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lien holder, Unit purchaser or any other person who may have an interest in the Community or in any Unit, to develop, construct, transfer, convey and/or sell the Units hereunder in increments on a building by building basis. For purposes of the Declaration the term "Increment" means any cluster or clusters of Units in this Community together with related facilities appurtenant thereto as reflected on the Condominium Map, developed and built on an incremental basis in accordance with the Declaration. Developer contemplates that development of the Community shall proceed in two (2) increments; provided, however, Developer reserves the right to construct the Community in one (1) or more increments in Developer's sole discretion. Upon the completion of any Unit within an increment, the Developer may, notwithstanding the incompleteness of any other increment(s) or other Units in the pending increment, but subject to the Community Documents and the provisions of the sales contract for the sale of a Unit in such increment, thereupon transfer ownership of Units in such increment to Unit purchasers.

15. In connection with, and to the extent necessary for the development and construction of the Community, other Units and/or increments following the transfer of ownership of any Unit to an individual or entity other than the Developer, the Developer shall have the right to enter upon the Community premises with employees, agents and contractors for all purposes reasonably necessary for or useful to constructing and completing all increments in accordance with the Declaration and the Condominium Map. Such rights shall include, but are not limited to, the following:

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

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

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

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

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

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

16. The rights reserved to the Developer in the above provisions 14 and 15 are subject to the following terms and conditions:

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

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

(c) Construction of each increment shall be at the Developer's expense and shall be completed within three (3) years of commencement thereof, subject to delays beyond the control of the Developer;

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

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

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

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

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

19. The rights of the Developer under this Section shall extend to the Developer and its respective successors and assigns. Without limitation of the foregoing, Developer may, by Recorded instruments or by Supplemental Declaration, assign or partially assign, while retaining equivalent rights to Developer, to any assignee, including without limitation the Association, any one of more of the rights and easements reserved to Developer under the Declaration.

20. Developer hereby reserves on behalf of itself and its respective officers, agents, employees, successors, and assigns, without the consent or joinder of or notice to any Unit Owner or their respective mortgagees, all and privileges necessary to perform those actions reserved under that certain Unilateral Agreement, including but not limited to the right to establish, create and improve parks and pedestrian and bike paths as shown on the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1 to the Unilateral Agreement), including the connection of the parks and the elementary school fields and playgrounds by footpaths, to establish and create and improve the "Village Walk", anywhere within the Mehana Community as shown in Exhibit B-2 to the Unilateral Agreement, Village Walk Concept Plan A, dated August 19, 2004, attached to the Unilateral Agreement and to provide public pedestrian and vehicular connections to the regional drainage corridor as shown in the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1 to the Unilateral Agreement).

21. Developer reserves to itself parking stalls nos. 211, 212, 213, 214, 215, 217, 218, 220, 221, and 222 in the Community. Developer hereby reserves the right to amend the Declaration in any manner to assign additional parking stalls that are reserved to the Developer to any Unit as appurtenant Limited Common Element(s) to such Unit. Such reassignment is hereby specifically declared not to constitute a material amendment of the Declaration or, when appropriate, the Condominium Map. All costs of such reassignment shall be borne as determined by Developer.

22. Developer may revise the specimen deed and sales contract for the community to conform with any future amendments that may be made to the Declaration and the community.

23. Developer has reserved the right to delete and withdraw land from the Community and to adjust the boundaries of the Community land and delete and withdraw from the Community a portion of the land covered by the Declaration, excepting a Community area of approximately 5.92 ± acres as described in Sections E and V the Declaration. Any such adjustment of boundaries will reconfigure the Community land such that it actually conforms to the configuration of the Community land as depicted on the Condominium Map and, consequently, will not affect the layout, location, dimensions or structure of any of the buildings, Units or other increments of the Community as shown on the Condominium Map, and will not change or reapportion the common interests appurtenant to the Units, all as set forth and described in the Declaration.

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

## EXHIBIT P

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

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

By purchasing a Unit at Nanala at Mehana, the Buyer will become a member of the Mehana Master Association and be required to pay membership dues to that Association. The Association will collect this fee in addition to the Buyer's monthly maintenance fee and pay the same to the Master Association.

The Developer intends to pay all of the actual common expenses of the units and the Buyer shall not be obligated for the payment of the Buyer's share of the common expenses until such time as the Developer causes a 30 day advance written notice to be sent to the Buyers that, after a specified date, the Buyers shall be obligated to pay for the portion of common expenses that is allocated to their respective units. The developer shall mail the written notice to the buyers, the association, and the managing agent, if any, at least thirty days before the specified date.

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

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE ESTIMATE OF THE INITIAL MAINTENANCE FEES CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, HOUSE RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER CAN USE THIS



SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER SHOULD REFER TO THE CONDOMINIUM DECLARATION TO DETERMINE THE ACTUAL RIGHTS RESERVED BY THE DEVELOPER. IF ANY CONFLICT OR DIFFERENCES EXISTS BETWEEN THIS SUMMARY AND THE CONDOMINIUM DECLARATION, THE CONDOMINIUM DECLARATION WILL CONTROL.

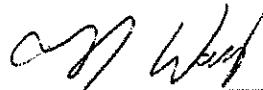
**CERTIFICATE**

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

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

2. That I hereby certify that the breakdown of the annual maintenance charges and the monthly estimated cost for each unit in the Project, as set forth in Exhibit "1" attached hereto and hereby incorporated herein by reference, were determined pursuant to a reserve study conducted in accordance with Section 514B-148 of the Hawaii Revised Statutes and Chapter 107 of the Hawaii Administrative Rules, and are reasonable estimates for the one-year period commencing September 1, 2006, based on generally accepted accounting principles.

DATED: Honolulu, Hawaii, this 27<sup>th</sup> day of June 2007.

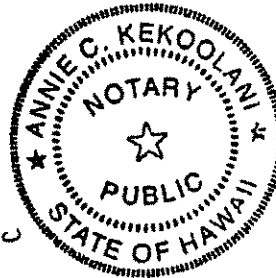


Name: Theodore Walkey  
Title: Senior Vice President, Operations  
Hawaiiana Management Company, Ltd.

Subscribed and sworn to before me  
this 27<sup>th</sup> day of June 2007.



Typed or Printed Name: Annie C. Kekoolani  
Notary Public, State of Hawaii



My commission expires: 02-16-2010

6-26-07

**Estimated Fee Disbursement**Nanala at Mehana  
Incr 1  
(50 units)

<b>Utilities and Services</b>	<b>Monthly Fee</b>	<b>Annual Fee</b>
Electricity (common elements only)	\$390.00	\$4,680.00
Water	\$1,960.00	\$23,520.00
Sewer	\$2,000.00	\$24,000.00
<b>Maintenance, Repairs and Supplies</b>		
Grounds Maintenance/Janitorial	\$2,313.00	\$27,756.00
Common Area Maintenance	\$1,500.00	\$18,000.00
Electrical and Lighting	\$150.00	\$1,800.00
Pest Control	\$234.00	\$2,808.00
Fire System and Equipment	\$10.00	\$120.00
Supplies/Misc Repairs	\$350.00	\$4,200.00
Trash Collection	\$650.00	\$7,800.00
<b>Management</b>		
Management Fee	\$1,100.00	\$13,200.00
Design Review Services	\$150.00	\$1,800.00
Misc/Office/Education Expenses	\$250.00	\$3,000.00
<b>Insurance</b>		
Property	\$3,310.00	\$39,720.00
Liability	\$240.00	\$2,880.00
Umbrella	\$133.00	\$1,596.00
D & O	\$53.00	\$636.00
Equipment	\$60.00	\$720.00
Bond	\$25.00	\$300.00
	\$15.00	\$180.00
<b>Taxes and Government Assmnts</b>		
<b>Professional Services/Legal/Other</b>		
Audit and Tax Preparation	\$50.00	\$600.00
Condo Registration	\$18.00	\$216.00
General Excise Tax	\$10.00	\$120.00
<b>Reserves</b>	\$2,379.00	\$28,548.00
<b>Total</b>	<b>\$17,350.00</b>	<b>\$208,200.00</b>

I, Ted Walkey, as agent for/and/or employed by Hawaiiana Management Company, the condominium managing agent/ developer for the Nanala at Mehana Incr 1 Condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Signature

Date

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

The estimated initial monthly maintenance fee assessments do not include mandatory dues payable to the Mehana at Kapolei Community Association. The current anticipated fee is \$25.00 per unit per month, and the fee is expected to increase to at least \$42.00 per unit per month when certain Mehana common facilities are available to residents. Pending delivery of such facilities, Master Association fees may be increased at any to \$30.00 per month or such other amount that the Master Association determines or accordance with the Master Association. The Association will collect this fee in addition to the Unit Owner's monthly maintenance fee and pay the same to the Master Association.

## Estimate of Initial Maintenance Fees

Unit Type	Unit Number	% Common Interest	Monthly Fee	Yearly Total
A/Ar	105	2.2774%	\$395.13	\$4,741.55
A/Ar	106	2.2774%	\$395.13	\$4,741.55
A/Ar	107	2.2774%	\$395.13	\$4,741.55
A/Ar	108	2.2774%	\$395.13	\$4,741.55
A/Ar	605	2.2774%	\$395.13	\$4,741.55
A/Ar	606	2.2774%	\$395.13	\$4,741.55
A/Ar	607	2.2774%	\$395.13	\$4,741.55
A/Ar	608	2.2774%	\$395.13	\$4,741.55
B/Br	103	2.2774%	\$395.13	\$4,741.55
B/Br	104	2.2774%	\$395.13	\$4,741.55
B/Br	109	2.2774%	\$395.13	\$4,741.55
B/Br	110	2.2774%	\$395.13	\$4,741.55
B/Br	205	2.2774%	\$395.13	\$4,741.55
B/Br	206	2.2774%	\$395.13	\$4,741.55
B/Br	603	2.2774%	\$395.13	\$4,741.55
B/Br	604	2.2774%	\$395.13	\$4,741.55
B/Br	609	2.2774%	\$395.13	\$4,741.55
B/Br	610	2.2774%	\$395.13	\$4,741.55
C1/C1r	112	1.6563%	\$287.37	\$3,448.42
C1/C1r	201	1.6563%	\$287.37	\$3,448.42
C1/C1r	210	1.6563%	\$287.37	\$3,448.42
C1/C1r	601	1.6563%	\$287.37	\$3,448.42
C1/C1r	612	1.6563%	\$287.37	\$3,448.42
C1/C1r	701	1.6563%	\$287.37	\$3,448.42
C1/C1r	708	1.6563%	\$287.37	\$3,448.42
C1/C1r	1001	1.6563%	\$287.37	\$3,448.42
C1/C1r	1008	1.6563%	\$287.37	\$3,448.42
C2/C2r	111	1.6563%	\$287.37	\$3,448.42
C2/C2r	202	1.6563%	\$287.37	\$3,448.42
C2/C2r	209	1.6563%	\$287.37	\$3,448.42
C2/C2r	602	1.6563%	\$287.37	\$3,448.42
C2/C2r	611	1.6563%	\$287.37	\$3,448.42
C2/C2r	702	1.6563%	\$287.37	\$3,448.42
C2/C2r	707	1.6563%	\$287.37	\$3,448.42
C2/C2r	1002	1.6563%	\$287.37	\$3,448.42
C2/C2r	1007	1.6563%	\$287.37	\$3,448.42
D/Dr	203	2.2774%	\$395.13	\$4,741.55
D/Dr	204	2.2774%	\$395.13	\$4,741.55
D/Dr	207	2.2774%	\$395.13	\$4,741.55
D/Dr	208	2.2774%	\$395.13	\$4,741.55
D/Dr	704	2.2774%	\$395.13	\$4,741.55
D/Dr	705	2.2774%	\$395.13	\$4,741.55
D/Dr	1004	2.2774%	\$395.13	\$4,741.55
D/Dr	1005	2.2774%	\$395.13	\$4,741.55

6-26-07

### Estimate of Initial Maintenance Fees

Nanala at Mehana  
Incr 1  
(50 Units)

Unit Type	Unit Number	% Common Interest	Monthly Fee	Yearly Total
E/Er	703	1.6563%	\$287.37	\$3,448.42
E/Er	706	1.6563%	\$287.37	\$3,448.42
E/Er	1003	1.6563%	\$287.37	\$3,448.42
E/Er	1006	1.6563%	\$287.37	\$3,448.42
F1	101	2.2774%	\$395.13	\$4,741.55
F2	102	2.0716%	\$359.42	\$4,313.07
<b>TOTALS</b>		100.0000%	\$17,350.00	\$208,200.00

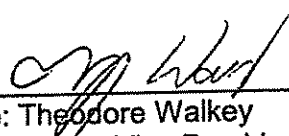
**CERTIFICATE**

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

1. That I am the Senior Vice President, Operations for Hawaiiana Management Company, Ltd., a Hawaii corporation, designated by the Developer of the Nanala at Mehana Incr 1 and 2 condominium project (the "Project") to act as the Managing Agent for the management and administration of the Project.

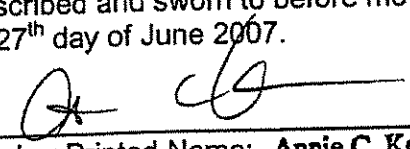
2. That I hereby certify that the breakdown of the annual maintenance charges and the monthly estimated cost for each unit in the Project, as set forth in Exhibit "1" attached hereto and hereby incorporated herein by reference, were determined pursuant to a reserve study conducted in accordance with Section 514B-148 of the Hawaii Revised Statutes and Chapter 107 of the Hawaii Administrative Rules, and are reasonable estimates for the one-year period commencing September 1, 2006, based on generally accepted accounting principles.

DATED: Honolulu, Hawaii, this 27<sup>th</sup> day of June 2007.

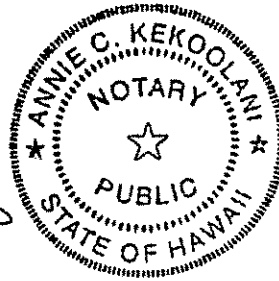


\_\_\_\_\_  
Name: Theodore Walkey  
Title: Senior Vice President, Operations  
Hawaiiana Management Company, Ltd.

Subscribed and sworn to before me  
this 27<sup>th</sup> day of June 2007.

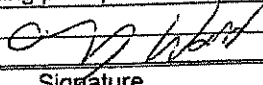
  
\_\_\_\_\_  
Typed or Printed Name: Annie C. Kekoolani  
Notary Public, State of Hawaii

My commission expires: 02-16-2010



<b>Utilities and Services</b>	<b>Monthly Fee</b>	<b>Annual Fee</b>
Electricity (common elements only)	\$780.00	\$9,360.00
Water	\$3,920.00	\$47,040.00
Sewer	\$4,000.00	\$48,000.00
<b>Maintenance, Repairs and Supplies</b>		
Grounds Maintenance/Janitorial	\$4,625.00	\$55,500.00
Common Area Maintenance	\$3,000.00	\$36,000.00
Electrical and Lighting	\$300.00	\$3,600.00
Pest Control	\$468.00	\$5,616.00
Fire System and Equipment	\$20.00	\$240.00
Supplies/Misc Repairs	\$700.00	\$8,400.00
Trash Collection	\$1,300.00	\$15,600.00
<b>Management</b>		
Management Fee	\$1,571.00	\$18,852.00
Design Review Services	\$300.00	\$3,600.00
Misc/Office/Education Expenses	\$500.00	\$6,000.00
<b>Insurance</b>		
Property	\$6,613.00	\$79,356.00
Liability	\$479.00	\$5,748.00
Umbrella	\$265.00	\$3,180.00
D & O	\$106.00	\$1,272.00
Equipment	\$115.00	\$1,380.00
Bond	\$50.00	\$600.00
	\$30.00	\$360.00
<b>Taxes and Government Assmnts</b>		
<b>Professional Services/Legal/Other</b>		
Audit and Tax Preparation	\$100.00	\$1,200.00
Condo Registration	\$35.00	\$420.00
General Excise Tax	\$20.00	\$240.00
<b>Reserves</b>	\$5,478.00	\$65,736.00
<b>Total</b>	<b>\$34,775.00</b>	<b>\$417,300.00</b>

I, Ted Walkey, as agent for/and/or employed by Hawaiiiana Management Company, the condominium managing agent/ developer for the Nanala at Mehana Incr 1 and 2 Condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.



6/27/2007

Signature

Date

Pursuant to 514B-14B,7b, Hawaii Revised Statutes, a new association need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. The Developer has not conducted a reserve study for the Project. The budget amount for Reserves is an estimate only.

The estimated initial monthly maintenance fee assessments do not include mandatory dues payable to the Mehana at Kapolei Community Association. The current anticipated fee is \$25.00 per unit per month, and the fee is expected to increase to at least \$42.00 per unit per month when certain Mehana common facilities are available to residents. Pending delivery of such facilities, Master Association fees may be increased at any to \$30.00 per month or such other amount that the Master Association determines or accordance with the Master Association. The Association will collect this fee in addition to the Unit Owner's monthly maintenance fee and pay the same to the Master Association.

6-26-07

## Estimate of Initial Maintenance Fees

Nanala at Mehana  
Incr 1 and 2  
(100 Units)

Unit Type	Unit Number	% Common Interest	Monthly Fee	Yearly Total
A/Ar	105	1.1387%	\$395.98	\$4,751.80
A/Ar	106	1.1387%	\$395.98	\$4,751.80
A/Ar	107	1.1387%	\$395.98	\$4,751.80
A/Ar	108	1.1387%	\$395.98	\$4,751.80
A/Ar	305	1.1387%	\$395.98	\$4,751.80
A/Ar	306	1.1387%	\$395.98	\$4,751.80
A/Ar	307	1.1387%	\$395.98	\$4,751.80
A/Ar	308	1.1387%	\$395.98	\$4,751.80
A/Ar	405	1.1387%	\$395.98	\$4,751.80
A/Ar	406	1.1387%	\$395.98	\$4,751.80
A/Ar	407	1.1387%	\$395.98	\$4,751.80
A/Ar	408	1.1387%	\$395.98	\$4,751.80
A/Ar	605	1.1387%	\$395.98	\$4,751.80
A/Ar	606	1.1387%	\$395.98	\$4,751.80
A/Ar	607	1.1387%	\$395.98	\$4,751.80
A/Ar	608	1.1387%	\$395.98	\$4,751.80
B/Br	103	1.1387%	\$395.98	\$4,751.80
B/Br	104	1.1387%	\$395.98	\$4,751.80
B/Br	109	1.1387%	\$395.98	\$4,751.80
B/Br	110	1.1387%	\$395.98	\$4,751.80
B/Br	205	1.1387%	\$395.98	\$4,751.80
B/Br	206	1.1387%	\$395.98	\$4,751.80
B/Br	303	1.1387%	\$395.98	\$4,751.80
B/Br	304	1.1387%	\$395.98	\$4,751.80
B/Br	309	1.1387%	\$395.98	\$4,751.80
B/Br	310	1.1387%	\$395.98	\$4,751.80
B/Br	403	1.1387%	\$395.98	\$4,751.80
B/Br	404	1.1387%	\$395.98	\$4,751.80
B/Br	409	1.1387%	\$395.98	\$4,751.80
B/Br	410	1.1387%	\$395.98	\$4,751.80
B/Br	505	1.1387%	\$395.98	\$4,751.80
B/Br	506	1.1387%	\$395.98	\$4,751.80
B/Br	603	1.1387%	\$395.98	\$4,751.80
B/Br	604	1.1387%	\$395.98	\$4,751.80
B/Br	609	1.1387%	\$395.98	\$4,751.80
B/Br	610	1.1387%	\$395.98	\$4,751.80
C1/C1r	112	0.8281%	\$287.97	\$3,455.66
C1/C1r	201	0.8281%	\$287.97	\$3,455.66
C1/C1r	210	0.8281%	\$287.97	\$3,455.66
C1/C1r	301	0.8281%	\$287.97	\$3,455.66
C1/C1r	312	0.8281%	\$287.97	\$3,455.66



6-26-07

## Estimate of Initial Maintenance Fees

Nanala at Mehana  
Incr 1 and 2  
(100 Units)

Unit Type	Unit Number	% Common Interest	Monthly Fee	Yearly Total
C1/C1r	412	0.8281%	\$287.97	\$3,455.66
C1/C1r	501	0.8281%	\$287.97	\$3,455.66
C1/C1r	510	0.8281%	\$287.97	\$3,455.66
C1/C1r	601	0.8281%	\$287.97	\$3,455.66
C1/C1r	612	0.8281%	\$287.97	\$3,455.66
C1/C1r	701	0.8281%	\$287.97	\$3,455.66
C1/C1r	708	0.8281%	\$287.97	\$3,455.66
C1/C1r	801	0.8281%	\$287.97	\$3,455.66
C1/C1r	808	0.8281%	\$287.97	\$3,455.66
C1/C1r	901	0.8281%	\$287.97	\$3,455.66
C1/C1r	908	0.8281%	\$287.97	\$3,455.66
C1/C1r	1001	0.8281%	\$287.97	\$3,455.66
C1/C1r	1008	0.8281%	\$287.97	\$3,455.66
C2/C2r	111	0.8281%	\$287.97	\$3,455.66
C2/C2r	202	0.8281%	\$287.97	\$3,455.66
C2/C2r	209	0.8281%	\$287.97	\$3,455.66
C2/C2r	302	0.8281%	\$287.97	\$3,455.66
C2/C2r	311	0.8281%	\$287.97	\$3,455.66
C2/C2r	411	0.8281%	\$287.97	\$3,455.66
C2/C2r	502	0.8281%	\$287.97	\$3,455.66
C2/C2r	509	0.8281%	\$287.97	\$3,455.66
C2/C2r	602	0.8281%	\$287.97	\$3,455.66
C2/C2r	611	0.8281%	\$287.97	\$3,455.66
C2/C2r	702	0.8281%	\$287.97	\$3,455.66
C2/C2r	707	0.8281%	\$287.97	\$3,455.66
C2/C2r	802	0.8281%	\$287.97	\$3,455.66
C2/C2r	807	0.8281%	\$287.97	\$3,455.66
C2/C2r	902	0.8281%	\$287.97	\$3,455.66
C2/C2r	907	0.8281%	\$287.97	\$3,455.66
C2/C2r	1002	0.8281%	\$287.97	\$3,455.66
C2/C2r	1007	0.8281%	\$287.97	\$3,455.66
D/Dr	203	1.1387%	\$395.98	\$4,751.80
D/Dr	204	1.1387%	\$395.98	\$4,751.80
D/Dr	207	1.1387%	\$395.98	\$4,751.80
D/Dr	208	1.1387%	\$395.98	\$4,751.80
D/Dr	503	1.1387%	\$395.98	\$4,751.80
D/Dr	504	1.1387%	\$395.98	\$4,751.80
D/Dr	507	1.1387%	\$395.98	\$4,751.80
D/Dr	508	1.1387%	\$395.98	\$4,751.80
D/Dr	704	1.1387%	\$395.98	\$4,751.80
D/Dr	705	1.1387%	\$395.98	\$4,751.80

6-26-07

**Estimate of Initial Maintenance Fees**Nanala at Mehana  
Incr 1 and 2  
(100 Units)

Unit Type	Unit Number	% Common Interest	Monthly Fee	Yearly Total
D/Dr	804	1.1387%	\$395.98	\$4,751.80
D/Dr	805	1.1387%	\$395.98	\$4,751.80
D/Dr	904	1.1387%	\$395.98	\$4,751.80
D/Dr	905	1.1387%	\$395.98	\$4,751.80
D/Dr	1004	1.1387%	\$395.98	\$4,751.80
D/Dr	1005	1.1387%	\$395.98	\$4,751.80
E/Er	703	0.8281%	\$287.97	\$3,455.66
E/Er	706	0.8281%	\$287.97	\$3,455.66
E/Er	803	0.8281%	\$287.97	\$3,455.66
E/Er	806	0.8281%	\$287.97	\$3,455.66
E/Er	903	0.8281%	\$287.97	\$3,455.66
E/Er	906	0.8281%	\$287.97	\$3,455.66
E/Er	1003	0.8281%	\$287.97	\$3,455.66
E/Er	1006	0.8281%	\$287.97	\$3,455.66
F1	101	1.1387%	\$395.98	\$4,751.80
F1	401	1.1387%	\$395.98	\$4,751.80
F2	102	1.0369%	\$360.58	\$4,326.98
F2	402	1.0369%	\$360.58	\$4,326.98
<b>TOTALS</b>		100.0000%	\$34,775.00	\$417,300.00

## EXHIBIT Q

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

The Deposit Receipt, Reservation and Sales Agreement (the "Sales Contract") contains the price and other terms and conditions under which a purchaser will agree to buy a Residence in the Community. Among other things, the Sales Contract states:

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

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

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

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

## EXHIBIT R

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**EXHIBIT S**

Section -- 5.2 Sales to Owner Occupants



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

[ ] Chronological System    [ ] Lottery System

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

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

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

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

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

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

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

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

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

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

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

9. We understand that it is the affirmative duty of any developer, employee or agent of a developer, and real estate licensee, to report immediately to the Real Estate Commission any person who violates or attempts to



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

# HOME BUILDER'S LIMITED WARRANTY

Administered by Professional Warranty Service Corporation

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

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

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

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

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

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

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

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

## I. Coverage Limit

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

## II. Warranty Coverage

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

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

## III. OUR Coverage Obligations

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

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

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

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

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

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

**SAMPLE**

## IV. Homeowner Maintenance Obligations

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

## V. Coverage Limitations

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

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

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

## VI. Exclusions

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

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



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

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

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

### **A. Notification**

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

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

### **B. Cooperate With US**

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

### **C. Do Not Make Voluntary Payments**

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

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

**D. Sign A Release**

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

**E. If YOU Disagree With US**

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

# 3 VIII. Binding Arbitration Procedure

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## IX. General Conditions

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

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

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

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

### C. Transfer of Manufacturer's Warranties

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

### D. Recovery Rights

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

## E. General Provisions

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

## X. Definitions

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

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

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

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

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

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

- materially affects the structural integrity of the **HOME** or the **COMMON ELEMENTS**; or
- has an obvious and material negative impact on the appearance of the **HOME** or the **COMMON ELEMENTS**;

or

- jeopardizes the life or safety of the occupants; or
- results in the inability of the **HOME** or the applicable **COMMON ELEMENTS** to provide the functions that can reasonably be expected in a residential dwelling.

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

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

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

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

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

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

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

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

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

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

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

SYSTEMS means the following:

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

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

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

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

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

**SAMPLE**

**BINDING ARBITRATION REQUEST FORM**

Dear Homeowner (Homeowners Association):

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

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

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

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

CITY

STATE

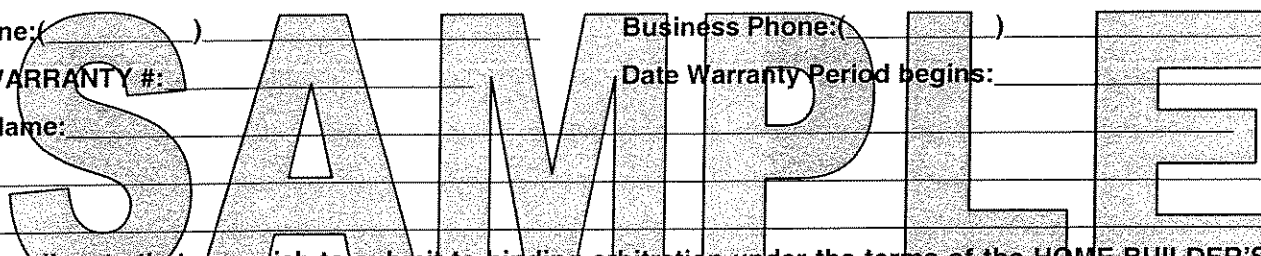
ZIP

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

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

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

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



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

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

Signature

Date

Signature

Date

INSTRUCTIONS: Photo-copy this form and complete the fields.

Obtain the required arbitration filing fee by contacting PWC at 1-800/850-2799.

Send this Binding Arbitration Request Form and the arbitration filing fee to:

**PROFESSIONAL WARRANTY SERVICE CORPORATION**

**P. O. BOX 800**

**ANNANDALE, VIRGINIA 22003-0800**



# SUBSEQUENT HOME BUYER ACKNOWLEDGMENT AND TRANSFER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Limited Warranty Validation Form**

**LIMITED WARRANTY Number:** SC01x123456

**Builder Identification Number:** HBP-SC01

**Builder Name and Address:**

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

**Address of Covered Home:** 1234 Main Street  
Honolulu, HI 96813

**Limit of Liability:** \$XXX,XXX (sales price of home)

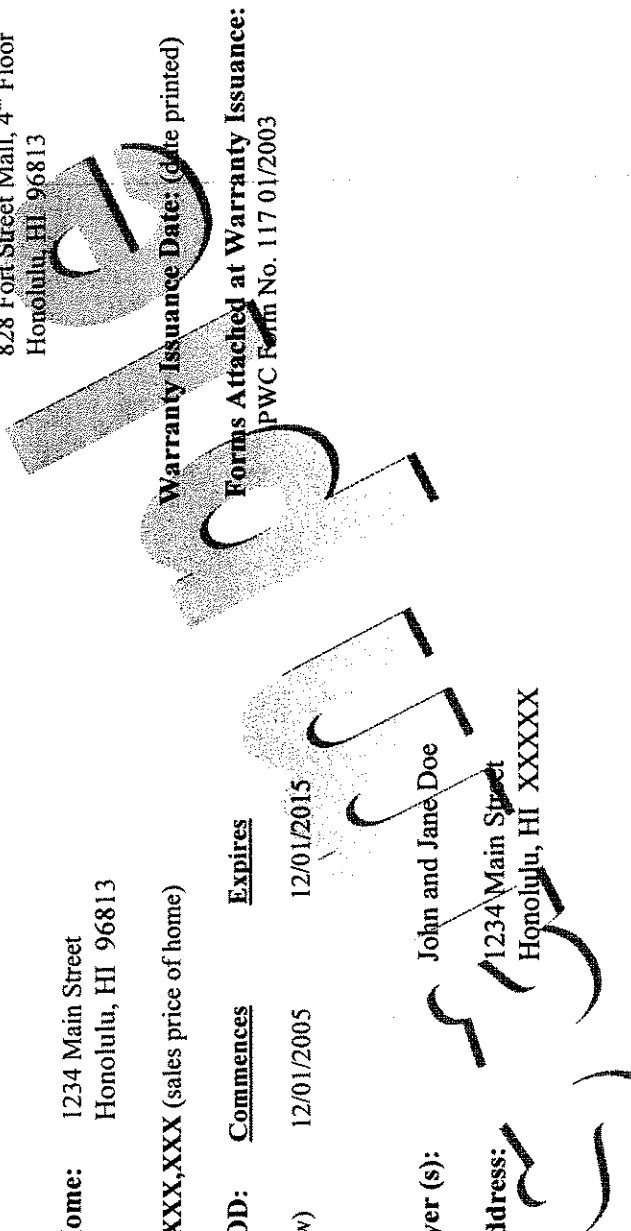
**WARRANTY PERIOD:**    Commences    12/01/2005    Expires    12/01/2015  
(Close of Escrow)

**Home Buyer (s):** John and Jane Doe

**Mailing Address:** 1234 Main Street  
Honolulu, HI XXXXX

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

(800) 850-2799



**Warranty Issuance Date:** (date printed)  
**Forms Attached at Warranty Issuance:**  
PWC Form No. 117 01/2003

## EXHIBIT U

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

1. All prospective purchasers should also be aware that Nanala at Mehana is within and a part of the master planned community known as the Mehana at Kapolei, and is subject to certain conditions and restrictions contained in various documents that affect the Community, including the covenants, conditions, restrictions, reservations, agreements, obligations and other provisions contained in the Master Declaration of Covenants, Conditions, Restrictions and Easements for Mehana at Kapolei, as the same may be amended and/or supplemented.
2. All prospective purchasers should also be aware that the private yard areas, if any are available to units in the community, are not subdivided lots, but are exclusive use areas appurtenant to the unit(s).
3. Developer may revise the specimen deed and sales contract for the community to conform with any future amendments that may be made to the Declaration and the community.
4. Each prospective purchaser should review the Condominium Map Site Plan so that they may identify easement areas benefiting the community, which easements may affect the use of the Private Yard Area, if any.
5. A "sight view triangle" is required by the County on all corner yards in order to maintain clear views of traffic at certain intersections. The County requires that all structures and landscaping within the sight view triangle be no greater than thirty (30) inches in height.
6. Buyer may landscape the easement area(s) within a Private Yard Area, if any, as long as you do not interfere with the use of the easement area(s) affecting your unit. The grantee of the easement area, whether it is MECO, the Nanala at Mehana, or an agency of the County, will have the right to trim and keep trimmed any plants within the easement area that may be in the way. Also, you may not be permitted to construct other structures in the area depending on the nature of the easement. Such structures may require the grantee's approval. Additionally, should the grantee determine that it must remove any plants or foliage within the easement area, it may NOT be obligated to replace them, but rather will only be obligated to restore the surface of the ground within the easement area as much as the grantee determines is reasonably possible.
7. Exterior elevations, door and window locations and types may be modified from that reflected on the Condominium Map. Condominium Map depictions are representations only.
8. Act 119 passed by the State of Hawaii Legislature and effective July 1, 2004, contains important requirements you must follow before you file a lawsuit or other action for defective construction against the contractor who designed, repaired, or constructed your unit or facility. Ninety days before you file your lawsuit or other action, you must serve on the contractor a written notice of any construction conditions you allege are defective. Under the law, a contractor has the opportunity to make an offer to repair and/or pay for the defects. You are not obligated to accept any offer made by a contractor. There are strict deadlines and procedures under the law and failure to follow them may negatively affect your ability to file a lawsuit or other action.
9. Certain portions of the community may be used as a sales office and a railroad easement. Buyer is aware that noise and traffic from these areas may cause a disturbance.

Buyer is responsible for investigating noise levels in and around the community to determine if the Buyer is satisfied with the acoustics and noise levels within the unit and within the community as a whole. Seller makes no guaranty as to these matters now or in the future.

10. The buyer should be aware that the Nanala at Mehana community may be periodically affected by certain environmental conditions due to historical, existing and prospective surrounding conditions and uses. Those uses include, without limitation, industrial, commercial and other non-residential uses, animal husbandry and pasture uses, and a railroad easement. Overhead and underground radio transmission wires and high voltage electric lines and facilities may be located within and around the community. Such facilities purportedly may emit electric and magnetic emissions. Aircraft may fly in the proximity of or over or close to the community. Buyers should also be aware that ongoing construction, commercial and industrial uses, plantation harvesting and farming may temporarily generate heavy dust and/or other nuisances. Pesticides and fertilizers were or may be used in the plantation harvesting and farming and may have long term effects on the land, water and environment.

11. Buyers are encouraged to find out which parking stalls are available for their use and the location of the parking stalls.

12. The buyer should be aware that the Community and/or the Unit may be affected by traffic, aircraft noise, and adverse effects from the Kalaeloa Community Development District and that an expansion of military uses and associated adverse impacts may occur within Kalaeloa;

13. The buyer should be aware that the Community is located within the contours of the Honolulu International Airport 1987 Noise Contour Map; and

14. The buyer should be aware that the Community is located near the OR&L Historic Railway and the operation of trains on the railway may result in noise and other impacts associated with the operation of trains.

15. Buyers should be aware that the Community includes mixed uses, and is not exclusively a residential community, and that the presence of the mixed uses in the Community may adversely affect an Owner's use and enjoyment of their Unit.

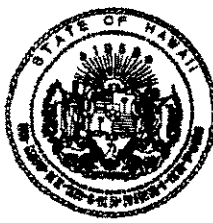
16. Buyers shall comply with the County approved Solid Waste Management Plan and are encouraged to recycle waste materials accordingly.

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

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

ZS  
EA  
BACE



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



28 1/1 Z5

/s/ CARL T. WATANABE  
ASSISTANT REGISTRAR

KM

LAND COURT

REGULAR SYSTEM

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

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

Title of Document:

Unilateral Agreement And Declaration For Conditional Zoning

Party To Document:

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

Property Description:

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

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

### **UNILATERAL AGREEMENT & DECLARATION FOR CONDITIONAL ZONING**

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

#### **WITNESSETH:**

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

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

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

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

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

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

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

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



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

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

b. Parks and Open Space

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

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

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

c. Roadways

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

d. Regional Drainage

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

2. Prior to the approval of the first building permit by DPP, the Declarant shall submit "Mehana Design Guidelines" for the Project (except for the school site) illustrating site planning guidelines and

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

DECLARANT:

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



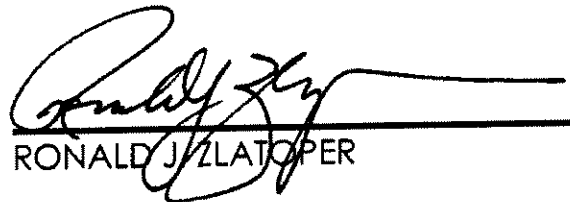
C.R. CHURCHILL



D.A. HEENAN

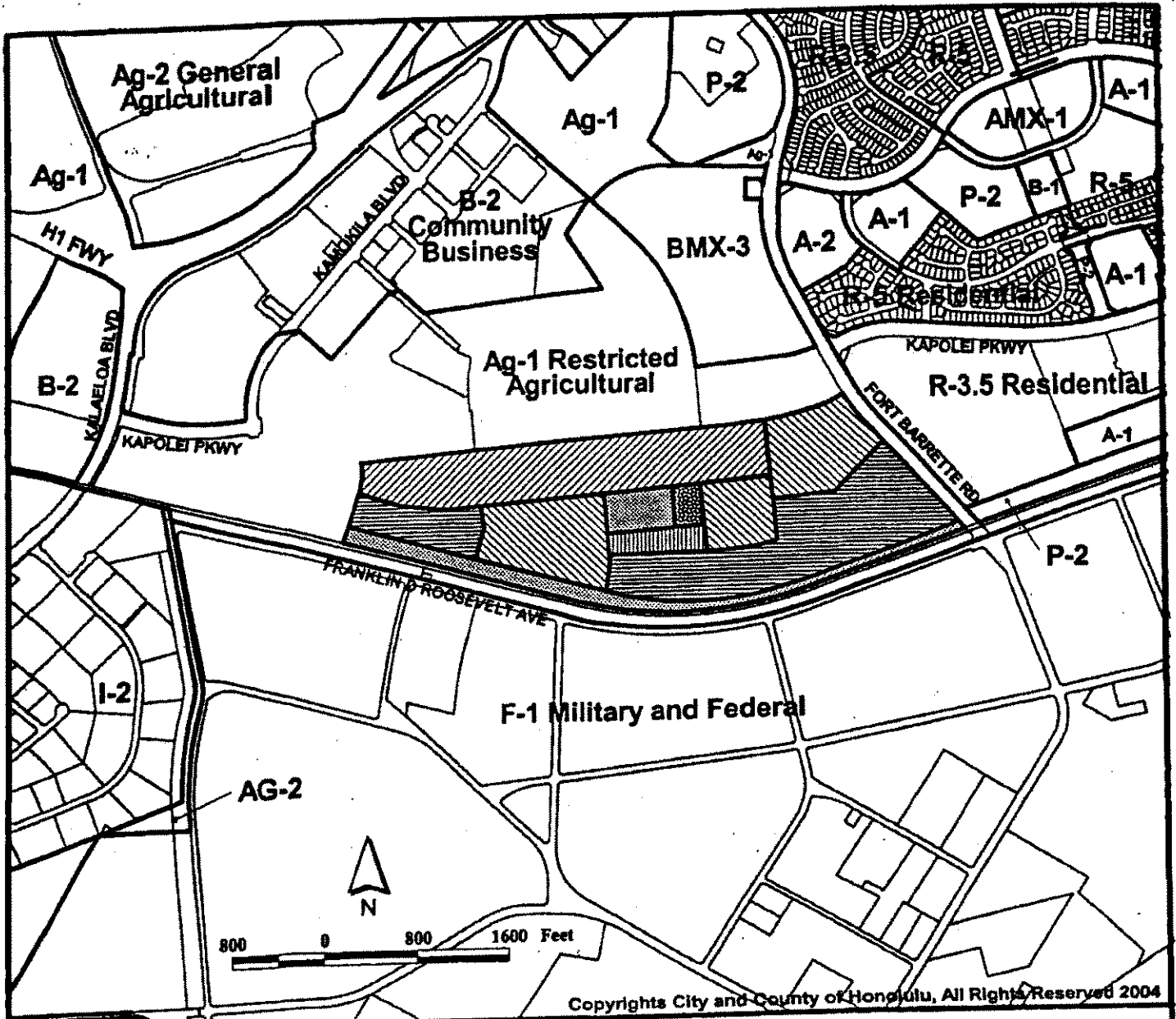


RICHARD W. GUSHMAN, II









RONALD J. ZLATOPER





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### Zone Change Legend

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



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

**APPLICANT:** D. R. Horton, Schuler Division  
**TAX MAP KEY(S):** 9-1-16: Portion 1, Portion 122, Portion 123, and 124  
**FOLDER NO.:** 2004/Z-5  
**LAND AREA:** Approximately 149.5 Acres  
**PREPARED BY:** Department of Planning and Permitting  
 City and County of Honolulu  
**PUBLIC HEARING:** Planning Commission      City Council

ORD. NO.  
EFF. DATE

EXHIBIT A-1

BILL

2004/Z-5

EXHIBIT A-2

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

Situate at Honouliuli, Ewa, Oahu, Hawaii.

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

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

9. Thence along the West side of Barbers Point NAS Access Road (Project No. D-AD-1(2)), on a curve to the left with a radius of 2,077.19 feet, the chord azimuth and distance being:  
323° 50' 02"                      386.19 feet;
10.    318°    30'                      1,205.19 feet along same to the point of beginning and containing an area of 151.009 acres.



November 12, 2004  
Honolulu, Hawaii

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

# EXHIBIT A-2

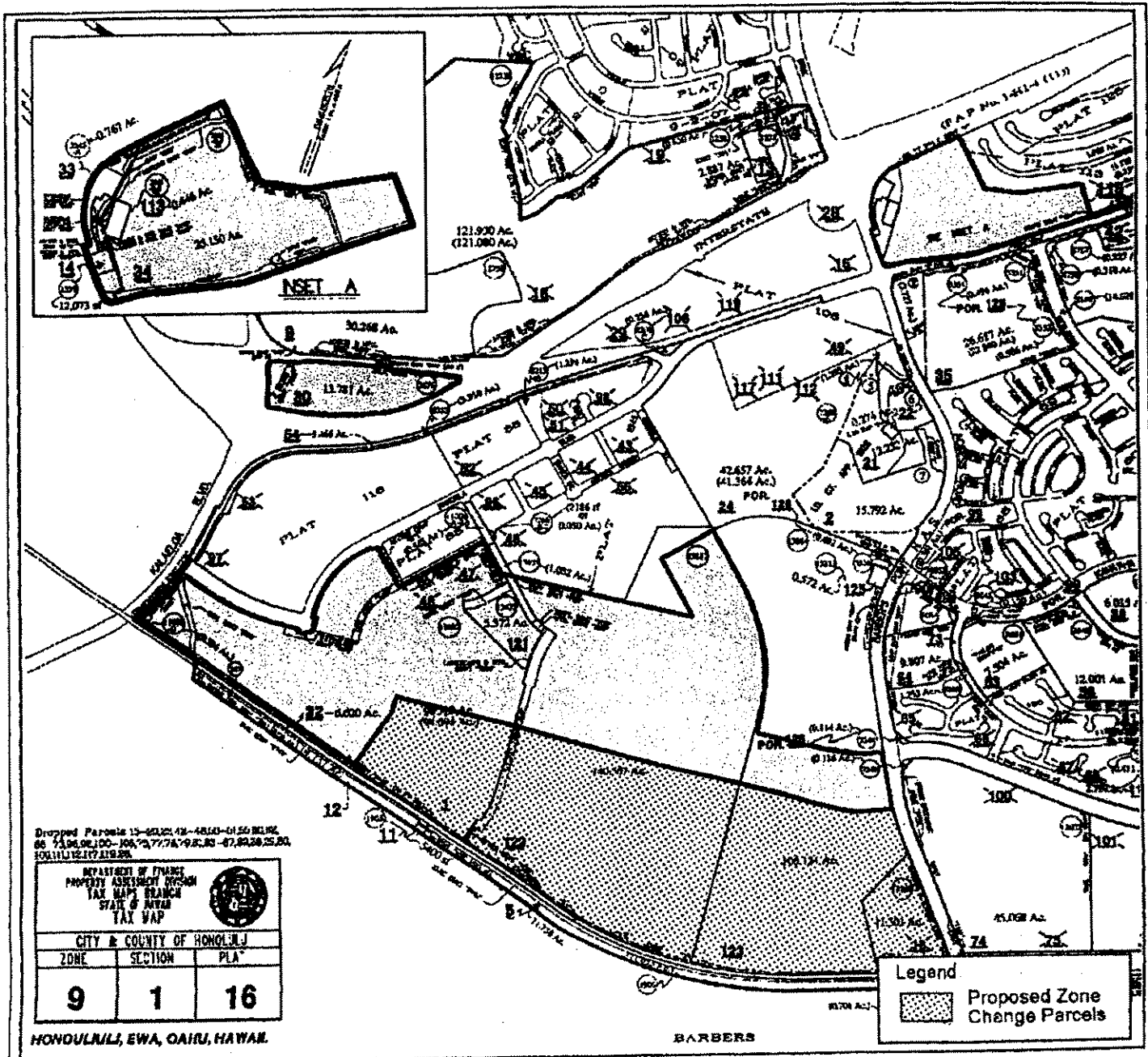


Figure 1: Tax Map Key (Not to Scale)

**EXHIBIT A-3**

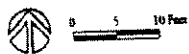
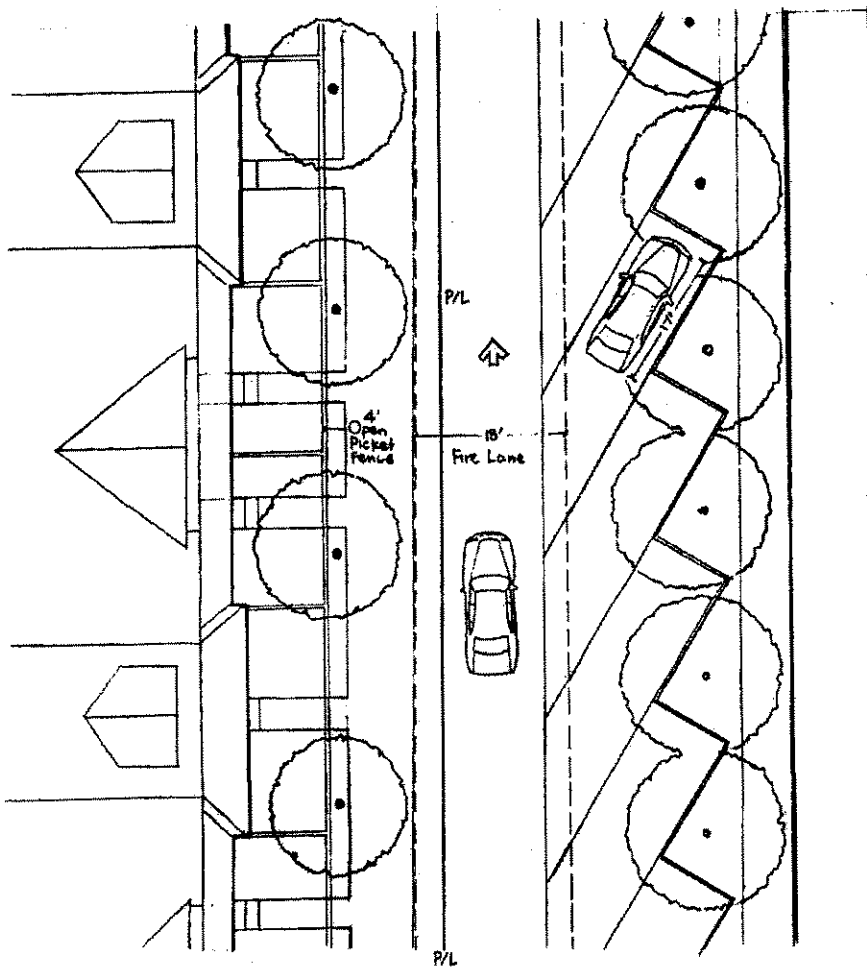
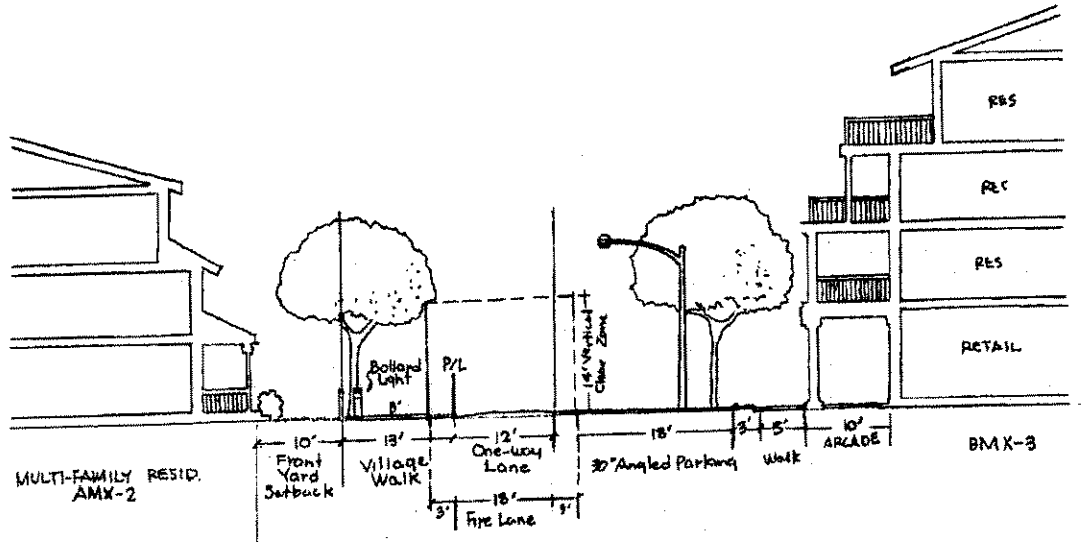
All of those certain parcels of land situate at Honouliuli, City and County of Honolulu, Island of Oahu, State of Hawaii, more particularly described as follows:

<b>Lot</b>	<b>Map</b>	<b>Certificate of Title</b>	<b>Owner</b>
Lot 13880 (portion)	Map 1055	493,720	Trustees under the Will and of the Estate of James Campbell, Deceased
Lot 13883	Map 1055	493,720	Trustees under the Will and of the Estate of James Campbell, Deceased
Lot 15685 (portion)	Map 1208	493,720	Trustees under the Will and of the Estate of James Campbell, Deceased

End of Exhibit A-3





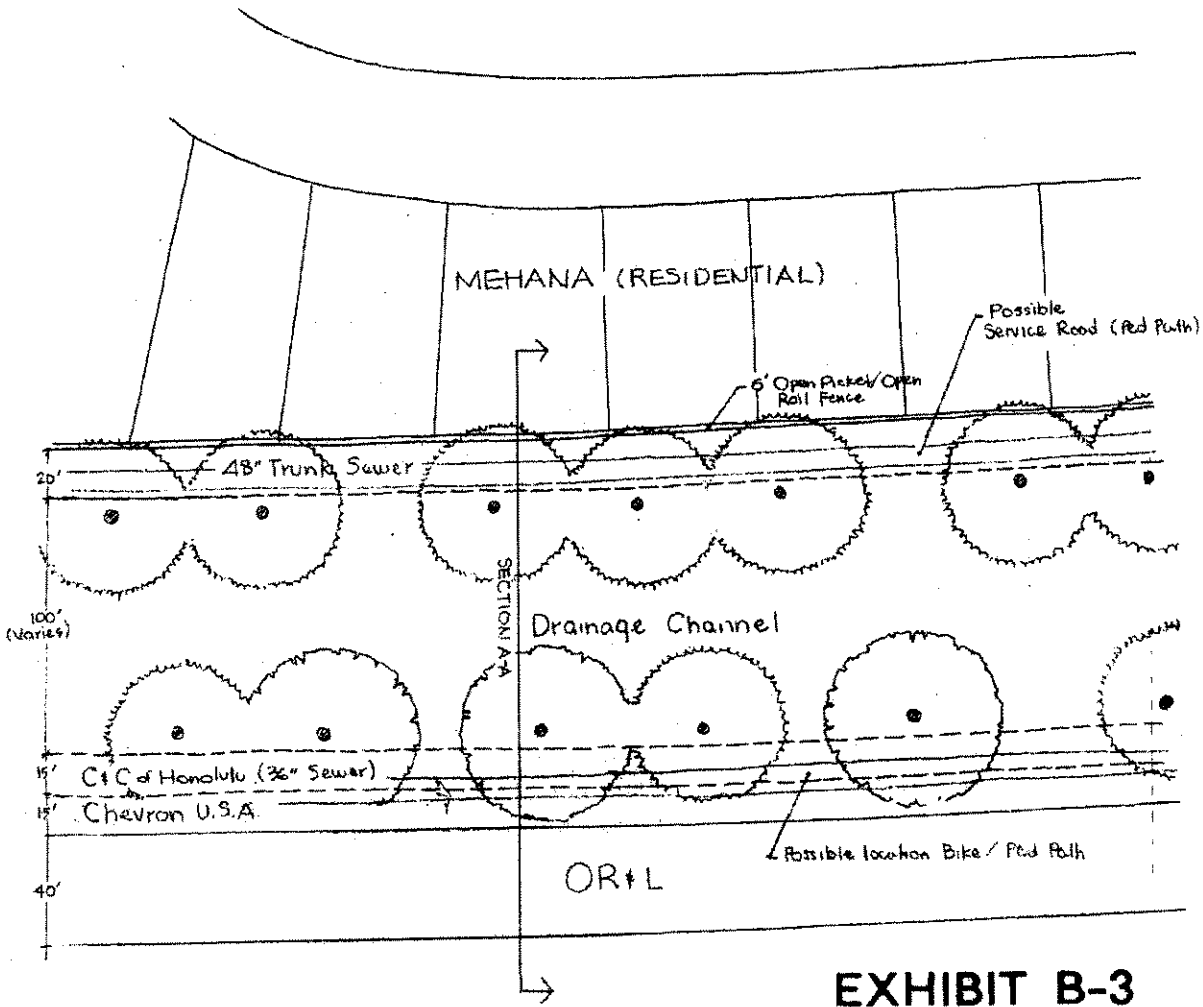
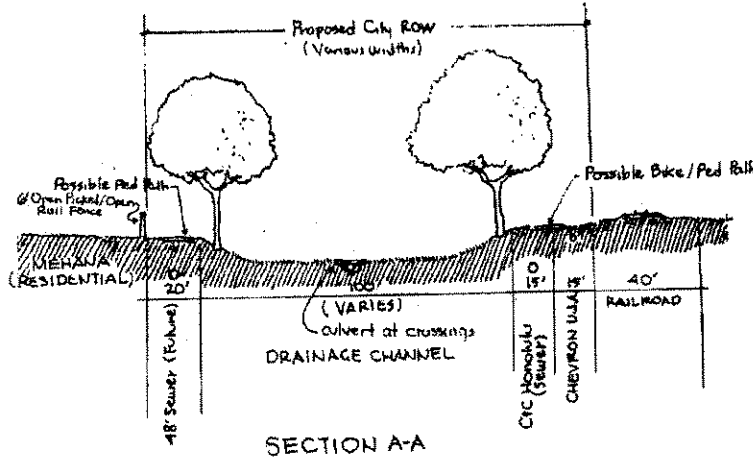


August 19, 2004  
 Helber Hastert & Fee, Planners  
 Honolulu, Hawaii

### EXHIBIT B-2

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

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

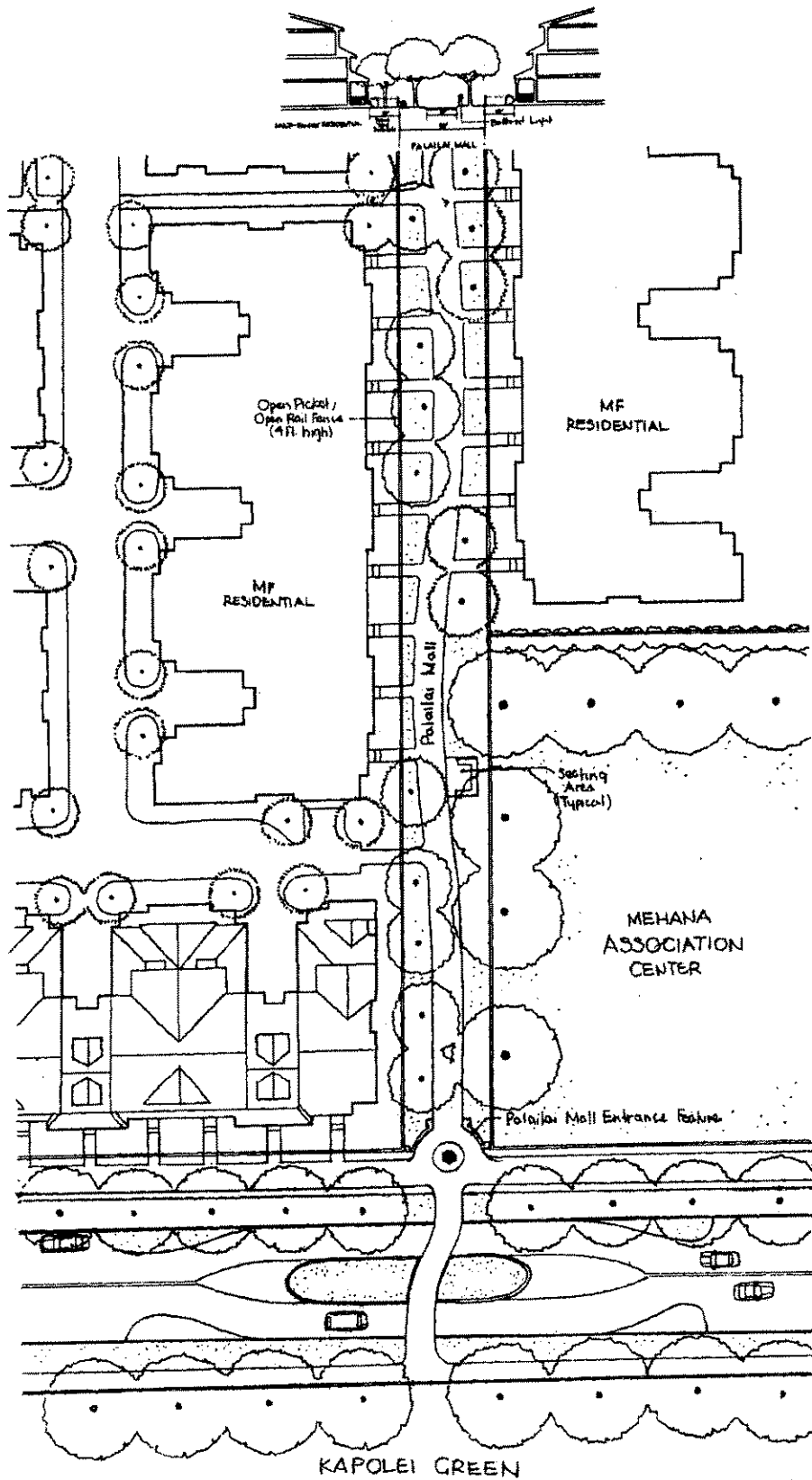


Revised August 27, 2004  
~~August 19, 2004~~  
**Helber Hastert & Fee, Planners**  
 Honolulu, Hawaii

### EXHIBIT B-3

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

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



## EXHIBIT B-4

PALAILAI MALL CONCEPT PLAN  
 MEHANA AT KAPOLEI  
 D.R. HORTON - SCHULER DIVISION

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



August 19, 2004

Helber Hastert & Fee, Planners  
 Honolulu, Hawaii

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

**MICHAEL T. JONES**  
PRESIDENT

August 26, 2004

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

Mehana at Kapolei  
Neighborhood Park Dedication Recommendation

Dear Mr. Balfour,

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

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

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

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

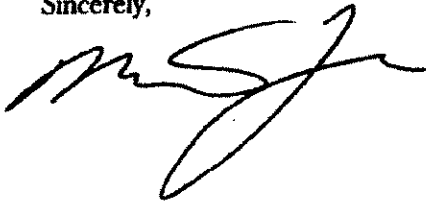
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Mr. Bill Balfour  
August 26, 2004  
Page 2

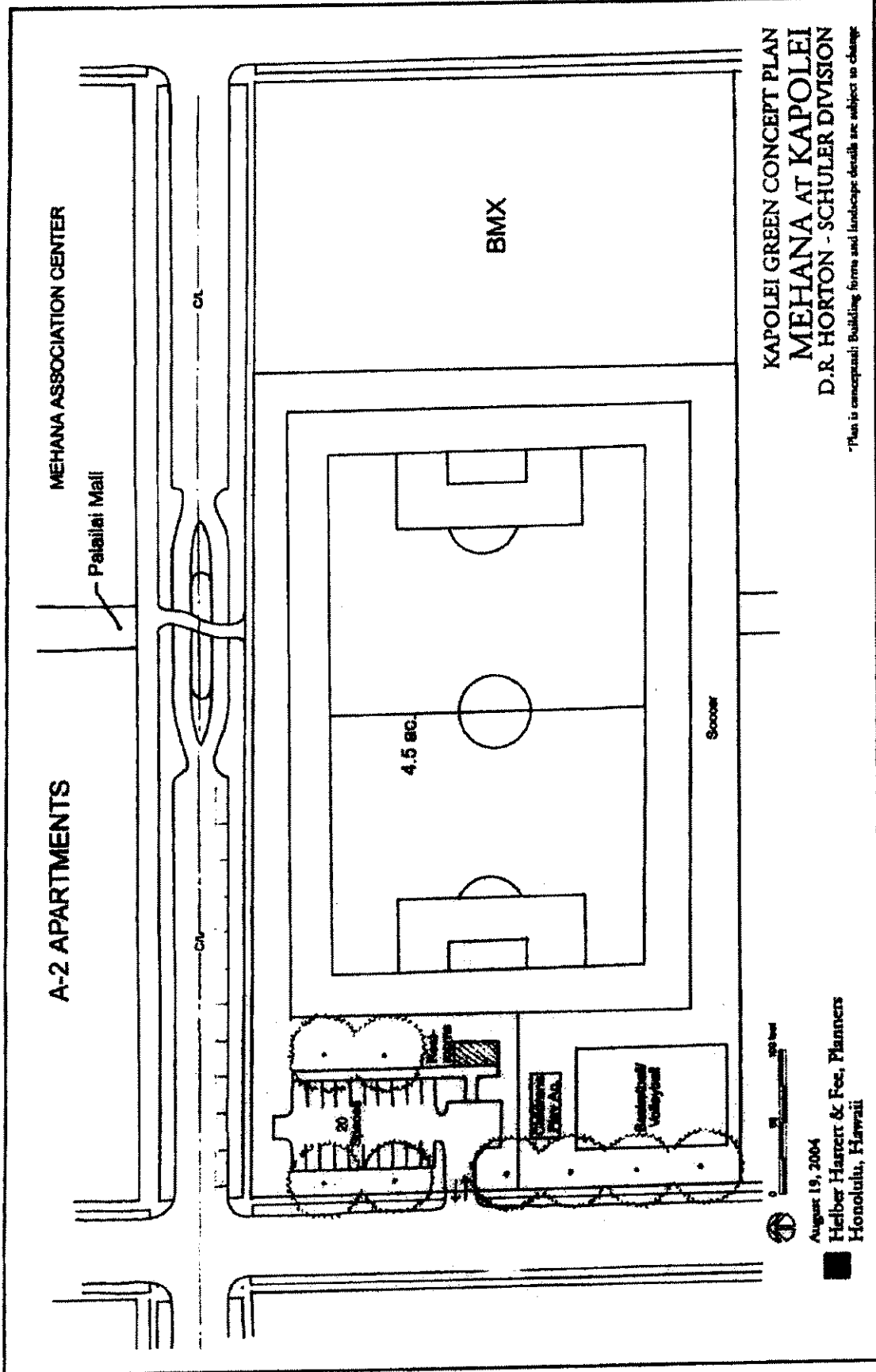
Please call me or Harvey Goth with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be 'MSJ', written in a cursive style.

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

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



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

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

August 19, 2004  
 Heiber Harrert & Fee, Planners  
 Honolulu, Hawaii

DEPARTMENT OF PARKS AND RECREATION  
CITY AND COUNTY OF HONOLULU

KAPOLEI HALE, 1000 ULUOHA STREET, STE. 508 • KAPOLEI, HAWAII 96707  
PHONE: (808) 862-8881 • FAX: 862-8131 • INTERNET: WWW.DC.HONOLULU.HI.US

JEREMY HARRIS  
MAYOR



WILLIAM D. BALFOUR, JR.  
DIRECTOR

EDWARD T. "BOBBY" DIAZ  
DEPUTY DIRECTOR

September 13, 2004

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

Dear Mr. Jones:

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

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

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

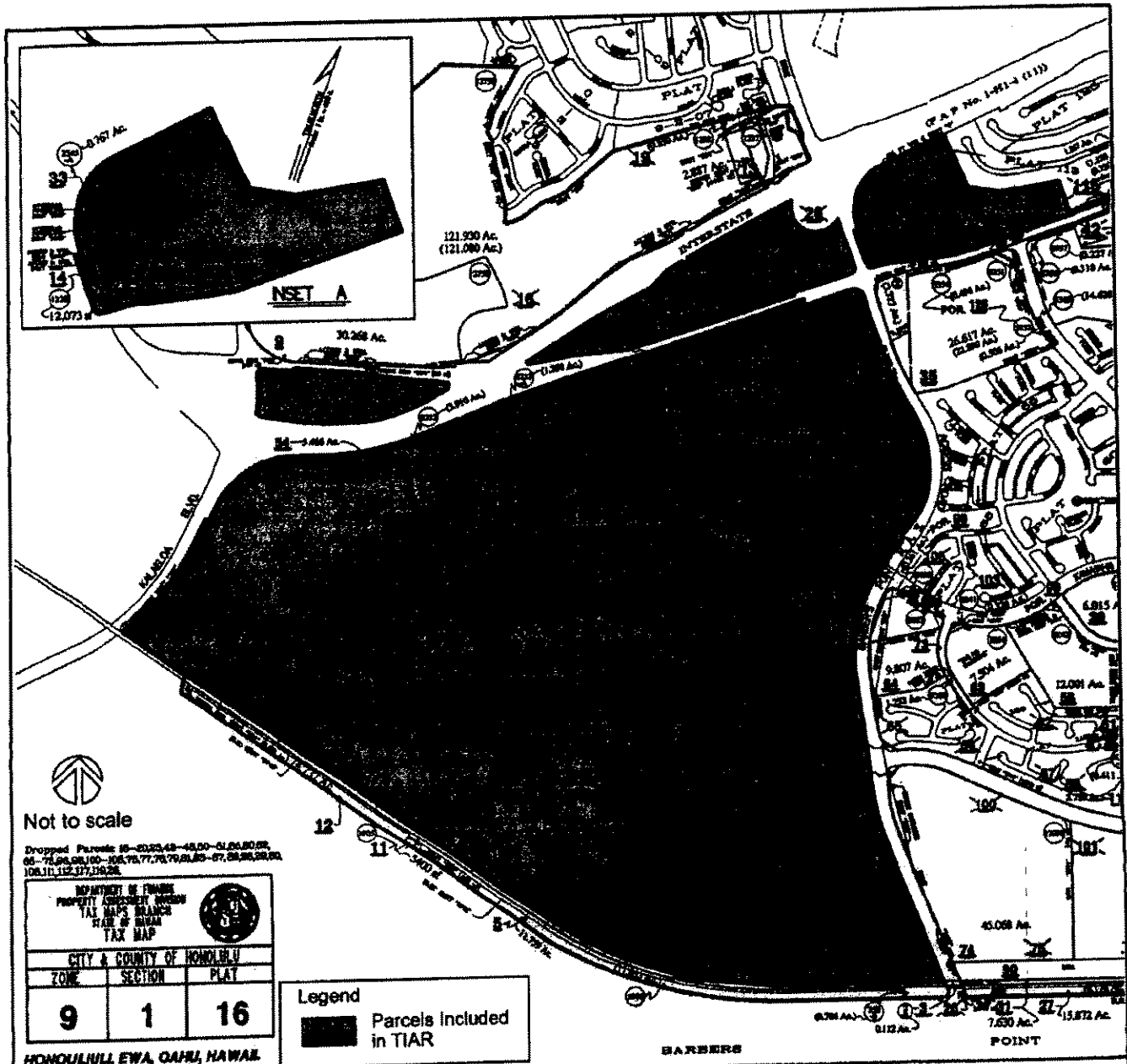
Sincerely,

  
WILLIAM D. BALFOUR, JR.  
Director

WDB:kt  
(74605)

cc: Department of Planning and Permitting





Not to scale

Dropped Parcels 85-0322,49-49,00-01,00,00,00,05-71,06,08,100-108,70,77,70,70,01,03-07,08,09,09,09,108,11,112,117,119,28

DEPARTMENT OF FINANCE  
PROPERTY ASSESSMENT DIVISION  
TAX MAPS BRANCH  
HAWAII STATE  
TAX MAP

CITY & COUNTY OF HONOLULU

ZONE	SECTION	PLAT
9	1	16

HONOLULU, EWA, OAHU, HAWAII

Legend

 Parcels included in TIAR

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

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

**EXHIBIT W**  
(Solid Waste Management Plan Mehana at Kapolei)

SOLID WASTE MANAGEMENT PLAN  
MEHANA AT KAPOLEI

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

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

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

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