

### CONDOMINIUM PUBLIC REPORT

Prepared & Issued by: Developer SCD ML II, LLC  
Business Address 1100 Alakea Street, 27th Floor, Honolulu, HI 96813  
Project Name (\*): Kulalani at Mauna Lani (Phase 4) (report covers 6 of 126 units)\*\*  
Address: 68-1118 North Kaniku Drive, Kamuela, HI 96743  
Registration No. 7410 Effective date: August 29, 2013  
Expiration date: May 29, 2014

#### Preparation of this Report:

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

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

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

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

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

#### Type of Report:

|                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <b>PRELIMINARY:</b><br>(yellow)     | The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.  |
| <input checked="" type="checkbox"/> | <b>CONTINGENT FINAL:</b><br>(green) | The developer has legally created a condominium and has filed information with the Commission for this report which <b>EXPIRES NINE (9) MONTHS</b> after the above effective date. Contingent Final public reports may not be extended or renewed.<br>[ ] No prior reports have been issued.<br>[ ] This report supersedes all prior public reports. |
| <input type="checkbox"/>            | <b>FINAL:</b><br>(white)            | The developer has legally created a condominium and has filed complete information with the Commission.<br>[ ] No prior reports have been issued.<br>[ ] This report supersedes all prior public reports.<br>[ ] This report must be read together with _____  |
| <input type="checkbox"/>            | <b>SUPPLEMENTARY:</b><br>(pink)     | This report updates information contained in the:<br>[ ] Preliminary Public Report dated: _____<br>[ ] Final Public Report dated: _____<br>[ ] Supplementary Public Report dated: _____  |
|                                     | And                                 | [ ] Supersedes all prior public reports.<br>[ ] Must be read together with _____<br>[ ] This report reactivates the _____<br>public report(s) which expired on _____   |

(\*) Exactly as named in the Declaration

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

FORM: RECO-30 1297 / 0298 / 0800 / 0203 / 0104 / 0107 / 0507

\*\* See page 2a. **For sale of Apts. 701-706 only.**

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

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

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

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

☐ No prior reports have been issued by the developer.

☒ Changes made are as follows:

See page 2a.

**SPECIAL ATTENTION**

This Contingent Final Public Report has been prepared by the Developer pursuant to §514A-39.5, HRS. The Real Estate Commission issued this report before the developer submitted certain documents and information as more fully set forth in the statutory notice below. Sales contract executed pursuant to this report **are binding on the buyer under those conditions specified immediately below** and in Part V. B. of this report found on pages 18 & 19 of this report. This report expires nine (9) months after the effective date of the report and may not be extended or renewed.

**STATUTORY NOTICE**

"The effective date for the Developer's Contingent Final Public Report was issued before the Developer submitted to the Real Estate Commission: the executed and recorded deed or master lease for the project site; the executed construction contract for the project; the building permit; satisfactory evidence of sufficient funds to cover the total project cost; or satisfactory evidence of a performance bond issued by a surety licensed in the State of not less than one hundred percent of the cost of construction, or such other substantially equivalent or similar instrument or security approved by the Commission. Until the Developer submits each of the foregoing items to the Commission, all Purchaser deposits will be held by the escrow agent in a federally-insured, interest-bearing account at a bank, savings and loan association, or trust company authorized to do business in the State. If the Developer does not submit each of the foregoing items to the Commission and the Commission does not issue an effective date for the Final Public Report before the expiration of the Contingent Final Public Report, then:

- (1) The Developer will notify the Purchaser thereof by certified mail; and
- (2) Either the Developer or the Purchaser shall thereafter have the right under Hawaii law to rescind the Purchaser's sales contract. In the event of a rescission, the Developer shall return all of the Purchaser's deposits together with all interest earned thereon, reimbursement of any required escrow fees, and, if the Developer required the Purchaser to secure a financing commitment, reimburse any fees the Purchaser incurred to secure that financing commitment." (§514A-64.5, HRS)

The developer is not required to submit but has for this registration submitted the following documents and information:

The entire Project contains 126 apartments, as described initially in the Contingent Final Public Report in Registration No. 5589 dated October 26, 2005. Subsequently, a Final Public Report (Reg. No. 5589 dated 6/30/06) was issued on 48 apartments (Phase 1), a Final Public Report (Reg. No. 6052 dated 4/23/07) was issued on 14 apartments (Phase 2), and a Final Public Report (Reg. No. 7283 dated May 22, 2013) was issued on 10 apartments (Phase 3). This Contingent Final Report covers 6 apartments as follows: 701-706. Developer shall obtain one or more separate Final Public Reports for the remaining apartments in the Project. To identify a specific apartment's location and layout on the Project's condominium map, prospective buyers are referred to the cross-references footnoted on page 11a to this Public Report.

Prospective purchasers are urged to look into the "Additional Information" on pages 20 and 20a of this Report and Exhibit A on Developer's Reserved Rights.

## TABLE OF CONTENTS

|   | Page   |
|---|--------|
| Preparation of this Report  | 1      |
| Expiration Date of Reports  | 1      |
| Type of Report  | 1      |
| Disclosure Abstract   | 2      |
| Summary of Changes from Earlier Public Reports  | 2      |
| Table of Contents   | 3      |
| General Information on Condominiums   | 4      |
| Operation of the Condominium Project  | 4      |
| <br>I. PERSONS CONNECTED WITH THE PROJECT   | <br>5  |
| Developer   |        |
| Attorney for Developer  |        |
| General Contractor  |        |
| Real Estate Broker  |        |
| Escrow Company  |        |
| Condominium Managing Agent  |        |
| <br>II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS                                    | <br>6  |
| A. Declaration  | 6      |
| B. Condominium Map (File Plan)  | 6      |
| C. Bylaws   | 7      |
| D. House Rules  | 7      |
| E. Changes to Condominium Documents   | 7      |
| <br>III. THE CONDOMINIUM PROJECT  | <br>8  |
| A. Interest to be Conveyed to Buyer   | 9      |
| B. Underlying Land  | 10     |
| C. Buildings and Other Improvements   | 13     |
| D. Common Elements, Limited Common Elements, Common Interest                                  | 14     |
| E. Encumbrances Against Title   | 15     |
| F. Construction Warranties  | 16     |
| G. Status of Construction   | 16     |
| H. Project Phases   | 16     |
| <br>IV. CONDOMINIUM MANAGEMENT  | <br>17 |
| A. Management of the Common Elements  | 17     |
| B. Estimate of Initial Maintenance Fees   | 17     |
| C. Utility Charges for Apartments   | 17     |
| <br>V. MISCELLANEOUS  | <br>18 |
| A. Sales Documents Filed with the Real Estate Commission                                      | 18     |
| B. Buyer's Right to Cancel Sales Contract   | 20     |
| C. Additional Information Not Covered Above   | 21     |
| D. Signature of Developer   | 21     |
| EXHIBIT A: Rights Reserved for Developer  |        |
| EXHIBIT B: Special Use Restrictions   |        |
| EXHIBIT C: Boundaries of Each Apartment   |        |
| EXHIBIT D: Permitted Alterations to Apartments  |        |
| EXHIBIT E: Common Elements  |        |
| EXHIBIT F: Limited Common Elements  |        |
| EXHIBIT G: Calculation of Common Interest   |        |
| EXHIBIT H: Encumbrances Against Title   |        |
| EXHIBIT I: Estimated Maintenance Fee  |        |
| EXHIBIT J: Summary of Purchase Agreement  |        |
| EXHIBIT K: Summary of Escrow Agreement  |        |
| EXHIBIT L: Summary of Apartment Deed, Encumbrances and Reservations of Rights                 |        |
| EXHIBIT M: Summary of Mauna Lani Resort Association Declaration of Covenants and Restrictions |        |

### **General Information On Condominiums**

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, must be complied with. In addition, certain requirements and approvals of the County in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owners/tenants) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements at the lessee's expense. Leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

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

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

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

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

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

### **Operation of the Condominium Project**

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

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without the vote of the owners. For example, the board may hire and fire employees, increase or decrease maintenance fees, borrow money for repair and improvements and set a budget. Some of these actions may significantly impact the apartment owners.

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

# I. PERSONS CONNECTED WITH THE PROJECT

Developer: SCD ML II, LLC Phone: (808) 537-5220  
Name\* (Business)  
1100 Alakea Street, Suite 2700  
Business Address  
Honolulu, Hawaii 96813

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

Members - Stanford Carr Development, LLC, CTK ML II, LLC and  
P L Development LLC  
Manager - Stanford Carr Development, LLC

Real Estate Broker\*: Pacific Island Realty Phone: (808) 521-4009  
Name (Business)  
1100 Alakea Street, Suite 2700  
Business Address  
Honolulu, Hawaii 96813

Escrow First American Title Company, Inc. Phone: (808) 536-3866  
Name (Business)  
1177 Kapiolani Boulevard  
Business Address  
Honolulu, Hawaii 96814

General Contractor\*: Inter Island Home Builders, LLC Phone: (808) 547-2247  
Name (Business)  
1100 Alakea Street, Suite 2700  
Business Address  
Honolulu, Hawaii 96813

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

Attorney for Developer: Char Sakamoto Ishii Lum & Ching Phone: (808) 522-5133  
Name (Business)  
841 Bishop Street, Suite 850  
Business Address  
Honolulu, Hawaii 96813  
Attn: Carolyn M. Oshiro, Esq.

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

## II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

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

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

The Declaration for this condominium is:

☐ Proposed

☒ Recorded - Bureau of Conveyances:

Document No. 2005-194154

Book \_\_\_\_\_ Page \_\_\_\_\_

☐ Filed - Land Court:

Document No. \_\_\_\_\_

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

Amendment of the Declaration of Condominium Property Regime of Kulalani at Mauna Lani dated March 31, 2009, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 2009-048218

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

The Condominium Map for this condominium project is:

☐ Proposed

☒ Recorded - Bureau of Conveyances Condo Map No. 4079

☐ Filed - Land Court Condo Map No. \_\_\_\_\_

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

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

The Bylaws for this condominium are:

☐ Proposed

☒ Recorded - Bureau of Conveyances:

Document No. 2005-194155

Book \_\_\_\_\_ Page \_\_\_\_\_

☐ Filed - Land Court:

Document No. \_\_\_\_\_

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

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

The House Rules for this condominium are:

☐ Proposed      ☒ Adopted      Developer does not plan to adopt House Rules

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

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

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

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

2. **Developer:**

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

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

See Exhibit "A".



### III. THE CONDOMINIUM PROJECT

#### A. Interest to be Conveyed to Buyer:

- ☒ Fee Simple: Individual apartments and the common elements, which include the underlying land, will be in fee simple.
- ☐ Leasehold or Sub-leasehold: Individual apartments and the common elements, which include the underlying land will be leasehold.

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

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

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

Lease Rent Payable: ☐ Monthly ☐ Quarterly  
☐ Semi-Annually ☐ Annually

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

#### For Sub-leaseholds:

- ☐ Buyer's sublease may be canceled if the master lease between the sublessor and fee owner is:  
☐ Canceled ☐ Foreclosed
- ☐ As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is canceled or foreclosed.

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

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

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

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

Lease Rent Payable: ☐ Monthly ☐ Quarterly  
☐ Semi-Annually ☐ Annually

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

☐ Other:

**IMPORTANT INFORMATION ON LEASEHOLD CONDOMINIUM PROJECTS**

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

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

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

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

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

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

**B. Underlying Land:**

Address: 68-1118 North Kaniku Drive Tax Map Key (TMK): (3) 6-8-22-7  
Kamuela, Hawaii 96743

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

Land Area: 25.067 ☐ square feet ☒ acre(s) Zoning: RM-3

Fee Owner: SCD ML II, LLC  
Name

Lessor: N/A  
Name  
Business Address

C. **Buildings and Other Improvements:**

1. ☒ New Building(s)  
☐ Conversion of Existing Building(s)  
☐ Both New Building(s) and Conversion

2. Number of Buildings: 24\* Floors Per Building: 2  
☐ Exhibit \_\_\_\_\_ contains further explanations.

3. **Principal Construction Material:**

☒ Concrete ☐ Hollow Tile ☐ Wood  
☐ Other steel and glass

4. **Uses Permitted by Zoning:**

|   | No. of<br><u>Apts.</u> | <u>Use Permitted By Zoning</u>                           |
|---|------------------------|--|
| <input checked="" type="checkbox"/> Residential | <u>126**</u>           | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Commercial             | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Mix Res/Comm           | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Hotel                  | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Timeshare              | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Ohana                  | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Industrial             | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Agricultural           | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Recreational           | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Other                  | _____                  | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?

☒ Yes ☐ No

\* Total is 24, but there is only 1 building covered by this Contingent Final Public Report.

\*\* Total is 126, but there are only 6 apartments covered by this Contingent Final Public Report.

5. Special Use Restrictions:

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

- [X] Pets: certain pets allowed, subject to the House Rules. See also page 20  
 [ ] Number of Occupants: N/A. and Exhibit "B".  
 [X] Other: See Exhibit "B".  
 [ ] There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators: None. Stairways: None. Trash Chutes: None.

| Apt.<br>Type   | Quantity | BR/Bath | Net<br>Living Area (sf)* | Net<br>Other Area (sf) | (Identify) |
|----------------|----------|---------|--------------------------|------------------------|------------|
| See page 11.a. |          |         |                          |                        |            |
|                |          |         |                          |                        |            |
|                |          |         |                          |                        |            |
|                |          |         |                          |                        |            |
|                |          |         |                          |                        |            |

Total Number of Apartments: 126\*

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

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

Boundaries of Each Apartment:  
 See Exhibit "C".

Permitted Alterations to Apartments:  
 See Exhibit "D".

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

\* Total is 126, but only 6 apartments covered by this Contingent Final Public Report.

6. Interior:

| <u>Apt. Type</u>            | <u>Quantity</u> | <u>BR/Bath</u> | <u>Approx. Net Living Area (sf)<sup>1</sup></u> | <u>Approx. Net other (sf/Identify)</u> |                                    |
|-----------------------------|-----------------|----------------|---|--|------------------------------------|
| A1 <sup>2</sup>             | 9               | 2/2.5          | 1,868   | 374<br>431<br>144                      | lanais<br>garage<br>private garden |
| A1R (reverse) <sup>3</sup>  | 9               | 2/2.5          | 1,868   | 374<br>431<br>144                      | lanais<br>garage<br>private garden |
| A2 <sup>4</sup>             | 9               | 3/2.5          | 2,022   | 447<br>486<br>170                      | lanais<br>garage<br>private garden |
| A2R (reverse) <sup>5</sup>  | 9               | 3/2.5          | 2,022   | 447<br>486<br>170                      | lanais<br>garage<br>private garden |
| B1 <sup>6</sup>             | 15              | 2/2            | 1,331   | 331<br>218                             | lanais<br>garage                   |
| B1R (reverse) <sup>7</sup>  | 15              | 2/2            | 1,331   | 331<br>218                             | lanais<br>garage                   |
| B2 <sup>8</sup>             | 15              | 3/2.5          | 1,913   | 263<br>232                             | lanais<br>garage                   |
| B2R (reverse) <sup>9</sup>  | 15              | 3/2.5          | 1,913   | 263<br>232                             | lanais<br>garage                   |
| B3 <sup>10</sup>            | 15              | 2/2.5          | 1,631   | 397<br>261                             | lanais<br>garage                   |
| B3R (reverse) <sup>11</sup> | 15              | 2/2.5          | 1,631   | 397<br>261                             | lanais<br>garage                   |

Total Number of Apartments: 126<sup>12</sup>

<sup>1</sup> Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls. Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

<sup>2</sup> Apartment nos. 101, 301, 501, 901, 1101, 1301, 1701, 1901 and 2201.

<sup>3</sup> Apartment nos. 104, 304, 504, 904, 1104, 1304, 1704, 1904 and 2204.

<sup>4</sup> Apartment nos. 102, 302, 502, 902, 1102, 1302, 1702, 1902 and 2202.

<sup>5</sup> Apartment nos. 103, 303, 503, 903, 1103, 1303, 1703, 1903 and 2203.

<sup>6</sup> Apartment nos. 201, 401, 601, 701, 801, 1001, 1201, 1401, 1501, 1601, 1801, 2001, 2101, 2301 and 2401.

<sup>7</sup> Apartment nos. 206, 406, 606, 706, 806, 1006, 1206, 1406, 1506, 1606, 1806, 2006, 2106, 2306 and 2406.

<sup>8</sup> Apartment nos. 202, 402, 602, 702, 802, 1002, 1202, 1402, 1502, 1602, 1802, 2002, 2102, 2302 and 2402.

<sup>9</sup> Apartment nos. 205, 405, 605, 705, 805, 1005, 1205, 1405, 1505, 1605, 1805, 2005, 2105, 2305 and 2405.

<sup>10</sup> Apartment nos. 203, 403, 603, 703, 803, 1003, 1203, 1403, 1503, 1603, 1803, 2003, 2103, 2303 and 2403.

<sup>11</sup> Apartment nos. 204, 404, 604, 704, 804, 1004, 1204, 1404, 1504, 1604, 1804, 2004, 2104, 2304 and 2404.

<sup>12</sup> Although the Kulalani at Mauna Lani condominium project contains a total of 126 apartments, this Final Public Report covers only the 6 apartments identified on Page 2a hereof. Developer shall obtain one or more separate Final Public Reports for the remaining apartments of the Project.

7. Parking Stalls:

|                             |                |                |                |              |
|-----------------------------|----------------|----------------|----------------|--------------|
| Total Parking Stalls:       | 228            |                |                |              |
|                             | <u>Regular</u> | <u>Compact</u> | <u>Tandem</u>  |              |
|                             | <u>Covered</u> | <u>Covered</u> | <u>Covered</u> | <u>TOTAL</u> |
|                             | <u>Open</u>    | <u>Open</u>    | <u>Open</u>    |              |
| Assigned<br>(for each unit) | 162*           |                |                | 162          |
| Guest                       |                |                |                |              |
| Unassigned                  | 64**           |                |                | 64           |
| Extra for Purchase          |                |                |                |              |
| Other: _____                | 2              |                |                | 2            |
| Total Covered & Open:       | 228            |                |                | 228          |

Each apartment will have the exclusive use of at least 1 or 2 parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

☐ Commercial parking garage permitted in condominium project.

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

8. Recreational and Other Common Facilities:

☐ There are no recreational or common facilities.

☒ Swimming pool

☐ Storage Area

☒ Recreation Area

☐ Laundry Area

☐ Tennis Court

☒ Trash Chute/Enclosure(s)

☐ Other: exercise facility

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

☒ There are no violations.

☐ Violations will not be cured.

☐ Violations and cost to cure are listed below:

☐ Violations will be cured by \_\_\_\_\_  
(Date)

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

N/A.

\* Each Apartment in a Type A building (4-plex) includes an enclosed garage for 2 regular size cars. Each Apartment in a Type B building (6-plex) includes an enclosed garage for 1 regular size car.

\*\* There are 64 open stalls - 57 of which are regular size and 7 of which are handicap size (including 1 van accessible stall).

11. Conformance to Present Zoning Code

a. ☒ No variances to zoning code have been granted.

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

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

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

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

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

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

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

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

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

☐ described in Exhibit "E".

☐ as follows:

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

☐ There are no limited common elements in this project.

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

☒ described in Exhibit "F".

☐ as follows:

3. Common Interest: Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by apartment owners. The common interests for the apartments in this project, as described in the Declaration, are:

☒ described in Exhibit "G".

☐ as follows:

- E. Encumbrances Against Title: An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of an apartment in the project.

Exhibit "H" describes the encumbrances against the title contained in the title report dated July 25, 2013 and issued by First American Title Company, Inc.



Blanket Liens:

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

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

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

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

| <u>Type of Lien</u> | <u>Effect on Buyer's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance</u>        |
|---------------------|--|
| Mortgages           | Buyer's interest will be terminated and Buyer may be entitled to a refund of deposit, less escrow cancellation fees. |

F. Construction Warranties:

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

1. Building and Other Improvements:  
Developer does not make any warranties for the Project, but merely intends to pass on any warranties made to it by the general contractor (or any other contractor, subcontractor or parties) for the Project to correct work found to be defective within the applicable period. Typically the general contractor will provide a warranty for work found defective within 1 year after the date of substantial completion, which can start prior to the recordation of the deed to Buyer. A 10-year limited warranty regarding structural elements (as defined in the policy) and other additional warranties are being provided, subject to limitations set forth in the policy. Buyers are encouraged to review and learn
2. Appliances: about these warranties.  
  
Developer will pass on the manufacturer's warranties, if any, on the appliances included as part of the Apartment being conveyed.

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

Construction on the Project commenced around June 2005. Developer estimates, but does not guarantee, that Phase 4 of the Project will be completed by June 30, 2014, and that the Project, in its entirety, will be completed by October 31, 2024. Developer estimated this completion date using reasonable methods and current information. However, as is typical in construction projects, there are a number of circumstances which may require the extension of these estimated completion dates, including but not limited to fire, earthquake, other acts of God, war or civil disturbances, litigation or threats of litigation, strikes or labor trouble, the unavailability or delay in obtaining necessary labor or materials, and other circumstances. The Project will have access from North Kaniku Drive.

H. **Project Phases:**

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

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

N/A.

#### IV. CONDOMINIUM MANAGEMENT

- A. **Management of the Common Elements:** The Association of Apartment 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.

**Initial Condominium Managing Agent:** When the developer or the developer's affiliate is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report, is:

☒ not affiliated with the Developer ☐ the Developer or Developer's affiliate  
☐ self-managed by the Association of Apartment Owners ☐ Other: \_\_\_\_\_

- B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment 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 apartment and the apartment 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.

Exhibit "I" contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

- C. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

☐ None ☒ Electricity ( ☒ Common Elements only ☐ Common Elements & Apartments)  
☐ Gas ( ☐ Common Elements only ☐ Common Elements & Apartments)  
☒ Water ☒ Sewer ☒ Television Cable  
☐ Other refuse

## V. MISCELLANEOUS

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

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

- [X] Notice to Owner Occupants
- [X] Specimen Sales Contract  
Exhibit "J" contains a summary of the pertinent provisions of the sales contract.
- [X] Escrow Agreement dated August 15, 2012  
Exhibit "K" contains a summary of the pertinent provisions of the escrow agreement.
- [X] Other Exhibit "L" - summary of Apartment Deed  
Exhibit "M" - summary of Resort Declaration of Covenants and Restrictions

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

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

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

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

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

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

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

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

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

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

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

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

- A) Condominium Public Reports issued by the developer which have been issued an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime, as amended.
- C) Bylaws of the Association of Apartment Owners, as amended.
- D) House Rules, if any.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other Resort Declaration (Summary in Exhibit "M").

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 514A, HRS) and the Administrative Rules (Chapter 107) 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 unofficial copy of laws: [www.hawaii.gov/dcca/hrs](http://www.hawaii.gov/dcca/hrs)

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

This Public Report is a part of Registration No. \_\_\_\_\_ filed with the Real Estate Commission on \_\_\_\_\_.

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

☐ YELLOW paper stock      ☐ WHITE paper stock      ☐ PINK paper stock      ☒ GREEN paper stock

C. **Additional Information Not Covered Above**

1. Mauna Lani Resort Association

Through the homeowners association, Purchasers are responsible for their share of assessments by the Mauna Lani Resort Association. The estimated assessments, levied monthly (and included in the estimated maintenance fees in Exhibit "I") are approximately \$110 per Apartment, subject to adjustment as set forth in Exhibit "I".

2. Recreation Complex Association

Purchasers are responsible for their share of assessments by the Recreation Complex Association. The estimated monthly expense is \$56 per Apartment, subject to adjustment as set forth in Exhibit "I".

3. Pets

Per the Bylaws and House Rules, certain pets are allowed to be kept in an Apartment and may be on the Project. However, pets may be prohibited in certain areas governed by the Mauna Lani Resort Association outside of the Project, which may change from time to time. Owners who have pets and have questions as to the location of these prohibited areas should contact the Mauna Lani Resort Association at 68-1310 Mauna Lani Drive, Suite 101, Kohala Coast, Hawaii 96743-9704, telephone (808) 885-6677 and review the Association's documents concerning the subject.

4. Separate Final Public Reports

As indicated on page 2a hereof, this Contingent Final Public Report only covers 6 of the 126 apartments that comprise the Project. In other words, as part of its sales methodology, the Developer has opted to obtain one or more separate Final Public Reports for the Project's apartments. Each group of apartments subject to a separate Final Public Report shall be referred to in this paragraph as a "Phase". Phase 1, consisting of 48 apartments, has been issued a Final Public Report (Reg. No. 5589 on 6/30/06). Phase 2, consisting of 14 apartments, has been issued a Final Public Report (Reg. No. 6052 on 4/23/07). Phase 3, consisting of 10 apartments, has been issued a Final Public Report (Reg. No. 7283 on May 22, 2013).

Purchasers shall therefore be aware that not all 126 apartments in the Project will be closing at or about the same time, but rather in phases over a period of time. Further, the Developer shall obtain one or more separate Final Public Reports for all of the apartments in the Project.

The Developer hereby discloses that although separate Final Condominium Public Reports will be issued for each Phase of the Project, all 126 apartments shall comprise a single condominium project. In other words, the act of separating the various apartments into different Phases does not create separate and distinct condominium projects. Accordingly, the common elements described in Exhibit "E" of this Contingent Final Public Report shall serve all of the 126 apartments. Purchasers should be aware, therefore, that a blanket lien which arises against the common elements will affect all of the apartments of the Project, notwithstanding the fact that separate Final Public Reports have been obtained for each Phase.

5. Maintenance and Start Up Fees

Exhibit "I" states the Estimated Maintenance Fee for all 126 apartments, including the 6 designated herein.

6. HRS 514B

This Project was created under Hawaii Revised Statutes Chapter 514A ("HRS 514A"). Subsequently, a "new" condominium law was enacted, codified as Hawaii Revised Statutes Chapter 514B ("HRS 514B") and went into effect on July 1, 2006. 514A continues to be applicable to this Project, subject to certain sections being superceded by HRS 514B. Purchasers should retain counsel to answer any questions they may have with regard to the affect HRS 514B has on this Project.

- D. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

SCD ML II, LLC

By: STANFORD CARR DEVELOPMENT, LLC

Its: Manager

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

By: \_\_\_\_\_

Duly Authorized Signatory\*

8/14/13

\_\_\_\_\_  
Date

STANFORD S. CARR, Manager

\_\_\_\_\_  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Hawaii

Planning Department, County of Hawaii

*\*Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.*



## EXHIBIT "A"

### Rights Reserved by Developer

Among other rights, the Developer will have the following reserved rights with respect to the Project which are more particularly set forth in the Declaration. Capitalized terms have the same meaning as ascribed to such term in said Declaration.

1. **Reserved Right to Grant Easements.** This right is set forth in Article XIX of the Declaration. Developer has the right, to and until January 31, 2012, to delete, cancel, relocate, realign, reserve, designate, grant and receive any and all easements and rights of way over, under, through, across and upon the Common Elements (including the Limited Common Elements) and the Property deemed necessary or desirable in Developer's sole discretion for the Project or adjacent Projects, including but not limited to, easements and/or rights of way for utilities, cesspools, sanitary and storm sewers, cable television, telecommunications systems, refuse disposal, driveways, parking areas and roadways, provided that such easements and/or rights of way shall not be located on or within any existing structure of the Project and shall not be exercised as to unreasonably disturb, impair or interfere with the normal use and enjoyment of the Project by the Apartment Owners.
2. **Reserved Right to Alter, Subdivide and Consolidate Apartments.** This right is set forth in Article XX of the Declaration. Developer has the right at any time or times prior to January 31, 2012, to: (1) alter the floor plan of any Apartment which it owns at any time provided that the Common Interest appurtenant to the Apartment shall not change; (2) cause the subdivision of any Apartment which it owns at any time to create two (2) or more Apartments provided that the total Common Interest appurtenant to the newly created Apartments shall equal the Common Interest appurtenant to the original Apartment; and (3) convert certain portions of any existing Apartment to Common Element status to facilitate any subdivision provided that the total Common Interest appurtenant to the newly created Apartment(s) shall equal the Common Interest appurtenant to the original Apartment. Also, if Developer is the owner of any two Apartments separated by a party wall, floor or ceiling, the Developer shall have the right at any time or times prior to January 31, 2012, without obtaining the approval of any party with an interest in the Project, including any other Owner and/or mortgagee, to consolidate two or more Apartments and to alter or remove all or portions of the intervening wall, floor or ceiling at Developer's expense, and execute and record amendments to the Declaration and Condominium Map and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to the Developer.
3. **Reserved Right to Reconfigure, Recharacterize or Redesignate Limited Common Elements.** This right is set forth in Article XXI of the Declaration. Developer has the right, but not the obligation, to amend the Declaration at any time or times prior to January 31, 2012, to reconfigure, recharacterize, and redesignate all or any portion of Limited Common Elements as may be appurtenant to an Apartment owned by the Developer as being Common Elements of the Project, and Developer may, without being required to obtain the consent or joinder of any Owner, lienholder or other persons, execute and record amendments to the Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to Developer.
4. **Reserved Right to Reconfigure, Recharacterize or Redesignate Common Elements.** This right is set forth in Article XXII of the Declaration. Developer has the right, but not the obligation, to amend the Declaration at any time or times prior to January 31, 2012, to reconfigure, recharacterize, and redesignate all or any portion of Common Elements as being a Limited Common Element appurtenant to an Apartment or Apartments, and Developer may, without being required to obtain the consent or joinder of any Owner, lienholder or other persons, execute and record amendments to the Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to Developer.
5. **Reserved Right to Convert or Redesignate Limited Common Elements as Appurtenant to Other Apartments.** This right is set forth in Article XXIII of the Declaration. Developer has the right, but not the obligation, to amend the Declaration at any time or times prior to January 31, 2012, to convert or redesignate all or any portion of certain Limited Common Elements as may be appurtenant to any Apartment owned by Developer, to another Apartment or Apartments, and Developer may, without being required to obtain the consent or joinder of any Owner, lienholder or other persons, execute and record amendments to the Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to Developer.

6. **Reserved Right to Convert and Redesignate Common Elements Parking Stalls.** This right is set forth in Article XXIV of the Declaration. Developer has the right, but not the obligation, to amend the Declaration at any time or times prior to January 31, 2012 to convert and redesignate all or a portion of the parking stalls (regular size uncovered and/or handicap size uncovered) which are designated as Common Elements of the Project (if any), from Common Elements to being a Limited Common Element appurtenant to an Apartment or Apartments and Developer may, without being required to obtain the consent or joinder of any Owner, lienholder or other persons, execute and record amendments to the Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to Developer. Developer shall also have the reserved right, but not the obligation, to record an instrument ("Parking Stall Assignment Summary Amendment"), which lists all parking stalls that have been assigned and which identifies the Apartment to which each such parking stall was assigned or reassigned. Any such Parking Stall Assignment Summary Amendment shall be for informational purposes only, and shall not have the effect of assigning or reassigning the parking stalls of the Project.
7. **Reserved Right to Convert and Redesignate Limited Common Elements Parking Stalls.** This right is set forth in Article XXV of the Declaration. Developer has the right, but not the obligation, to amend the Declaration at any time or times prior to January 31, 2012 to convert and redesignate all or a portion of the parking stalls that are appurtenant to any of the Apartments that it owns (if any) from Limited Common Elements to Common Elements of the Project, and Developer may, without being required to obtain the consent or joinder of any Owner, lienholder or other persons, execute and record amendments to the Declaration and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to Developer. Developer shall also have the reserved right, but not the obligation, to record an instrument ("Parking Stall Assignment Summary Amendment"), which lists all parking stalls that have been assigned and which identifies the Apartment to which each such parking stall was assigned or reassigned. Any such Parking Stall Assignment Summary Amendment shall be for informational purposes only, and shall not have the effect of assigning or reassigning the parking stalls of the Project.
8. **Reserved Right to Modify Project.** This right is set forth in Article XXVI of the Declaration. Developer has the right, to and until January 31, 2012 to effect such modifications to Apartments and Common Elements in the Project, to execute, record and deliver any amendments to this Declaration, the Condominium Map as well as the Bylaws and House Rules promulgated hereunder, and/or to take such other action as may be necessary or required by the Developer in its sole discretion, or to effect compliance by the Project, the Association or by the Declarant, with laws which apply to the Project, including, without limitation, the Act and the Fair Housing Act, as amended, 42 U.S.C. §§3601 et seq., including any and all rules and regulations promulgated thereunder.
9. **Reserved Right Regarding Recreation Complex.** These rights are set forth in Article XXX of the Declaration. Developer has the right, but not the obligation, to establish, enter into and amend the Recreation Complex Documents at any time or times prior to January 31, 2012, including but not limited to modifying the structure of the Recreation Complex Association as the Developer deems necessary or desirable in Developer's sole discretion, and Developer may, without being required to obtain the consent or joinder of any Owner, lienholder or other persons, execute and record amendments to the Recreation Complex Documents and any and all other instruments necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to the Developer. Declarant shall also have the reserved right, but not the obligation, to exclude the entrance area to the Project from being including as part of the Recreation Complex subject to the Recreation Complex Documents of the Recreation Complex Association and establish, enter into and amend such other agreements as may be necessary regarding the use, maintenance and general management of the entrance area at any time or times prior to January 31, 2012, and Declarant may, without being required to obtain the consent or joinder of any Owner, lienholder or other persons, execute and record, as necessary, any such agreements necessary or appropriate for the purpose of carrying out the provisions or exercising the rights, powers or privileges herein reserved to Declarant.

## EXHIBIT "B"

### Special Use Restrictions

Among other rights, the Developer will have the following reserved rights with respect to the Project which are more particularly set forth in the Declaration. Capitalized terms have the same meaning ascribed to such terms in said Declaration.

1. **Apartments.** Apartments, in connection with any such occupancy or use of said Apartment for any length of time, shall be occupied and used only for residential purposes as shall be permitted by law and by the provisions of the Resort Documents. Subject to the above, the owners of such apartments shall have the absolute right to sell, rent, lease, mortgage, or otherwise transfer their respective Apartments in connection with any such occupancy or use for any length of time.
2. **Prohibition on Activities Which Jeopardize the Project.** No Apartment Owner shall do or suffer or permit to be done anything on any Apartment or appurtenant Limited Common Element or elsewhere on the Project which will: (i) injure the reputation of the Project, (ii) jeopardize the safety or soundness of the Project, (iii) create a nuisance or interfere with or unreasonably disturb the rights of other Owners and occupants, (iv) reduce the value of the Project, (v) result in the cancellation of insurance applicable to the Project, or adversely affect the right of recovery thereunder or result in reputable companies refusing to provide insurance as required or permitted by the Bylaws, or (vi) increase the rate of insurance applicable to the Apartments or the contents thereof, or to the Project.
3. **Pets.** Certain pets are allowed to be kept in each apartment and shall be allowed on the Project. As set forth in the Bylaws, dogs, cats, birds, fish and other household pets of a reasonable size and in a reasonable number (as determined by the Board in their discretion and provided that the total number of pets per Apartment, excluding fish, shall not exceed 2) may be kept in the Apartment and are allowed on the Project, subject to the House Rules and any additional rules promulgated by the Association regarding the keeping of such pets. No pets may be kept outside of the Apartment. Notwithstanding any other provision therein, visually impaired persons, hearing impaired persons and physically impaired persons shall be allowed to keep certified seeing-eye dogs, certified signal dogs, and certified service dogs, respectively, in their Apartments. Furthermore, nothing herein or in the House Rules shall hinder full access to the Apartments and the Common Elements by persons with disabilities.

## EXHIBIT "C"

### **Boundaries of Each Apartment**

The following language appears in the Declaration recorded by the Developer. Capitalized terms have the same meaning ascribed to such terms in said Declaration.

(Article III.B.1. of the Declaration) There shall be one hundred twenty-six Apartments in the entire Project, but only 6, as designated herein, are covered by this Final Public Report. Each Apartment shall be deemed to include: (a) the space within the perimeter and party walls, windows, doors, floors and ceilings of the Apartment, (b) all walls and partitions which are not load-bearing within the Apartment's perimeter or party walls, including the decorated or finished surfaces thereof, (c) all pipes, shafts, vents, ducts, pumps, conduits, cables, wiring and other utility or service lines, running through the Apartment, or other utility meters or air conditioning units which are utilized for and serve only that Apartment, (d) the decorated or finished interior surfaces of all perimeter and party walls, load-bearing walls and partitions, floors and ceilings of the Apartment, (e) all appliances and fixtures installed in the Apartments and any replacements thereof, (f) the parking stall(s) and space within the Apartment's garage and the decorated or finished interior surfaces of said garage (but excluding the decorated or finished exterior surfaces thereof and excluding the entire garage door), (g) any lanai or porch areas of the Apartment, (h) the interior stairway connecting the first and second floors of the Apartment, (i) the decorated or finished interior surfaces of any doors, sliding doors, door frames, windows or window frames, (j) all cranks, window screens, and other window hardware, (k) any private garden area of the Apartment (not including the outside perimeter wall or fence), and (l) any pipes, wires, conduits, other utility or service lines or meters, or air conditioning units which are located within, under or upon the Limited Common Element appurtenant to such Apartment and which serve only that Apartment (if any).

Each respective Apartment shall not be deemed to include: (a) the perimeter or party walls, the undecorated or unfinished interior surfaces thereof, and the decorated or finished exterior surfaces of any perimeter wall, (b) the structural components of the building in which the Apartment is located, including the foundation, floor slabs, columns, guides, beams, supports, roofs and ceilings (excluding the decorated or finished interior surfaces of the ceiling which is part of the Apartment), (c) the interior load-bearing walls and partitions and the undecorated or unfinished surfaces thereof, (d) any electrical closets, meters, pipes, shafts, vents, ducts, pumps, conduits, cables, wiring or other utility or service lines running through the Apartment or other utility meters which are utilized for or serve more than one Apartment, and (e) the utility closets as described on the Condominium Map, the same being deemed Common Elements as hereinafter provided.

Furthermore, each respective Apartment shall not be deemed to include: (a) the perimeter doors, sliding doors, door frames, windows and window frames and the decorated or finished exterior surfaces of said door, sliding doors, door frames, windows and window frames, and (b) the garage door and the decorated or finished exterior surfaces of any garage and garage door, the same being deemed Limited Common Elements appurtenant to the Apartment as hereinafter provided.

## EXHIBIT "D"

### Permitted Alterations to Apartments

The following language appears in the Declaration recorded by the Developer. Capitalized terms have the same meaning ascribed to such terms in said Declaration.

1. **General Provisions.** Except as otherwise expressly provided in the Declaration, the Bylaws, the Resort Documents, Recreation Complex Documents, or the Act, restoration or replacement of the Project or any portion thereof or construction of any additional improvement or structural alteration or addition to any improvement, different in any material respect from the Condominium Map of the Project, shall be undertaken by the Association or any Apartment Owner only pursuant to an amendment of the Declaration in accordance with Article XIII of the Declaration, duly executed pursuant to the provisions thereof, accompanied by the written consent of the holders of all mortgage liens affecting any of the Apartments involved, and in accordance with complete plans and specifications therefor first approved in writing by the Association. Promptly upon completion of such restoration, replacement or construction the Association or Owner, as the case shall be, shall duly file such amendment, together with a complete set of floor plans of the Project as so altered, certified as built by a registered architect or professional engineer.
2. **Additions or Alterations Solely Within An Apartment.** Notwithstanding anything to the contrary contained herein, each Owner of an Apartment shall have the right at any time and from time to time at such Owner's sole cost and expense, and without the necessity of the consent or joinder of any other Apartment Owner or the Association, to make any of the following alterations solely within the Apartment: to paint, paper, panel, plaster, tile, carpet, re-carpet, finish, and do or cause to be done such other work on the interior surfaces of the ceilings, floors and walls within any such Apartment and to finish, alter or substitute any plumbing, electrical or other fixtures attached to the ceilings, floors and walls as may be appropriate for the utilization of such Apartment by such Owner or the tenants or lessees thereof, provided, however, that nothing contained in this paragraph shall authorize any work or alteration which would jeopardize the soundness or safety of the Apartment or any other part of the Project, reduce the value thereof, adversely affect any other Apartment, affect or impair any easement or rights of any of the other Apartment Owners, or interfere with or deprive any Owner of the use or enjoyment of any part of the Common Elements or directly affect any Owner or alter the external appearance of the Project.
3. **Apartment Owners to Execute Amendment Documents Certain Cases.** In the event that any change or alteration of an Apartment pursuant to and in compliance with Article XII of the Declaration shall alter the depiction of the particular Apartment on the Condominium Map or the description thereof in the Declaration, then the Owner of such Apartment shall amend the Declaration and/or the Condominium Map to set forth such approved change or alteration, which amendment(s) may be executed by the Owner of the affected Apartment or Apartments and by no other party, and such shall become effective upon recording of the same at the Bureau. The provisions of Article XIII notwithstanding, such amendment shall not require the consent or joinder of the Owner of any other Apartment or any other person or entity, other than any mortgagee of such Apartment or Apartments which are changed or altered. Every Apartment Owner and all holders of liens affecting any of the Apartments of the Project and each and every other party acquiring an interest in the Project or any part thereof, by acquiring such Apartment, lien or other interest, consents to and agrees that he shall, if required by law or by any such Owner who shall have changed or altered an Apartment as aforesaid, join in, consent to, execute and deliver all instruments and documents necessary or desirable to affect the amendment of the Declaration and/or the Condominium Map; and appoints such Owner and his assigns his attorney-in-fact with full power of substitution to execute, deliver and record such documents and to do such things on his behalf, which grant of such power, being coupled with an interest, is irrevocable for the term of said reserved rights and shall not be affected by the disability of any such party.

## **EXHIBIT "E"**

### **Common Elements**

Capitalized terms have the same meaning ascribed to such terms in the Declaration.

One freehold estate is hereby designated in all of the remaining portions of the Project, which do not constitute Apartments, hereinafter called the "Common Elements," including specifically, but not limited to:

- a. The Land in fee simple;
- b. Any and all other apparatus and installations existing for common use, such as tanks, motors, fans, compressors and other such installations and apparatus;
- c. The landscaping and planters along the sidewalks and roadways of the Project, the grounds outside of the Apartments, and landscaping of these grounds;
- d. All roadways, access lanes, ramps, loading areas, sidewalks and walkways of the Project, excluding, however, any garage which is part of an Apartment;
- e. Fifty-seven (57) standard size uncovered parking stalls, seven (7) handicap size uncovered parking stalls (including one van accessible stall), and two (2) uncovered loading stalls located throughout the Project;
- f. All floodlights and other similar lighting devices attached to the exterior of any building within the Project;
- g. All lampposts within the Project;
- h. Unimproved areas, maintenance and storage areas, mailbox areas and other similar areas which are not part of an Apartment;
- i. Any and all recreation centers, exercise facility, and other facilities operated to serve the residents of the Project (if any) and located on the Land;
- j. All other parts of the Project necessary or convenient to its existence, maintenance and safety, or normally in common use; and
- k. All other areas of the Project which are not described as an Apartment or a part thereof.

## **EXHIBIT "F"**

### **Limited Common Elements**

The following language appears in the Declaration recorded by the Developer. Capitalized terms have the same meaning ascribed to such terms in the proposed Declaration.

Certain parts of the Common Elements, herein called the "Limited Common Elements," are hereby designated, set aside and reserved for the exclusive use of certain Apartments and such Apartments shall have appurtenant thereto exclusive easements for the use of such Limited Common Elements as set forth herein. The responsibility to maintain, repair, replace, alter, improve and/or add to the Limited Common Elements shall be borne solely by the Owner(s) of the Apartment(s) to which the Limited Common Element is appurtenant, subject to the terms and restrictions set forth in the Declaration, the Bylaws, the House Rules, the Resort Documents and the Act. The costs and expenses of every description pertaining to any Limited Common Element, including but not limited to the cost of maintenance, repair, and replacement of and any alterations, improvements or additions to a Limited Common Element (collectively "Costs"), except as specifically set forth in the Declaration, the Bylaws, the House Rules, the Resort Documents and the Act, shall be charged to the apartment to which the Limited Common Element is appurtenant; provided that, the Costs for those Limited Common Elements that are appurtenant to multiple Apartments (the Costs associated with the Limited Common Elements appurtenant to multiple Apartments shall be referred to herein as "Product Fees") shall be charged to each owner of an Apartment to which said Limited Common Elements are appurtenant in equal shares.

- a. Any entrance, exit, or steps which would normally be used only for the purposes of ingress to and egress from a specific Apartment shall be a Limited Common Element appurtenant to and reserved for the exclusive use of such Apartment. The costs and obligation to maintain, repair and replace the landscaping and stepping stones in such areas shall be the responsibility of the Association, subject to the Association's right to assess special damages against an Apartment Owner or other parties.
- b. Any perimeter doors, sliding doors, door frames, windows and window frames and the decorated or finished exterior surfaces of said door, sliding doors, door frames, windows and window frames which would normally be used only by a specific Apartment shall be a Limited Common Element appurtenant to such Apartment.
- c. The garage door and the decorated or finished exterior surfaces of the garage for a specific Apartment shall be a Limited Common Element appurtenant to such Apartment.
- d. That portion of the Common Element upon which an air conditioner unit which serves only a specific Apartment is located shall be a Limited Common Element appurtenant to such Apartment, along with said air conditioner unit.

## EXHIBIT "G"

### Calculation of Common Interest

The following language appears in the Declaration recorded by the Developer. Capitalized terms have the same meaning ascribed to such terms in said Declaration.

The Common Interest appurtenant to each Apartment in the Project was determined by calculating the proportion which the approximate net square footage of each Apartment bears to the total net square footage of all of the Apartments in the Project. The Common Interest appurtenant to each Apartment is set forth below:

| <u>Type</u>  | <u>Common Interest</u> |
|--------------|------------------------|
| A1           | .8637%                 |
| A1 (reverse) | .8637%                 |
| A2           | .9349%                 |
| A2 (reverse) | .9349%                 |
| B1           | .6154%                 |
| B1 (reverse) | .6154%                 |
| B2           | .8845%                 |
| B2 (reverse) | .8845%                 |
| B3           | .7541%                 |
| B3 (reverse) | .7541%                 |

- \* Note: Apartment 102's common interest is slightly more by a de minimus amount (.9401% instead of .9349%) in order for the common interest to equal 100% in the aggregate.



## **EXHIBIT "H"**

### **Encumbrances Against Title**

1. Real Property Taxes for Tax Map Key No. (3) 6-8-022-007. Check with the County Tax Assessor for additional information.
2. Title to all mineral and metallic mines reserved to the State of Hawaii.
3. Easement "1" for sewer line purposes as shown on File Plan No. 2200.
4. Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Declaration of Covenants, Conditions and Restrictions (Mauna Lani Resort Association) recorded June 24, 1982 as Book 16425 Page 203 and Land Court Document No. 1120889, as amended, of Official Records.

By Designation of Declarant and Co-Declarant of the Mauna Lani Resort Association Declaration of Covenants, Conditions and Restrictions and Acceptance recorded March 20, 1998 as Land Court Document No. 2445165 of Official Records, and also recorded March 13, 1998 as Regular System Document No. 98-033812 of Official Records, Mauna Lani Service, Inc., a Hawaii corporation, is designated as "Declarant", and Mauna Lani Resort (Operation), Inc., a Hawaii corporation, was designated as "Co-Declarant".

5. The terms and provisions contained in the Certificate recorded April 25, 1986 as Book 19452 Page 724 of Official Records.
6. A Grant of Easement for utility and incidental purposes, in favor of Mauna Lani Resort, Inc., a Hawaii corporation, recorded June 21, 1991 as Regular System Document No. 91-081218, as amended, of Official Records.
7. A Grant of Easement for sewer and incidental purposes, in favor of Mauna Lani STP, Inc., a Hawaii corporation; Sea Cliff Development, LLC, a Delaware limited liability company; and White Sand Beach Limited Partnership, a Delaware limited partnership, recorded August 01, 2001 as Regular System Document No. 2001-119507 and Land Court Document No. 2726264 of Official Records.

According to the public records, the rights and interest of Mauna Lani STP, Inc. in the foregoing document was assigned to Hawaii-American Water Company, a Nevada corporation, by assignment recorded March 31, 2006 as Regular System Document No. 2006-061052 and Land Court Document No. 3411493 of Official Records.

8. Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Limited Warranty Deed recorded May 25, 2004 as Regular System Document No. 2004-104739 of Official Records.
9. Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Limited Warranty Deed recorded May 25, 2004 as Regular System Document No. 2004-104742 of Official Records.
10. Regular System Condominium Map No. 4079.
11. The terms and provisions contained in or incorporated by reference in the Declaration of Condominium Property Regime, as amended. Said Declaration was recorded September 26, 2005 as Regular System Document No. 2005-194154 of Official Records.
12. The terms and provisions contained in or incorporated by reference in the Condominium By-Laws, as may be amended. Said By-Laws were recorded September 26, 2005 as Regular System Document No. 2005-194155 of Official Records.
13. Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Grant of Easements recorded April 13, 2009 as Regular System Document No. 2009-054525 of Official Records.
14. Terms, provisions, reservations, covenants, conditions and restrictions, but deleting any of the aforementioned indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes or Chapter 515 of the Hawaii Revised Statutes, as contained in the Grant of Easements recorded April 13, 2009 as Regular System Document No. 2009-054526 of Official Records.
15. The terms and provisions contained in the Declaration of Protective Covenants, Conditions and Restrictions of the Kulalani-Ka Milo Recreation Complex Association recorded April 13, 2009 as Regular System Document No. 2009-054528 of Official Records.
16. The terms and provisions contained in the ByLaws of the Kulalani-Ka Milo Recreation Complex Association recorded April 13, 2009 as Regular System Document No. 2009-054529 of Official Records.

17. A mortgage to secure an original principal indebtedness of \$32,150,000.00, and any other amounts or obligations secured thereby.

Dated : July 29, 2005  
Mortgagor : SCD ML II, LLC, a Hawaii limited liability company  
Mortgagee : Pacific Coast Capital Funding, LLC, a Delaware limited liability company  
Recorded August 08, 2005 as Regular System Document No. 2005-156745 of Official Records.

Memorandum of Additional Advance and Modification Agreement recorded February 10, 2006 as Regular System Document No. 2006-027432 of Official Records.

Memorandum of Modification Agreement recorded April 14, 2008 as Regular System Document No. 2008-057855 of Official Records.

Amended and Restated Mortgage, Assignment of Rents, Security Agreement and Fixture Filing recorded April 23, 2012 as Regular System Document No. A-44960300 of Official Records.

According to the public records, by mesne assignments, the foregoing document has been assigned to Taiheiyo Jisho GK, a Japan godo kaisha, by assignment recorded April 23, 2012 as Regular System Document No. A-44960301 of Official Records.

A Subordination Agreement recorded April 30, 2013 as Regular System Document No. A-48680586A thru A-48680586B of Official Records provides that the above Mortgage was subordinated to that certain Mortgage recorded April 30, 2013 as Regular System Document No. A-48680584 of Official Records, and to that certain UCC Financing Statement recorded April 30, 2013 as Regular System Document No. A-48680585 of Official Records.

18. The terms and provisions contained in the Landscape Buffer Agreement recorded April 09, 2013 as Regular System Document No. A-48470732 of Official Records.

19. A mortgage to secure an original principal indebtedness of \$6,000,000.00, and any other amounts or obligations secured thereby.

Dated : April 30, 2013  
Mortgagor : SCD ML II, LLC, a Hawaii limited liability company  
Mortgagee : American Savings Bank, F.S.B., a federal savings bank  
Recorded April 30, 2013 as Regular System Document No. A-48680584 of Official Records.

20. A financing statement:

Debtor : SCD ML II, LLC  
Secured Party : American Savings Bank, F.S.B.  
Recorded April 30, 2013 as Regular System Document No. A-48680585 of Official Records.

21. Any and all covenants, conditions, restrictions and easements encumbering the apartment herein mentioned, and/or the common interest appurtenant thereto, as created by or mentioned in said Declaration, as amended, and/or in the Apartment Deed, and/or as delineated on the Condominium Map identified in the Declaration.

## EXHIBIT "I"

### Estimate of Initial Maintenance Fees AND Estimate of Maintenance Fee Disbursements

Estimate of Initial Maintenance Fees for Each Apartment Type (not aggregate):

| <u>Apartment</u>        | <u>Monthly Fee x 12 months = Yearly Total</u> |             |
|-------------------------|---|-------------|
| Type A1 & A1 (reverse)  | \$ 989.22                                     | \$11,870.64 |
| Type A2 & A2 (reverse)* | \$ 1,056.94                                   | \$12,683.22 |
| Type B1 & B1 (reverse)  | \$ 753.05                                     | \$ 9,036.60 |
| Type B2 & B2 (reverse)  | \$ 1,009.00                                   | \$12,108.00 |
| Type B3 & B3 (reverse)  | \$ 884.97                                     | \$10,619.64 |

Maintenance fees are intended to cover the Common Expenses of the Project (i.e., the expenses attributable to the maintenance and operation of the "general" Common Elements of the Project). Maintenance fees shall be charged to each Apartment Owner based upon said Owner's Common Interest.\*\*

\* Due to Apartment 102's slightly larger common interest (as described in Exhibit "G"), Apartment 102's estimated maintenance fees are \$1,061.88 per month (or \$12,742.56 annually).

\*\* Each Apartment owner shall be obligated for the payment of his or her respective share of the common expenses from and as of the date upon which the Apartment is conveyed to said owner.

#### Recreation Complex Assessment.

The estimates of the initial maintenance fees include each Apartment's share of the Recreation Complex Association expenses and assessments. As set forth in this Exhibit "I", the estimate of the initial expenses and assessment for the Recreation Complex Association is \$56 per Apartment per month.

**NOTE: The above maintenance fees for each apartment includes each owner's monthly contribution to the Mauna Lani Association and the Recreation Complex.**

The amounts set forth in this Exhibit "I" are estimates only. 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 the estimates. The estimated initial maintenance fees for each Apartment by Apartment type includes an estimated assessment for capital reserves (see below). Reasonable efforts to consider current information were used to determine these estimates. However, as is typical, these estimates may change for any number of reasons, including but not limited to changes in the economy, amounts charged by service providers or Acts of God.

#### Reserve Assessment:

Pursuant to §514A-148(b), new associations need not collect estimated reserves until the fiscal year which begins after the association's first annual meeting. The Developer has not completed an independent, third party reserve study as contemplated by §514A-83.6, HRS, and the replacement reserve rules, subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended (collectively, the "Reserves Law"), at this time for either the Project or the Recreation Complex. The budget amount for Reserves is an estimate only.

For both the Project and the Recreation Complex, "Start-up fees" in an amount equal to two (2) months of the estimated maintenance fees will be collected from each purchaser at closing to fund the maintenance fees and one (1) month of maintenance fees will be collected from each purchaser at closing to start funding the reserves. This one-time reserves payment is to be made by each purchaser and will be supplemented by an assessment to be determined by the Association in accordance with the Reserves Law.

#### Recreation Center

Kulalani at Mauna Lani has 126 Apartments. Developer understands that the condominium project at Tax Map Key No. (3) 6-8-22-41 may have, in the aggregate, approximately 137 Apartments. The two projects will be sharing the Recreation Complex and entrance to the Project. Each Association shall bear 50% of the expenses for these area.

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

- \* Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach to this exhibit an explanation whether in arriving at the figure for "Reserves", the Developer conducted a reserve study in accordance with 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to 514A-83.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.

## CERTIFICATE

I, the undersigned, to the best of my knowledge, do hereby certify as follows:

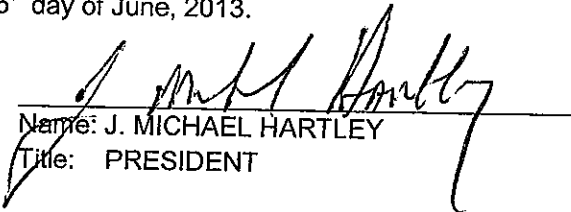
1. I am the President of Hawaiiana Management Company, Ltd., a Hawaii corporation, designated by Developer of Kulalani at Mauna Lani condominium project (the "Project") to act as the Managing Agent for the management and administration of the Project.

2. Attached hereto as Exhibit A is a true and correct copy of the projected budget for the Project. The estimates contained therein, including the maintenance fee assessments and disbursements, were prepared in good faith based upon the assumptions, expense and income data provided by the Developer along with information gathered by the Managing Agent from projects of comparable size and character. The estimated figures do not account for inflation, market adjustments, future utility rate changes or future insurance premium rate changes.

3. Pursuant to Hawaii Revised Statutes Section 514B-148(b), a new association need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. The budget amount for Reserves is an estimate only based upon information provided by the Developer.

4. The projected budget has been prepared on a cash basis.

Dated: Honolulu, Hawaii, this 6<sup>th</sup> day of June, 2013.

  
Name: J. MICHAEL HARTLEY  
Title: PRESIDENT

Subscribed and sworn to before me  
this 6<sup>th</sup> day of June, 2013.

State of Hawaii

City & County of Honolulu

Date: June 6, 2013 # of Pages: 5

Doc. Description: Certificate of Managing Agent & Estimated

Annual Disbursements for: Kulalani at Mauna Lani

Notary Signature

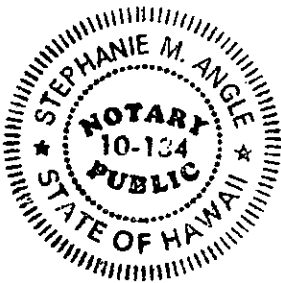
 6/6/2013

Name: Stephanie M. Angle

No. & Expiration: 10-134

My commission expires: 6/12/2014

First Circuit, State of Hawaii



**NOTARY CERTIFICATION**



Kulalani at Mauna Lani  
(126 units)

### Estimate of Maintenance Fee Disbursement

| EXPENSES                           | Monthly Fee  | Annual Fee     |
|------------------------------------|--------------|----------------|
| <b>Utilities</b>                   |              |                |
| Electricity                        | \$2,292.50   | \$27,510.00    |
| TV Cable                           | \$3,750.00   | \$45,000.00    |
| Water                              | \$23,083.33  | \$277,000.00   |
| Sewer                              | \$3,500.00   | \$42,000.00    |
| Telephone - Entry System           | \$200.00     | \$2,400.00     |
| Web Communications                 | \$100.00     | \$1,200.00     |
| <b>Contract Services</b>           |              |                |
| Security                           | \$100.00     | \$1,200.00     |
| <b>Maintenance</b>                 |              |                |
| Building Maintenance               | \$750.00     | \$9,000.00     |
| Cleaning Supplies                  | \$100.00     | \$1,200.00     |
| Grounds - Landscaper               | \$25,833.33  | \$310,000.00   |
| Grounds - Tree Trimming at Entry   | \$125.00     | \$1,500.00     |
| Grounds - Sprinkler                | \$200.00     | \$2,400.00     |
| Electrical/Lighting                | \$416.67     | \$5,000.00     |
| Plumbing                           | \$183.33     | \$2,200.00     |
| Pest Control                       | \$1,500.00   | \$18,000.00    |
| Refuse                             | \$3,166.67   | \$38,000.00    |
| Entry Gate Area Maintenance        | \$200.00     | \$2,400.00     |
| Roof Maintenance                   | \$100.00     | \$1,200.00     |
| Miscellaneous Repairs & Purchases  | \$100.00     | \$1,200.00     |
| Tools & Equipment                  | \$100.00     | \$1,200.00     |
| <b>Professional Services</b>       |              |                |
| Administrative Supplies & Services | \$550.00     | \$6,600.00     |
| AOAO Administrative Expenses       | \$100.00     | \$1,200.00     |
| Vehicle Expenses                   | \$100.00     | \$1,200.00     |
| Management Services                | \$2,333.33   | \$28,000.00    |
| Audit                              | \$233.33     | \$2,800.00     |
| Legal Fees General                 | \$150.00     | \$1,800.00     |
| Legal Fee Collections              | \$750.00     | \$9,000.00     |
| Mauna Lani Resort Association Dues | \$14,166.67  | \$170,000.00   |
| Recreation Center Dues             | \$6,967.13   | \$83,605.50    |
| <b>Payroll &amp; Benefits</b>      |              |                |
| P/R Manager (part-time onsite)     | \$2,000.00   | \$24,000.00    |
| Health Care                        | \$458.33     | \$5,500.00     |
| Payroll Taxes                      | \$250.00     | \$3,000.00     |
| Payroll Prep                       | \$150.00     | \$1,800.00     |
| <b>Other Expenses</b>              |              |                |
| Insurance - Property               | \$6,666.67   | \$80,000.00    |
| Fidelity Bond Insurance            | \$75.00      | \$900.00       |
| Insurance - D&O                    | \$200.00     | \$2,400.00     |
| Insurance - Umbrella               | \$183.33     | \$2,200.00     |
| Miscellaneous Expense              | \$66.67      | \$800.00       |
| State General Excise Tax           | \$45.00      | \$540.00       |
| <b>Reserves</b>                    |              |                |
| <b>TOTAL</b>                       | \$116,246.29 | \$1,394,955.50 |

## CERTIFICATE

I, the undersigned, to the best of my knowledge, do hereby certify as follows:

1. I am the President of Hawaiiana Management Company, Ltd., a Hawaii corporation, designated by Developer of Kulalani and Ka Milo Recreation Center at Mauna Lani condominium project (the "Project") to act as the Managing Agent for the management and administration of the Project.
2. Attached hereto as Exhibit A is a true and correct copy of the projected budget for the Project. The estimates contained therein, including the maintenance fee assessments and disbursements, were prepared in good faith based upon the assumptions, expense and income data provided by the Developer along with information gathered by the Managing Agent from projects of comparable size and character. The estimated figures do not account for inflation, market adjustments, future utility rate changes or future insurance premium rate changes.
3. Pursuant to Hawaii Revised Statutes Section 514B-148(b), a new association need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. The budget amount for Reserves is an estimate only based upon information provided by the Developer.
4. The projected budget has been prepared on a cash basis.

Dated: Honolulu, Hawaii, this 6<sup>th</sup> day of June, 2013.

  
Name: J. MICHAEL HARTLEY  
Title: PRESIDENT

Subscribed and sworn to before me  
this 6<sup>th</sup> day of June, 2013.

State of Hawaii

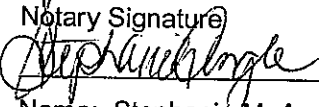
City & County of Honolulu

Date: June 6, 2013 # of Pages: 5

Doc. Description: Certificate of Managing Agent & Estimated

Annual Disbursements for: Kulalani and Ka Milo Recreation Center at Mauna Lani

Notary Signature

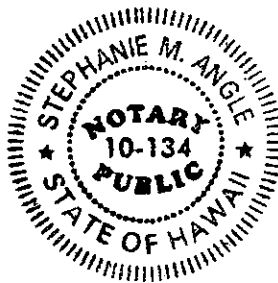
 6/6/2013

Name: Stephanie M. Angle

No. & Expiration: 10-134

My commission expires: 6/13/2014

First Circuit, State of Hawaii



**NOTARY CERTIFICATION**

## Kulalani &amp; Ka Milo Recreation Center at Mauna Lani

*\*In accordance with the "Kulalani & Ka Milo Recreation Complex Association" Organizational Documents, Kulalani AOA is currently responsible for 50% of the foregoing disbursements.*

## Estimate of Maintenance Fee Disbursement

| EXPENSES                           | Monthly Fee        | Annual Fee          |
|------------------------------------|--------------------|---------------------|
| <b>Utilities</b>                   |                    |                     |
| Electricity                        | \$3,470.00         | \$41,640.00         |
| Water                              | \$1,255.00         | \$15,060.00         |
| Sewer                              | \$80.00            | \$960.00            |
| Gas                                | \$70.00            | \$840.00            |
| <b>Maintenance</b>                 |                    |                     |
| Air Conditioning                   | \$38.00            | \$456.00            |
| Building Maintenance               | \$700.00           | \$8,400.00          |
| Cleaning Supplies                  | \$85.00            | \$1,020.00          |
| Grounds - Landscaper               | \$1,303.00         | \$15,636.00         |
| Grounds - Tree Trimming            | \$482.00           | \$5,784.00          |
| Grounds - Sprinkler                | \$140.00           | \$1,680.00          |
| Pool Cleaning                      | \$2,150.00         | \$25,800.00         |
| Pool Chemicals                     | \$350.00           | \$4,200.00          |
| Pool Repairs                       | \$167.00           | \$2,004.00          |
| Refuse                             | \$70.00            | \$840.00            |
| Fire Systems                       | \$30.00            | \$360.00            |
| Miscellaneous Repairs & Purchases  | \$150.00           | \$1,800.00          |
| Tools & Equipment                  | \$40.00            | \$480.00            |
| Wood Maintenance                   | \$200.00           | \$2,400.00          |
| <b>Professional Services</b>       |                    |                     |
| Administrative Supplies & Services | \$90.00            | \$1,080.00          |
| Management Services                | \$781.25           | \$9,375.00          |
| Consulting Fees                    | \$50.00            | \$600.00            |
| <b>Other Expenses</b>              |                    |                     |
| Property Insurance                 | \$711.00           | \$8,532.00          |
| State General Excise Tax           | \$0.00             | \$0.00              |
| Reserve Contribution               | \$1,522.00         | \$18,264.00         |
| <b>TOTAL</b>                       | <b>\$13,934.25</b> | <b>\$167,211.00</b> |
|                                    |                    |                     |
|                                    |                    |                     |

## EXHIBIT "J"

### Summary of Purchase Agreement

The specimen Purchase Agreement for Kulalani at Mauna Lani ("Agreement") contains, among other things, the following terms and conditions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

- A. The Seller (Developer) has engaged First American Title Company, Inc. ("Escrow") to handle Purchaser's funds and to close the transaction in accordance with the terms of the Agreement. All payments to be made under the Agreement shall be paid by Purchaser to Escrow pursuant to the Escrow Agreement.
- B. The Purchaser specifically acknowledges and agrees that the Declaration contains reservations of certain rights in favor of Seller, the Association and other owners, and contains certain other provisions to which the Purchaser consents.
- C. The "Closing Date" shall be that date (following the completion of the structure in which the Apartment is located) upon which the Seller certifies to the Purchaser in writing that the Apartment is ready for occupancy. On the Closing Date, Seller and Purchaser shall be required to perform their respective obligations to purchase and sell the Apartment under the Agreement; provided, however, that the Seller may extend the Closing Date in the event that Purchaser's Apartment is not ready for occupancy to Purchaser due to any delay caused by the factors set forth in Section C.19. below. Except as set forth in the preceding sentence, the Closing Date may be extended only by the mutual agreement of the parties. All payments shall be due and payable in full on the Closing Date, and, if not paid on said date due to Purchaser's failure to act in a diligent manner in order for said payment to be made on said date, then such nonpayment shall result in a default under the Agreement. In the event of failure of Purchaser to actually close on the Closing Date scheduled by Seller, and in the event Seller waives its right to claim a default as provided in Section C.8 and in Section C.1.d, Purchaser agrees to pay, in addition to all other amounts due, a late charge of one and one-half percent (1-1/2%) per month (based on the amount of the total Purchase Price) for each month or portion thereof on a 30-day month prorated basis, until the date on which the actual closing date occurs. Seller's failure to exercise any right or remedy under the Agreement shall not constitute a waiver of any of such defaults or of any of such rights, including without limitation, the right to cancel the Agreement, and will not constitute a modification of the Agreement. Escrow shall not record Purchaser's Apartment Deed until Escrow has received a certificate from a title company authorized to do business in Hawaii and approved by Seller, stating that, upon filing of such Apartment Deed, the Apartment and appurtenant common interest thereby conveyed are free and clear of all liens, encumbrances and assessments whatsoever other than those permitted by law and the Agreement. Real property taxes, maintenance costs, and other prorations shall be made, and risk of loss shall transfer from Seller to Purchaser on the Closing Date. Purchaser expressly acknowledges that on the Closing Date, the construction of the other Apartments and portions of the common elements of the Project may not be fully completed and that such circumstances shall not in any way affect Purchaser's obligations to make the required payments and close the sale.
- D. The Purchase Price does not include closing costs which include, among other things, the escrow fee, cost of a preliminary title report, cost of preparation of the Apartment Deed, cost of preparing an amendment to the Declaration in the event that Purchaser wishes to buy an additional parking stall, real property tax and other prorations, all acknowledgment fees, conveyance taxes, title insurance, if requested by Purchaser, cost of any lender's title insurance, appraisal fees, costs for drafting of any notes and mortgages, all recording costs or fees, loan fees, credit report costs and all other applicable mortgage costs, all of which the Purchaser shall be responsible to pay at Closing. Purchaser shall also pay a start-up fee equal to two (2) months of estimated maintenance fees in advance and an additional fee equal to one (1) month estimated maintenance fees for the reserves assessment at Closing.

E. Purchaser agrees that it will not assign the Agreement to anyone. Seller may, without any consent of Purchaser, freely assign Seller's interests therein.

F. Purchaser shall not be entitled to possession of the Apartment as the owner thereof until Purchaser has completed all required payments and has executed all documents relating to the purchase, and Purchaser has performed the remaining terms and conditions of the Agreement which are to be performed as of the Closing.

G. Notices to either party may be delivered personally or mailed.

H. The Purchaser acknowledges that Purchaser has entered into the Agreement without any reference or representation by Seller or any salesperson that the Seller, or any managing agent of the Project or anyone else affiliated with the Seller will provide, directly or indirectly, any services relating to the rental or sale or management of the Apartment purchased.

I. The laws of the State of Hawaii shall govern all matters with respect to the Agreement.

J. Purchaser has examined and approved the estimate of monthly maintenance charges for the Property as shown in the Public Report. Purchaser is aware that such amounts are only estimates and may change for reasons beyond the control of Seller, and Purchaser hereby specifically accepts and approves any such changes.

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 PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF PURCHASER'S RIGHTS AND OBLIGATIONS UNDER THE PURCHASE AGREEMENT, PURCHASER MUST REFER TO THE PURCHASE AGREEMENT TO DETERMINE PURCHASER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE PURCHASE AGREEMENT, THE PURCHASE AGREEMENT WILL CONTROL.

## EXHIBIT "K"

### Summary of Escrow Agreement

The Escrow Agreement for the Project dated August 15, 2012, as may be amended from time to time ("Agreement") contains the following provisions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

A. When Seller (Developer) enters into a purchase agreement for the sale of an apartment or other interest in the Project ("Purchase Agreement"), Seller shall deliver an executed copy of the Purchase Agreement to Escrow together with the address of the Purchaser and pay over to Escrow all monies (including checks) received by Seller from or on behalf of the Purchaser, including those received relating to up-grades to the apartment and all payments made on loan commitments from lending institutions on account of any apartments in said Project, other than funds received from interim financing.

B. Escrow shall receive, deposit and hold in an escrow account and disburse as set forth in the Agreement: (a) all payments received by it under Purchase Agreements, (b) such sums received by it under the Agreement from or for the account of Seller, and (c) all sums received by it from any other source with respect to the Project, including sums received by Seller for up-grades to the apartment.

All funds and instruments received from Purchasers or prospective Purchasers shall be held by Escrow in accordance with the provisions contained in Chapter 514A of the Hawaii Revised Statutes. All monies received by Escrow hereunder shall be deposited, within a reasonable time of the receipt by Escrow, in an interest bearing account with a federally insured financial institution authorized to do business in the State of Hawaii under an escrow arrangement, and shall be held in immediately available funds in accordance with the terms of the Agreement. All income therefrom shall be credited to the account of Seller and interest shall accrue as specified in the Purchase Agreement.

C. Escrow shall make no disbursements of Purchaser's funds or proceeds from the sale of apartments in the Project (including any payments made on loan commitments from lending institutions), except by way of refunds thereof as provided in the Agreement, until Escrow has been instructed by Seller.

D. Each Purchaser shall be entitled to a return of his or her funds, together with any interest which may have accrued to the credit of Purchaser, and Escrow shall pay such funds to such Purchaser, promptly after request for return by the Purchaser if one of the following has occurred:

(1) Seller and Purchaser have requested Escrow in writing to return to Purchaser the funds of Purchaser held by Escrow;

(2) Seller or Purchaser shall have notified Escrow of Seller's or Purchaser's exercise of an option to cancel or rescind the contract pursuant to any right of cancellation or rescission provided therein or otherwise available to Seller or Purchaser;

(3) Purchaser shall have notified Escrow of Purchaser's exercise of Purchaser's right to cancel the Purchase Agreement pursuant to HRS Section 514A-62; or

## **EXHIBIT "L"**

### **Summary of Apartment Deed, Encumbrances and Reservations of Rights for Kulalani at Mauna Lani**

Capitalized terms shall have the same meaning ascribed to such terms in the Deed.

The specimen Apartment Deed, Encumbrances and Reservations of Rights for Kulalani at Mauna Lani ("Deed" or "Apartment Deed") contains, among others, the following provisions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

A. The premises conveyed comprises a portion of the Kulalani at Mauna Lani condominium property regime situate at Waikoloa, South Kohala, Island and County of Hawaii, State of Hawaii.

B. The Grantor is the lawful owner of the fee simple interest in the real property and the rights to be transferred to the Purchaser; the same are free and clear of and from all encumbrances except as identified in the Deed and except for the lien of real property taxes not yet by law required to be paid; that the Grantor has good right and title to sell and convey said real property in the manner set forth in the Deed; and the Grantor will WARRANT AND DEFEND the same unto the Purchaser forever against the lawful claims and demands of all persons, except as mentioned in the Deed.

C. Purchaser agrees and consents to the exercise by Grantor of any of its reserved rights set forth in the Declaration, and Purchaser agrees to sign such documents and do such things as may be required to permit Grantor to exercise those reserved rights, including signing, delivery and recording of all documents which may be necessary, and Purchaser appoints Grantor as Purchaser's "attorney-in-fact" which means that Grantor can act for Purchaser or on Purchaser's behalf, with "full power of substitution," which means that someone else may take Grantor's place to sign, deliver and record all documents and to do all things on Purchaser's behalf, which grant of authority, being coupled with an interest, which means that the Grantor has an interest beyond just in the power Purchaser is giving, cannot be revoked by Purchaser for the term of the reserved rights, and will not be affected by Purchaser's disability.

D. Purchaser agrees, for the benefit of all other owners of the other apartments in the Project, to at all times observe, perform, comply with and abide by all of the covenants, agreements, obligations, conditions and other provisions set forth in the Declaration, the Bylaws, the House Rules, the Resort Documents and the Recreation Complex Documents, as any of the same exist or may hereafter be amended in accordance with law, and does accept and approve of the Declaration, Bylaws, House Rules, the Resort Documents and the Recreation Complex Documents.

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

## **EXHIBIT "M"**

### **Summary of Mauna Lani Resort Association Declaration of Covenants and Restrictions**

Capitalized terms shall have the same meaning ascribed to such terms in the Mauna Lani Resort Association Declaration of Covenants and Restrictions.

The Mauna Lani Resort Association Declaration of Covenants and Restrictions dated June 3, 1982, as amended and restated ("Resort Declaration") contains, among others, the following provisions (which may be modified or otherwise limited by provisions which are not summarized hereinbelow):

- A. A portion of the Kohala Coast of the Island of Hawaii, State of Hawaii, including the land underlying the Condominium Project (all of which is the "Covered Property") and thus each Apartment, is subject to the Resort Declaration. The Resort Declaration was created to keep the Covered Property desirable, attractive, beneficial and suitable in architectural design, materials, and appearance, and to enhance the natural beauty and protection of owners within the Covered Property. Under the Resort Declaration, an organization called the Mauna Lani Resort Association ("Resort Association") was established to develop to promote these and other objectives.
- B. The Resort Association is a nonprofit corporation. Every Owner, which includes the record owner, whether one or more persons or entities, of fee simple title to the real property or real property improvements which is part of the Covered Property, is a member of the Resort Association. Each Condominium Unit shall have one (1) vote in a vote of the membership. The voting rights of other classes of Owners are set forth in the Bylaws of the Mauna Lani Resort Association.
- C. Each member is responsible for a portion of the Resort Association's expenses. Each Condominium Unit Owner shall be responsible for its proportionate share of these expenses. In the case of the Condominium Project, the general assessments due from the Condominium Project's Owners shall be levied by the Resort Association to the Condominium Association in equal quarterly or monthly installments (or in such other reasonable manner) which shall then assess and collect such amounts from the Owners. With respect to Residential Owners, the annual assessment may not, without the vote or written assent of a majority of the voting power of the Association residing in the Residential Owners, impose a general annual assessment which is more than ten percent (10%) greater than the general assessment for the immediately preceding fiscal year. There may be additional assessments (e.g. additional general assessments, supplemental general assessments, and/or special assessments) as determined by the Resort Association. Each member's interest in or rights to its respective portion of the Covered Property may be subject to a lien in order to secure the member's payment of its share of the Resort Association's assessments.
- D. The Restrictive Covenants regarding the use of the Covered Property is set forth in Article V. of the Resort Declaration.



E. Generally, the Resort Association's Declaration may be amended as follows:

1. By the Declarant, Mauna Lani Resort, Inc., designated Declarant Mauna Lani Service, Inc., and designated Co-Declarant Mauna Lani Resort (Operation), Inc. (or such other person or entity to the extent it is designated as Declarant or Co-Declarant by Mauna Lani Resort, Inc. and it accepts the rights and obligations of Declarant under the Resort Declaration in a recorded document), to effect changes or amendments required by an administrative agency of any state, territory, possession or foreign country or other foreign jurisdiction as a condition precedent to marketing any portion of the Mauna Lani Resort; or
2. By a majority vote of the Board of the Resort Association, 2/3 vote of all Voting Rights of the Association, and a majority vote of the Residential Owners.

F. The Resort Declaration is effective through June 3, 2057.

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